

Washington State Register

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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.

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DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of March 1994 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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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 ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
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
94-08	Mar 9	Mar 23	Apr 6	Apr 20	May 10
94-09	Mar 23	Apr 6	Apr 20	May 4	May 24
94-10	Apr 6	Apr 20	May 4	May 18	Jun 7
94-11	Apr 20	May 4	May 18	Jun 1	Jun 21
94-12	May 4	May 18	Jun 1	Jun 15	Jul 5
94-13	May 25	Jun 8	Jun 22	Jul 6	Jul 26
94-14	Jun 8	Jun 22	Jul 6	Jul 20	Aug 9
94-15	Jun 22	Jul 6	Jul 20	Aug 3	Aug 23
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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

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

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

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

Regulatory Fairness Act

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

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

AN SBEIS IS REQUIRED

When:

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

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

AN SBEIS IS NOT REQUIRED

When:

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

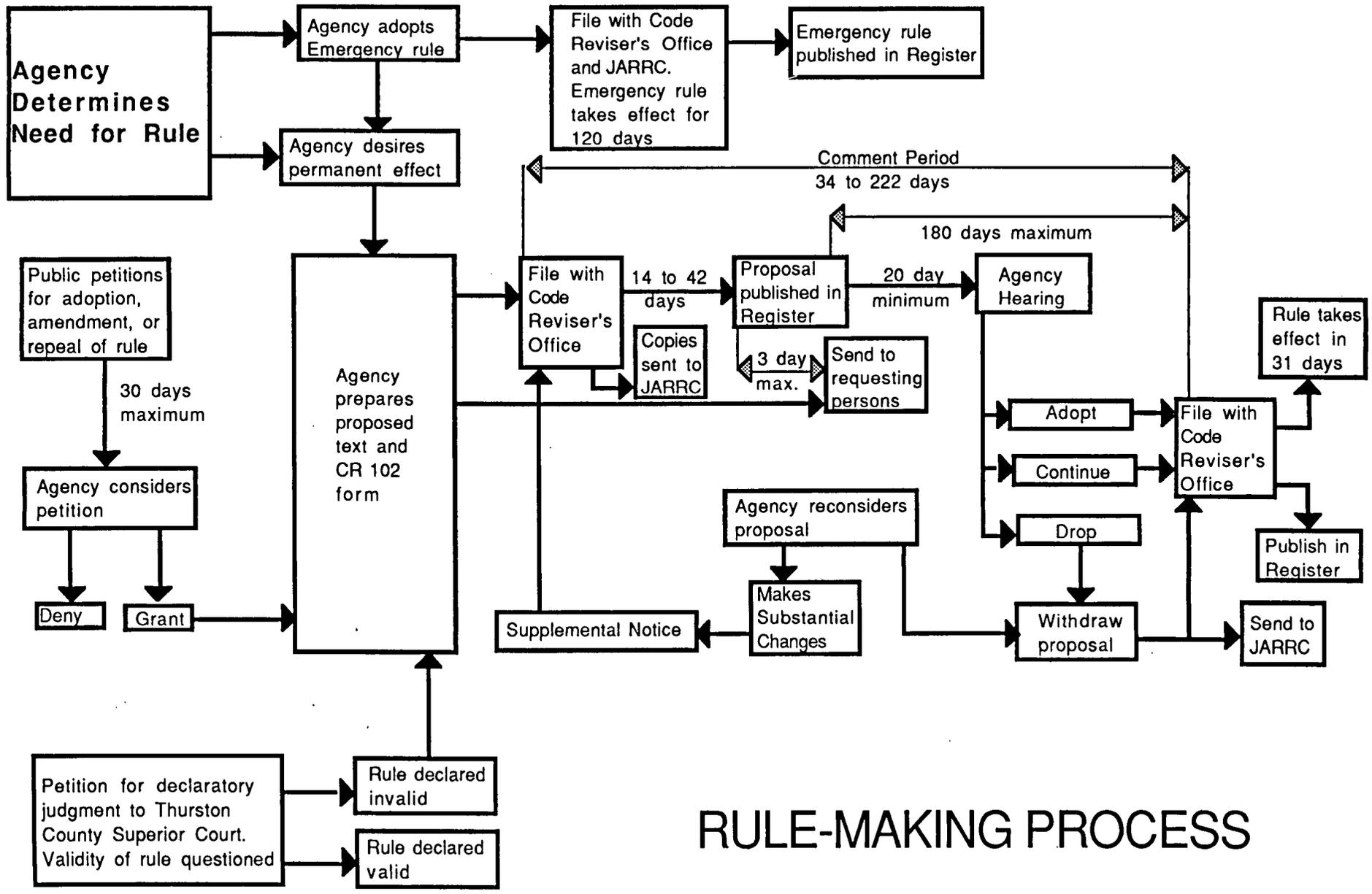
There is no economic impact on business;

The rule REDUCES costs to business;

There is only minor or negligible economic impact;

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

The rule is pure restatement of statute.



RULE-MAKING PROCESS

WSR 94-06-003
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed February 17, 1994, 10:37 a.m.]

Continuance of WSR 94-01-163.

Title of Rule: Pea cyst nematode quarantine, WAC 16-470-92005 through 16-470-92040.

Date of Intended Adoption: March 1, 1994.

February 17, 1994

K. Diane Dolstad

Assistant Director

WSR 94-06-004
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed February 17, 1994, 3:33 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-102 Resale certificates.

Purpose: This rule explains the conditions under which a buyer may furnish a resale certificate to a seller, and explains the information and language required on a resale certificate.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW.

Summary: This rule clarifies the sellers responsibility to obtain a resale certificate from the buyer to substantiate wholesale sales. It explains that all resale certificates must satisfy certain language and information requirements, and provides a sample resale certificate.

Reasons Supporting Proposal: To incorporate 1993 law changes and to clarify the proper use of the resale certificate.

Name of Agency Personnel Responsible for Drafting and Implementation: Les Jaster, 711 Capitol Way, #303, Olympia, (206) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way, #303, Olympia, (206) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule 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. It also provides tax reporting information to persons who purchase articles or services for dual purposes (i.e. for both resale and consumption). This rule also explains the penalty which may be assessed should the buyer misuse his or her resale certificate privileges.

Proposal Changes the Following Existing Rules: This is an amendment to WAC 458-20-102. The rule has been substantially revised to implement the 1993 law changes which require the resale certificate to contain certain information and language. These law changes also impose a penalty upon the misuse of resale certificate privileges by the buyer.

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

The Department of Revenue has reviewed administrative provisions contained in this rule in order to lessen the economic impact on small businesses.

A small business economic impact statement is not required for the following reason(s): Although not specifically provided for in the statute, the department mitigated the impact of this statute on businesses by allowing one hundred twenty days to comply with this rule. Notice has been sent to all taxpayers advising them of this. The provision is not specifically addressed in the rule; the changes to this rule are made to conform to mandates of the legislature and the department is given no discretionary latitude; and the department is not aware of any new or additional administrative responsibilities, other than those mitigated, placed on a business as a result of this rule.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on April 27, 1994, at 9:30 a.m.

Submit Written Comments to: Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0972, by April 27, 1994.

Date of Intended Adoption: May 4, 1994.

February 17, 1994

Russell W. Brubaker

Assistant Director

AMENDATORY SECTION (Amending WSR 86-09-058, filed 4/17/86)

~~WAC 458-20-102 Resale certificates. ((Except as hereinafter noted, all sales are deemed to be 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 that the property purchased is:~~

~~(1) For resale in the regular course of business without intervening use, or~~

~~(2) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or~~

~~(3) A chemical to be used in processing an article to be produced for sale. (See WAC 458-20-113.)~~

~~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:

"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
Firm Name Address
Type of Business
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"

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 TO NONRESIDENT BUYERS. In case the purchaser is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in

his regular course of business outside this state, the seller should take from such a purchaser a resale certificate substantially in the 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.

EXCEPTION AS 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. "Farmers" 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 are not required to register. 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 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.)

PURCHASES FOR DUAL PURPOSE. It may happen that 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 acquired will be consumed or resold. In such cases, the buyer should purchase according to the general nature of his business; that is, if principally he consumes the articles in question, he should not give a resale certificate for any portion thereof, but if, on the other hand, he principally resells such articles, he may sign a resale certificate for the whole amount of his purchases.

If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, he must set up in his books of account the value thereof and remit to the department of revenue the deferred sales tax payable thereon. Such tax should be reported on Form 2406 under use tax.

On the other hand, 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 must, nevertheless, collect the tax from the purchaser and report such sales in making his tax returns. However, in such case, the buyer may take a deduction on his return representing his cost of the property thus resold on which sales tax was paid.

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. 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 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-)) (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.

(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.** All sales are 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, verifying that the property or services purchased are:

(a) For resale in the regular course of the buyer's business without intervening use by the buyer; or

(b) To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale; or

(c) A chemical to be used in processing an article to be produced for sale (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.)

(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 re-

ceived 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:

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 Effective Date . . .
Name of Buyer
Address
UBI/Revenue Register #
Type of Business
Items or item categories purchased at wholesale
Authorized agent for buyer (printed)

Authorized Signature
Title

(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.

(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.

9) **Sales to nonresident buyers.** If the buyer is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in the regular course of business outside this state, the seller must take from such a buyer a resale certificate as described above. 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.

(10) **Sales to farmers.** Farmers 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.) When making wholesale sales to farmers (including farmers operating in other states), the seller 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.

(11) **Purchases for dual purposes.** A buyer normally engaged in both consuming and reselling certain types of tangible personal property, and not able to determine at the time of purchase whether the particular property purchased will be consumed or resold, must purchase according to the general nature of his or her business. RCW 82.08.130. If the buyer principally consumes the articles in question, the buyer should not give a resale certificate for any part of the purchase. If the buyer principally resells the articles, the buyer may issue a resale certificate for the 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, the buyer must set up in his or her books of account the value of the article used and remit to the department of revenue the applicable deferred sales 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.

(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 a portion thereof, the buyer must collect the retail sales tax from its retail customers as provided by law. When reporting these sales on the excise tax return, the buyer may then claim a deduction in the amount the buyer paid for the property thus resold.

(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).

(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.

(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 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 errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 94-06-008
PROPOSED RULES
STATE BOARD OF HEALTH
[Filed February 18, 1994, 8:45 a.m.]

Original Notice.

Title of Rule: Group B public water supplies regulations to govern the creation and operation of small public water systems known as Group B systems.

Purpose: To take applicable requirements from existing chapter 246-290 WAC and establish a separate WAC chapter dealing only with Group B public water systems.

Statutory Authority for Adoption: RCW 43.20.050.

Summary: Create a new WAC chapter that would contain all the requirements for creating and/or operating a Group B public water system in Washington.

Reasons Supporting Proposal: Attempting to make it easier for small systems to find out what they are required to do to comply with drinking water regulations.

Name of Agency Personnel Responsible for Drafting: Richard Sarver, Building 3 Airdustrial Park 7822, (scan) 321-8123; Implementation: B. David Clark, Building 3 Airdustrial Park 7822, (scan) 234-1280; and Enforcement:

John Aden, Building 3 Airdustrial Park 7822, (scan) 366-0441.

Name of Proponent: State Board of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will establish a separate WAC chapter to deal only with small water systems (Group B). The current chapter 246-290 WAC is becoming increasingly complicated because of new requirements resulting from the federal Safe Drinking Water Act which only affects the larger water systems (Group A). A separate WAC chapter dealing only with Group B systems will make it easier to understand the requirements for providing safe drinking water.

Proposal does not change existing rules.

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

The proposed creation of a new State Board of Health WAC chapter to deal exclusively with small public water systems (Group B) should have a beneficial rather than a detrimental impact on small business. The new rule will reduce the complexity of the existing comprehensive regulations for small systems currently found in chapter 246-290 WAC.

To comply with the State Regulatory Fairness Act, chapter 19.85 RCW, either a small business impact statement or clear documentation why one is not required, must be filed with these proposed rules. RCW 19.85.060 states that: An agency is not required to prepare a small business impact statement if the agency files a statement that the rule will have a minor or negligible economic impact.

Following, then, is documentation for not filing a small business impact statement:

The proposed State Board of Health rules regarding Group B public water systems will have a minor or negligible economic impact.

Hearing Location: There will be two hearings for these rules, one on the east side of the state and the other on the west side.

Hearing #1 will be April 13, 1994, at 9:30 a.m., Spokane County Health District, West 1101 College Avenue, Spokane, WA 99201-2095.

Hearing #2 will be May 11, 1994, at a time and place to be announced at the first hearing.

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

Date of Intended Adoption: May 30, 1994.

February 16, 1994

Sylvia I. Beck

Executive Director

Chapter 246-291 WAC GROUP B PUBLIC WATER SYSTEMS

NEW SECTION

WAC 246-291-001 Purpose and scope. (1) The purpose of these rules is to define basic regulatory requirements to protect the health of consumers using Group B public drinking water supplies. These rules are specifically designed to ensure the provision of high quality drinking

water in a reliable manner and in a quantity suitable for intended use.

(2) The rules set forth are adopted under chapter 43.20 RCW and owners of Group B public water systems shall be responsible for ensuring compliance with these rules. Other statutes relating to this chapter are:

(a) RCW 43.20B.020, Fees for services — Department of health and department of social and health services;

(b) Chapter 43.70 RCW, Department of health;

(c) Chapter 70.05 RCW, Local health department, boards, officers—Regulations;

(d) Chapter 70.116 RCW, Public Water System Coordination Act of 1977; and

(e) Chapter 70.119A RCW, Public water systems—Penalties and compliance.

(3) Prior to expanding a Group B public water system to a Group A public water system, the entire system shall be brought into compliance with chapter 246-290 WAC.

NEW SECTION

WAC 246-291-010 Definitions. Abbreviations:

CSE - comprehensive system evaluation;

GW - ground water under the direct influence of surface water;

m - meter;

MCL - maximum contaminant level;

mg/L - milligrams per liter;

ml - milliliter;

mm - millimeter;

NTU - nephelometric turbidity unit;

psi - pounds per square inch;

umhos/cm - micromhos per centimeter;

VOC - volatile organic chemical;

WFI - water facilities inventory form; and

WHPA - wellhead protection area.

"**Authorized agent**" means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

"**Coliform sample**" means a sample of water collected from the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

"**Comprehensive system evaluation (CSE)**" means a review, inspection and assessment of a public water system, including, but not limited to: source; facilities; equipment; operation and administration; maintenance; records; planning documents and schedules; and monitoring, for the purpose of ensuring that safe and adequate drinking water is provided.

"**Confirmation**" means to demonstrate the results of a sample to be precise by analyzing a repeat sample. Confirmation occurs when analysis results fall within plus or minus thirty percent of the original sample.

"**Contaminant**" means a substance present in drinking water which may adversely affect the health of the consumer or the aesthetic qualities of the water.

"**Cross-connection**" means a physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system, and capable of contaminating the public water system.

"**Department**" means the Washington State Department of Health or health officer as identified in a joint plan of operation in accordance with WAC 246-291-030(1).

"**Disinfection**" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

"**Distribution system**" means that portion of a public water supply system which stores, transmits, pumps, and distributes water to consumers.

"**Expanding public water system**" means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities which will enable the system to increase in size its existing service area and/or its number of approved service connections.

"**Fire flow**" means the rate of water flow needed to fight fires under WAC 246-293-640 or adopted city, town, or county standards.

"**Generator disconnect**" means an electrical circuit arranged to allow connection of a generator to the power supply for the pumping equipment while prohibiting electrical current from flowing back into the main service line.

"**Ground water under the direct influence of surface water (GWI)**" means any water beneath the surface of the ground, which the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

"**Group A water system**" means a public water system:

With fifteen or more service connections, regardless of the number of people; or

Serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

"**Group B water system**" means a public water system with less than fifteen services and serving:

An average of less than twenty-five people per day for sixty or more days within a calendar year; or

Any number of people for less than sixty days within a calendar year.

"**Guideline**" means a department document assisting the owner in meeting a rule requirement.

"**Health officer**" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"**Hydraulic analysis**" means the study of the water system network evaluating water flows within the distribution system under worst case conditions such as, peak hourly design flow plus fire flow, when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

"**Maximum contaminant level (MCL)**" means the maximum permissible level of a contaminant in water delivered to any public water system user.

"**Maximum contaminant level violation**" means a confirmed measurement above the MCL and for a duration of time, where applicable.

"**Owner**" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that holds as property, a public water system.

"**Peak hourly design flow**" means the maximum rate of water use, excluding fire flow, which can be expected to ever occur within a defined service area over a sixty minute time period.

"**Potable**" means water suitable for drinking by the public.

"**Pressure zone**" means a distribution system whereby an established minimum and maximum pressure range can be maintained without the use of ancillary control equipment (e.g. booster pumps, pressure reducing valves, etc.).

"**Primary standards**" means standards based on chronic, nonacute, or acute human health effects.

"**Public water system**" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including collection, treatment, storage, or distribution facilities used primarily in connection with such system.

"**Repeat sample**" means a sample collected to confirm the results of a previous analysis.

"**Same farm**" means a parcel of land or series of parcels which are connected by covenants devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A water system.

"**Satellite management agency (SMA)**" means an individual, purveyor, or entity that is approved by the secretary to own or operate more than one public water system on a regional or county-wide basis, without the necessity for a physical connection between such systems.

"**Secondary standards**" means standards based on factors other than health effects such as taste and odor.

"**Service**" means a connection to a public water system designed to provide potable water.

"**Special purpose sample**" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

"**Standard methods**" means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

"**State board of health**" and "**board**" means the board created by RCW 43.20.030.

"**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

"**Volatile organic chemical (VOC)**" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

"**Water facilities inventory form (WFI)**" means the department form summarizing each public water system's characteristics.

"**Well field**" means a group of wells one system owns or controls which:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

NEW SECTION

WAC 246-291-020 Applicability. (1) The rules of this chapter shall apply to all Group B public water systems except those systems meeting all of the following conditions:

(a) Consists only of distribution and/or storage facilities and does not have any source or treatment facilities;

(b) Obtains all water from, but is not owned by, a public water system where the rules of this chapter or chapter 246-290 WAC apply;

(c) Does not sell water directly to any person; and

(d) Is not a passenger-conveying carrier in interstate commerce.

For the purposes of this section, "sell" shall mean to bill separately for drinking water or to include a drinking water line item as part of an itemized listing in a bill delivered to residences, or equivalent services connected to a public water system, where the amount billed represents an increase over what it costs the system owner.

(2) Group B public water systems meeting all of the conditions under subsection (1) of this section may be required by the department to comply with such provisions of this chapter as are necessary to resolve a public health concern if the department determines a public health threat exists or is suspected.

NEW SECTION

WAC 246-291-025 Bottled water. (1) Any water source used for bottling, regardless of size, shall meet the minimum requirements required under chapter 246-290 WAC.

(2) In addition to the requirements imposed by the department, the processing of bottled water is regulated by the State Department of Agriculture and the United States Food and Drug Administration.

NEW SECTION

WAC 246-291-030 General administration. (1) The department and the health officer for each local health jurisdiction may develop a joint plan of operation. Responsibility for administering these rules shall remain with the department of health unless there is a joint plan of operation in place. This plan shall:

(a) List the roles and responsibilities and specifically designate those systems for which the department and local health officer have primary responsibility;

(b) Provide a list of water system requirements and procedures which the local board of health may waive for systems within its jurisdiction;

(c) Provide for a level of water system supervision necessary to effectively achieve listed responsibilities;

(d) Be signed by the department and the local health department or district; and

(e) Be reviewed at least once every five years and updated as needed.

Wherever in these rules the term "department" is used, the term "health officer" may be substituted based on the terms of this joint plan of operation.

(2) The local board of health may adopt rules pursuant to RCW 70.05.060 governing public water systems for which the health officer has assumed primary responsibility. Adopted local board of health rules shall be:

(a) No less stringent and may be more stringent than this chapter; and

(b) Revised, if necessary, within twelve months after the effective date of revised State Board of Health rules. During this time period, existing local rules shall remain in effect, except provisions of the revised State Board of Health rules which are more stringent than the local board of health rules shall apply.

(3) The health officer may eliminate any or all requirements of these rules for water systems with only two residential connections where the health officer has assumed primary responsibility for these systems.

(4) The health officer may approve design reports and water system plans which reflect good engineering practice such as those found in the department guideline titled "Group B water system approval", for those public water systems where the health officer has assumed primary responsibility.

(5) The health officer may substitute results of a calculated fixed radius method and a ten year time of travel criteria instead of using the six hundred foot radius prescribed in WAC 246-291-100 (2)(f) and 246-291-110 (3)(f).

(6) The department may develop and distribute guidelines to clarify sections of the rules as needed.

(7) Fees may be charged by the department of health as authorized in RCW 43.20B.020 and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of the costs incurred in administering these rules.

NEW SECTION

WAC 246-291-040 Requirements for engineers. (1) Owners shall ensure that all design reports are prepared by a professional engineer:

(a) Licensed in the state of Washington under chapter 18.43 RCW; and

(b) Having specific expertise regarding design, operation and maintenance of public water systems.

All documents shall bear the professional engineer's seal and signature.

(2) Until July 1, 1995, exceptions to the professional engineer requirement are:

(a) Minor improvements exempted from design report requirements under WAC 246-291-120(1); and

(b) Public water systems serving less than ten service connections consisting of a single well and pressure tank with one pressure zone and not providing treatment other than simple chlorine disinfection or having special hydraulic

considerations, where the local health officer has been delegated authority to:

- (i) Approve plans and design reports; or
- (ii) Review plans and design reports for completeness prior to forwarding to the department of health for approval.

(3) "A Construction Report For Public Water System Projects" shall be submitted to the department on a department approved form within sixty days of completion and before use of any approved project. The form shall:

(a) Be signed by a professional engineer, or in the case of projects not requiring a professional engineer as outlined in this section, the water system owner;

(b) State that the project is constructed and is completed in accordance with approved design reports; and

(c) State that, in the opinion of the engineer or the water system owner, based on information available, the installation, testing, and disinfection of the system was carried out in accordance with applicable sections of chapter 246-291 WAC and chapter 246-290 WAC.

(4) It shall be the responsibility of the owner to ensure the requirements of this section are fulfilled before the use of any completed project.

NEW SECTION

WAC 246-291-050 Enforcement. (1) When a system is out of compliance with these rules, the department may initiate appropriate enforcement actions, regardless of any prior approvals issued by the department, including, but not limited to:

- (a) Issuance of a compliance schedule;
- (b) Issuance of departmental orders requiring submission of water system plans, design reports, and construction report forms;
- (c) Issuance of departmental orders requiring specific actions or ceasing unacceptable activities within a designated time period;
- (d) Issuance of departmental orders to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;
- (e) Imposition of civil penalties as authorized under chapter 70.119A RCW or local authority where applicable; and
- (f) Legal action by the attorney general or local prosecutor.

(2) When enforcing the MCLs under this chapter, the department shall enforce compliance with the primary MCLs as its first priority.

NEW SECTION

WAC 246-291-060 Waivers. (1) The state board of health or the local health officer in those counties having a joint plan of operation, may grant waivers of the requirements of this chapter, provided that procedures used are consistent with WAC 246-290-060 (5)(b) and in the case where a local health officer is authorized to grant the waiver, procedures used shall be approved by the department of health as part of the joint plan of operation.

(2) Consideration by the board or local health officer of requests for waivers shall not be considered adjudicative proceedings as that term is defined in chapter 34.05 RCW.

(3) Statements and written material regarding the request may be presented to the board or local health officer wherein the application will be considered.

(4) The board or local health officer may grant a waiver if it determines the water system is unable to comply with the requirements and granting of the waiver will not result in an unreasonable risk to the health of consumers. No waivers may be granted for exceedance of a primary MCL.

(5) A waiver granted under this section shall lapse two years from the date of issuance unless the water system project has been completed or an extension is granted.

NEW SECTION

WAC 246-291-100 Ground water source approval and protection. (1) The owner shall ensure that drinking water is obtained from the highest quality source feasible. Existing and proposed sources shall conform to the water quality standards established in this chapter and the well construction standards established under chapter 173-160 WAC.

(2) No new source, previously unapproved source, or modification of an existing source shall be used as a drinking water supply without department approval. A party seeking approval shall provide:

(a) A copy of the water right permit, if required, obtained from the Department of Ecology for the source, quantity, type, and place of use;

(b) A copy of the source site inspection approval made by the department or local health jurisdiction representative;

(c) Well development data establishing source capacity. Data shall include static water level, yield, amount of drawdown, recovery rate and duration of pumping. The source shall be pump tested to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine proper pump settings. A department guideline titled *Group B water system approval* is available to assist owners.

(d) Upgradient water uses affecting either water quality or quantity;

(e) A map showing the project location and vicinity including a six hundred foot radius around the well site designating the preliminary short term ground water contribution area;

(f) A map depicting topography, distances to well or spring from existing property lines, buildings, potential sources of contamination within the six hundred foot radius around the well, and any other natural or man-made features affecting the quality or quantity of water;

(g) The dimensions and location of sanitary control area;

(h) Copies of the recorded legal documents for the sanitary control area;

(i) A copy of the water well report;

(j) A general description of the spring and/or aquifer recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(k) Documentation of totalizing source meter installation;

(l) An initial analysis result of raw water quality from a certified lab, including as a minimum a bacteriological, complete inorganic chemical and physical analysis of the source water quality;

(m) In areas where the department determines that other contamination may be present, or at the discretion of the department, sample results for these contaminants may also be required; and

(n) If water quality information from (l) and (m) of this subsection shows a contaminant level of concern, the department may require further action by the owner; and

(o) If water quality results taken from the proposed source confirm a primary MCL violation, the owner shall ensure that appropriate treatment is provided which shall eliminate the public health risk to consumers served by the system.

(3) The owner shall contact the department before developing or modifying a source, to identify any additional requirements the department deems necessary.

(4) Sanitary Control Area.

(a) The owner shall ensure that a sanitary control area is maintained around all sources for the purpose of protecting them from existing and potential sources of contamination.

(b) The minimum sanitary control area shall have a radius of one hundred feet (thirty meters) for wells, and two hundred feet (sixty meters) for springs, unless engineering justification supports a smaller area. The justification must address geological and hydrological data, well construction details and other relevant factors necessary to assure adequate sanitary control.

(c) The department may require a larger sanitary control area if geological and hydrological data support such a decision. It shall be the owner's responsibility to obtain the protection needed.

(d) No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the permission of the department and the system owner.

(e) The sanitary control area shall be owned in fee simple, or the owner shall have the right to exercise complete sanitary control of the land through other legal provisions.

(f) The owner shall obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with these rules.

NEW SECTION

WAC 246-291-110 Surface water and GWI source approval and protection. (1) The owner shall ensure that drinking water is obtained from the highest quality source feasible. Existing and proposed sources shall conform to the water quality standards established in this chapter.

(2) No new source, previously unapproved source, or modification of an existing source shall be used as a drinking water supply without department approval. As of the effective date of these rules, the department shall no longer approve new or expanding surface water or GWI sources unless the department determines they meet the following conditions:

(a) The system is under the ownership and operation of a department of health approved Satellite Management Agency; and

(b) Continuous effective treatment, including filtration, disinfection and any other measures required under chapter 246-290 WAC are provided.

(3) An owner seeking source approval shall provide the department:

(a) A copy of the water right permit, if required, obtained from the Department of Ecology for the source, quantity, type, and place of use;

(b) A copy of the source site inspection approval made by the department or local health jurisdiction representative;

(c) Upgradient water uses affecting either water quality or quantity;

(d) A map showing the project location and vicinity;

(e) A map depicting topography, distances to the surface water intake or GWI source from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(f) For GWI sources:

(i) A map depicting topography, distances to well or spring from existing property lines, buildings, potential sources of contamination within the six hundred foot radius around the well, and any other natural or man-made features affecting the quality or quantity of water;

(ii) Copies of the recorded legal documents for the sanitary control area;

(iii) A copy of the water well report if applicable;

(iv) A general description of the recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(v) Well development data establishing source capacity. Data shall include static water level, yield, amount of drawdown, recovery rate and duration of pumping. The source shall be pump tested to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine proper pump settings. A department guideline titled *Group B water system approval* is available to assist owners.

Existing and proposed sources shall conform to the well construction standards established under chapter 173-160 WAC if applicable.

(g) Documentation of totalizing source meter installation;

(h) An initial analysis result of raw water quality from a certified lab, including as a minimum a bacteriological, complete inorganic chemical and physical analysis of the source water quality;

(i) In areas where the department determines that other contamination may be present, or at the discretion of the department, sample results for these contaminants may also be required;

(j) If water quality information from (h) and (i) of this subsection shows a contaminant level of concern, the department may require further action by the owner; and

(k) If water quality results taken from the proposed source confirm a primary MCL violation, the owner shall ensure that appropriate treatment is provided which shall eliminate the public health risk to consumers served by the system.

(4) Watershed Control Program.

(a) Owners of new or expanding surface water or GWI sources shall ensure the development and submittal of a

watershed control program to the department for review and approval. Once approved, the owner shall implement the program.

(b) This program shall be part of the water system plan required in WAC 246-291-140.

(c) The owner's watershed control program shall contain, at a minimum, the following elements:

(i) Watershed description and inventory, including location, hydrology, land ownership and activities which may adversely affect water quality;

(ii) Watershed control measures, including documentation of ownership and relevant written agreements, monitoring procedures and water quality;

(iii) System operation, including emergency provisions; and

(iv) Documentation of water quality trends.

Sections in the department guideline titled *Planning Handbook* and in the *DOH SWTR Guidance Manual* address watershed control and are available to owners.

(d) The owner shall ensure submittal of the watershed control program to the department for review and approval. Following department approval, the owner shall ensure implementation as approved.

(e) The owner shall update the watershed control program at least every six years, or more frequently if required by the department.

NEW SECTION

WAC 246-291-120 Design report approval. (1) Design reports shall be submitted to the department for written approval prior to installation of any new water system, or water system extension or improvement with the following exceptions:

(a) Installation of valves, fittings, and meters;

(b) Repair of a system component or replacement with a similar component of the same capacity; and

(c) Maintenance or painting of surfaces not contacting potable water.

(2) Design reports submitted for approval by owners of systems required to have a water system plan, will not be considered for approval unless there is a current approved water system plan and the plan adequately addresses the project.

(3) Design reports shall include, at a minimum, the following:

(a) Alternatives. Verify contacts with other water system owners as applicable in accordance with WAC 246-291-140(2);

(b) Legal considerations. Identify legal aspects such as ownership, right-of-way, sanitary control area, and restrictive covenants;

(c) Engineering calculations. Describe how the project complies with the design considerations;

(d) Drawings. Include detailed drawings of each project component;

(e) Material specifications. List detailed material specifications for each project component;

(f) Construction specifications. List detailed construction specifications and assembly techniques for carrying out the project;

(g) Testing. Identify testing criteria and procedures for each applicable portion of the project;

(h) Disinfection. Identify specific disinfection procedures which must conform with American Water Works Association standards or other standards acceptable by the department;

(i) Inspection. Identify provisions for inspection of the installation of each project component. See WAC 246-291-040 for construction reporting requirements; and

(j) Change orders. All changes except for minor field revisions must be submitted to and approved by the department in writing.

(4) Approval of design reports shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

NEW SECTION

WAC 246-291-130 Existing system approval. (1) At the discretion of the department, owners of existing systems without approved design reports shall, as determined by the department, provide information necessary to establish the extent of the water systems compliance with this chapter.

(2) After receipt of the required data, the department shall review the information and place the system into one of the following categories:

(a) Fully approved/adequate. A fully approved system has been found to be in full compliance with these regulations and may add services if designed accordingly; or

(b) Provisionally adequate. A provisionally adequate system complies with all applicable MCL and treatment standards, fire flow requirements where applicable, and meets a twenty psi minimum pressure requirement under peak hourly design flow conditions, but may not be in compliance with other regulatory requirements. A provisionally adequate system is considered satisfactory for its existing services, but may not expand to supply additional services; or

(c) Inadequate. Any system not identified in (a) or (b) of this subsection. The system is considered unsatisfactory and no additional service connections can be made to an inadequate system.

(3) After categorizing the system, the department shall notify the owner in writing of the following:

(a) The system's category;

(b) The relationship of the system's category with respect to adding service connections and potential comments on status request letters; and

(c) If the system is not fully approved, what additional actions the owner needs to complete before a full or provisional approval is granted.

(4) The department is authorized to take enforcement actions in accordance with WAC 246-291-050.

NEW SECTION

WAC 246-291-140 Water system planning requirements. (1) Water system plan.

(a) The water system plan shall:

(i) Identify present and future needs;

(ii) Set forth means for meeting those needs; and
 (iii) Do so in a manner consistent with other relevant plans and local, state, and federal laws.

(b) Owners of the following categories of systems shall ensure the development and submittal of a water system plan for review and approval by the department:

(i) All systems as required by chapter 70.116 RCW the Public Water System Coordination Act of 1977 and chapter 246-293 WAC and created after September 21, 1977;

(ii) Any system experiencing problems related to planning, operation, and/or management as determined by the department;

(iii) Any proposed or expanding system; and

(iv) Any system which installs treatment, other than simple chlorination disinfection equipment, after the effective date of these regulations.

(c) A department guideline titled *Group B Water System Approval* is available from the department to assist owners in developing this plan. Design reports may be combined with a water system plan. To the extent to which they are applicable, the water system plan shall address the following elements:

(i) Description of system management and ownership;

(ii) Service area and identification of existing and proposed major facilities;

(iii) Maximum number of connections;

(iv) Water conservation program. Systems which are developed or expanded after the effective date of this rule shall develop a conservation program;

(v) Relationship and compatibility with other plans;

(vi) Water source information;

(vii) Source protection (including required protective covenants, wellhead protection and watershed control where applicable); and

(viii) Financial viability.

(2) Prior to developing a new water system, the developer of the system shall do the following, in the order prescribed below:

(a) If the proposed system is located within the boundaries of a critical water supply service area, the ability to develop an independent system shall be governed by the provisions of the Public Water System Coordination Act, chapter 70.116 RCW and chapter 246-293 WAC, and will be subject to the jurisdictional coordinated water system plan; and

(b) If the proposed system is not located within the boundaries of a critical water supply service area, contact in writing:

(i) The public water system which has a service area identified in a department approved water system plan that includes the proposed development area;

(ii) Each existing public water system serving property within one thousand feet; and

(iii) Available department of health approved regional satellite management agencies to determine whether direct or satellite service can be provided.

(3) For systems approved after the effective date of these rules, the following shall be recorded, by the system owner, on all affected property titles as a means of providing information about the system to property owners, lending institutions, and other potentially affected parties:

(a) Notice that the property is served by a public water system;

(b) The initial water system plan, planning section of the Group B Water System Guideline, or equivalent information from other documents as determined by the department;

(c) Notice that the system is subject to state and local rules;

(d) Recommendation to check with the jurisdictional regulatory authority on the current system status;

(e) Notice that fees may be assessed by the department for providing information on a public water system;

(f) Requirement for satellite management, if applicable;

(g) Notice of any waivers granted to the system; and

(h) Other information required by the department.

NEW SECTION

WAC 246-291-200 Design standards. (1) Water system owners shall ensure that good engineering practices are used in the design of all public water systems. Information on what is good engineering practice is available from the department in the guideline titled *Group B Water System Approval*.

(2) In addition, owners of new or expanding public water systems shall ensure the following factors are addressed:

(a) Local conditions, plans and/or regulations;

(b) Public Water System Coordination Act considerations where appropriate; and

(c) Other requirements as determined by the department.

(3) Any pipe, pipe fittings, solder, or flux used in the installation or repair of a public water system shall be lead-free. Within the context of this section, lead-free shall mean having no more than eight percent lead in pipes and pipe fittings, and no more than two-tenths of one percent lead in solder and flux. This prohibition shall not apply to leaded joints necessary for the repair of cast iron pipes.

NEW SECTION

WAC 246-291-210 Distribution systems. (1) All distribution reservoirs shall have suitable watertight roofs or covers preventing entry by birds, animals, insects, and dust and shall include appropriate provisions to safeguard against trespass, vandalism, and sabotage. All new distribution reservoirs shall be able to be drained to daylight.

(2) The owner shall ensure that the distribution system is sized and evaluated using a hydraulic analysis acceptable to the department.

(3) Systems designed to provide fire hydrants shall have a minimum distribution main size of six inches (150 mm).

(4) New water systems or additions to existing systems shall provide a design quantity of water at a positive pressure of at least thirty psi throughout the system under peak hourly design flow conditions measured at any customer's water meter or at the property line if no meter exists.

(5) If fire flow is to be provided, the distribution system shall be designed to provide the required fire flow at a pressure of at least twenty psi throughout the system during peak hourly design flow conditions.

(6) Booster pumps needed for individual services shall be subject to review and approval by the department.

Installation shall be made under the supervision of the owner to ensure cross-connection control requirements are met. Installation of booster pumps which are an integral part of the system design shall be inspected and certified by the engineer.

NEW SECTION

WAC 246-291-220 Disinfection of facilities. No portion of a public water system containing potable water shall be put into service, nor, if service has been terminated, shall service resume, until the facility has been effectively disinfected. The procedure used for disinfection shall conform to the American Water Works Association standards or other standards acceptable to the department. In cases of new construction, drinking water shall not be furnished to the consumer until satisfactory bacteriological samples have been analyzed by a laboratory certified by the state.

NEW SECTION

WAC 246-291-230 Treatment design and operations. (1) Finished water quality from existing and proposed sources of supply shall conform to the minimum water quality standards established in this chapter.

(2) Predesign studies shall be required for proposed surface water and GWI treatment and may be required for ground water treatment. The goal of the predesign study shall be to establish the most acceptable method to produce satisfactory finished water quality.

(3) Treatment of ground water sources shall be as determined by the department.

(4) The minimum level of treatment for new or expanding surface water and GWI sources approved after the effective date of these regulations shall be coagulation, flocculation, filtration, and disinfection unless otherwise approved by the department.

(5) The minimum level of treatment for existing nonexpanding surface water and GWI sources approved prior to the effective date of these regulations shall be filtration and disinfection.

(6) Disinfection methods, other than chlorination, i.e., ozonation or ultraviolet radiation, may be approved by the department with appropriate engineering justification.

(7) The owner shall ensure that the system is operated in accordance with good operations procedures such as those listed in the department guideline titled *Group B Water System Approval*.

(8) The owner shall ensure that no bypass is established or maintained to divert water around any feature of a treatment process, except by written approval from the department.

NEW SECTION

WAC 246-291-240 Reliability. (1) All public water systems shall provide an adequate quantity and quality of water in a reliable manner.

(a) In determining whether a proposed public water system or an expansion or modification of an existing system is capable of providing an adequate quantity of water, the department shall consider the immediate as well as the reasonably anticipated future needs of the system's consumers.

(b) In determining whether an existing public water system is providing an adequate quantity of water, the department shall consider the needs of the system's existing consumers exclusively, unless, in the department's discretion, consideration of the needs of potential consumers is in the public interest.

(2) The owner shall ensure the system is constructed, operated, and maintained to protect against failures. New and expanding systems shall be equipped with a generator disconnect. Security measures shall be employed to assure the water source, water treatment processes, water storage facilities, and the distribution system are under the strict control of the owner.

(3) Where fire flow is required, a positive pressure shall be maintained throughout the system under fire flow conditions.

(4) Water pressure at the customer's service meter or property line if a meter is not used, shall be maintained at the approved design pressure under peak hourly design flow conditions.

(5) No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.

(6) Owners shall provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information. The owner shall ensure that customer concerns and service complaints are responded to in a timely manner.

NEW SECTION

WAC 246-291-250 Continuity of service. (1) No owner shall transfer system ownership without providing written notice to the department and all customers. Notification shall include a time schedule for transferring responsibilities, identification of the new owner, and under what authority the new ownership will operate. If the system is a corporation, identification of the registered agent shall also be provided.

(2) The system transferring ownership shall ensure all health-related standards are met during transfer and shall inform and train the new owner regarding operation of the system.

(3) No owner shall end utility operations without providing written notice to all customers and the department at least one year prior to termination of service.

(4) Nothing in these rules shall prohibit an owner from terminating service to a specific customer if the customer fails to pay normal fees for service or if the customer allows or installs an unauthorized service connection to the system.

(5) Where this section may be in conflict with existing state statutes, the more stringent statute shall prevail.

NEW SECTION

WAC 246-291-260 Recordkeeping and reporting. (1) The owner shall ensure that the following records of operation and water quality analyses are kept on file:

(a) Records of bacteriological and turbidity analyses shall be kept for five years. Records of chemical analyses shall be kept for as long as the system is in operation. Other records of operation and analyses required by the department

shall be kept for three years. All records shall bear the signature of the owner of the water system or his or her representative.

(b) Records of action taken by the system to correct violations of primary drinking water regulations and copies of public notifications shall be kept for three years after the last action taken with respect to the particular violation involved.

(c) Copies of any written reports, summaries, or communications, relating to comprehensive system evaluations (CSEs) conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the CSE involved.

(d) Where applicable, records of operation and analyses shall include the following:

(i) Daily chlorine residual;

(ii) Water treatment plant performance including, but not limited to:

(A) Type of chemicals used and quantity,

(B) Amount of water treated, and

(C) Results of analyses.

(iii) Daily turbidity;

(iv) Monthly water use readings from totalizing source meters; and

(v) Other information as specified by the department.

(2) Reporting.

(a) The owner shall ensure that reports required by this chapter, are submitted to the department when requested by the department or as otherwise required by this section, including tests, measurements, and analytic reports.

(b) Water facilities inventory and report form (WFI).

(i) Owners shall ensure the submittal of an updated WFI to the department every three years or as requested; and

(ii) The owner shall also ensure the submittal of an updated WFI to the department within thirty days of any change in name, number of connections, ownership, or responsibility for management of the water system.

(c) Bacteriological.

(i) The owner shall ensure that the department is notified of the presence of:

(A) Coliform in a sample, within ten days of notification by the laboratory; and

(B) Fecal coliform or *E. coli* in a sample, by the end of the business day in which the owner is notified by the laboratory or as soon as possible.

(ii) When a coliform MCL violation occurs, the owner shall ensure that the following notifications are made:

(A) Notification of the department before the end of the next business day when a coliform MCL is determined; and

(B) Notification of the water system users in accordance with WAC 246-291-360.

(d) Water use data shall be reported upon request of the department.

NEW SECTION

WAC 246-291-270 Cross-connection control. (1) Owners have the responsibility to protect public water systems from contamination due to cross-connections.

(2) Cross-connections which can be eliminated shall be eliminated. The owner shall work cooperatively with local

authorities to eliminate or control potential cross-connections in a manner acceptable to the department.

(3) When an existing cross-connection poses a potential health or system hazard, the owner shall shut off water service to the premises until the cross-connection has been eliminated or controlled by the installation of a proper backflow prevention assembly.

(4) Backflow prevention devices shall be approved by the department and tested in a manner prescribed by the department in WAC 246-290-490.

NEW SECTION

WAC 246-291-300 General monitoring requirements. (1) The department may require additional monitoring when it determines contamination is present or suspected in the water system or when it determines the source may be vulnerable to contamination.

(2) Special purpose samples shall not count toward fulfillment of the monitoring requirements of this chapter.

(3) The owner shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to department-approved methods. The analyses shall be performed by the state public health laboratory or another laboratory certified by the department. Qualified water utility, certified laboratory, or department personnel may conduct measurements for pH, temperature, residual disinfectant concentration and turbidity as required by this chapter, provided, these measurements are made in accordance with *Standard Methods*.

(4) When one Group B water system sells water to another public water system and the cumulative number of services or population served meet the definition of a group A system, the owner of the selling system shall ensure that source monitoring is conducted in accordance with the minimum requirements for Group A community systems found in chapter 246-290 WAC.

NEW SECTION

WAC 246-291-310 General follow-up. (1) If a water quality sample exceeds any MCLs listed in this chapter, the owner shall ensure notification of the department and take follow-up action as described in this chapter.

(2) When a primary MCL violation occurs, the owner shall ensure that the following actions are taken:

(a) Notification of the department in accordance with WAC 246-291-260;

(b) Notification of the consumers served by the system in accordance with WAC 246-291-360;

(c) Determination of the cause of the contamination; and

(d) Other action as directed by the department.

(3) When a secondary MCL violation occurs, the owner shall ensure that the department is notified and that action is taken as directed by the department.

(4) The department shall determine the follow-up action when a substance not included in this chapter is detected.

NEW SECTION

WAC 246-291-320 Bacteriological. (1) Owners shall ensure the collection and submittal of a sample for coliform analysis at least once every twelve months from the furthest end of the distribution system or as directed by the department.

(2) When coliform bacteria are present in any sample the owner shall ensure that:

- (a) The sample is analyzed for fecal coliform or E. coli;
- (b) The department is notified in accordance with WAC 246-291-260; and

(c) Further action is taken as directed by the department.
 (3) MCLs.
 (a) MCLs under this subsection shall be considered primary standards.

(b) An MCL violation for coliform bacteria occurs when a routine and repeat sample have coliform presence.

- (c) In determining MCL compliance, the owner shall:
- (i) Include:
 - (A) Routine samples; and
 - (B) Repeat samples.
 - (ii) Not include:
 - (A) Invalidated samples; and
 - (B) Special purpose samples.

NEW SECTION

WAC 246-291-330 Inorganic chemical and physical.

(1) Monitoring.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical standards.

(i) Primary chemical and physical standards are antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and turbidity.

(ii) Secondary chemical and physical standards are chloride, color, hardness, iron, manganese, silver, specific conductivity, sulfate*, total dissolved solids*, and zinc.

*Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Samples taken for inorganic chemical analyses shall be collected at the source before treatment.

(c) Owners shall ensure submittal of at least one initial complete analysis from each source;

(d) After the initial complete analysis, owners shall ensure submittal to the department of results of at least one nitrate sample analyzed from each source or well field every thirty-six months; and

(e) When treatment is provided for one or more inorganic chemical or physical contaminants, samples shall be taken for the specific contaminant or contaminants before and after treatment. The department shall determine the frequency of sampling.

(2) Follow-up. When an initial analysis of a substance exceeds the MCL, the owner shall ensure that at least one additional sample is immediately taken from the same sampling point and analyzed for any substance which exceeded the MCL. If the average of the samples exceeds the MCL, a violation is confirmed.

(3) MCLs. The primary and secondary MCLs are listed in Tables 1 and 2:

Table 1
INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
Antimony	0.006
Arsenic	0.05
Barium	2.0
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide	0.2
Fluoride	4.0
Mercury	0.002
Nickel	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium	0.05
Sodium	*
Thallium	0.002

Substance	Secondary MCLs (mg/L)
Chloride	250.0
Fluoride	2.0
Iron	0.3
Manganese	0.05
Silver	0.1
Sulfate	250.0
Zinc	5.0

*Note: Although the State Board of Health has not established an MCL for sodium, there is enough public health significance connected with sodium levels to require inclusion in inorganic chemical and physical monitoring.

Table 2
PHYSICAL CHARACTERISTICS

Substance	Primary MCL
Turbidity	1.0 NTU

Substance	Secondary MCLs
Color	15 Color Units
Hardness	None established
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

NEW SECTION

WAC 246-291-340 Turbidity. (1) The department shall determine monitoring requirements on a case-by-case basis. New surface water and GWI sources shall comply with applicable turbidity monitoring requirements in accordance with Part 6 of Chapter 246-290 WAC.

(2) MCLs.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for turbidity are:

(i) 1.0 NTU, based on a monthly average of the maximum daily turbidity, where the maximum daily turbidity is defined as the average of the:

- (A) Highest two hourly readings over a twenty-four hour period when continuous monitoring is used; or
- (B) Daily grab samples taken within one hour when daily monitoring is used.

The department may increase the MCL to 5.0 NTUs if the owner can show the source is within a controlled watershed and the source meets the requirements under WAC 246-291-110.

(ii) 5.0 NTUs based on an average of the maximum daily turbidity for two consecutive days.

NEW SECTION

WAC 246-291-350 Other substances. (1) In areas known or suspected of being contaminated with other substances of public health concern, the department may require that an owner submit water samples to test for the suspected contamination at a frequency determined by the department.

(2) The department may require repeat samples for confirmation of results.

(3) Any substance confirmed in a water system that does not have an MCL listed in this chapter shall be subject to the MCLs, state advisory levels (SALs) and other provisions found in chapter 246-290 WAC.

NEW SECTION

WAC 246-291-360 Public notification. (1) Responsibility. Within fourteen days of the violation, the owner shall ensure that water system users are notified when the system has a violation of a primary MCL.

(2) Content. Notices shall provide:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) A list of steps the owner has taken or is planning to take to remedy the situation;

(d) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;

(e) The owner's and manager's names and phone numbers; and

(f) When appropriate, notices shall be multilingual.

The owner may provide additional information to further explain the situation.

(3) Distribution. Owners shall ensure that a written notice is distributed to all water system users within fourteen days of a violation unless otherwise directed by the department.

(4) When circumstances dictate the owner give a broader or more immediate notice to protect public health, the department may require notification by whatever means necessary.

(5) When a system is granted a waiver for reduction of water quality standards, the owner shall ensure that customers are notified. The owner shall provide a notice annually and send a copy to the department.

NEW SECTION

WAC 246-291-370 Severability. If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

WSR 94-06-010
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed February 18, 1994, 1:48 p.m.]

Continuance of WSR 94-03-097.

Title of Rule: WAC 352-32-010 Definitions, 352-32-045 Reservations for group day use, 352-32-250 Standard fees charged, 352-32-252 Off-season senior citizen pass—Fee, 352-32-255 Self-registration, and 352-32-320 Severability.

Purpose: To establish fees for the use of certain facilities in state parks.

Statutory Authority for Adoption: RCW 43.51.060.

Statute Being Implemented: RCW 43.51.060.

Summary: Establishes fees for the use of camping facilities and certain day use facilities.

Reasons Supporting Proposal: The legislature requires a contribution of revenue generated by park user fees to the state general fund. These changes are to help meet the revenue contribution requirement.

Name of Agency Personnel Responsible for Drafting: Rex Derr, 7150 Cleanwater Lane, Olympia, WA 98504, 753-2066; Implementation and Enforcement: Kathy Smith, 7150 Cleanwater Lane, Olympia, WA 98504, 753-5761.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Increases certain fees for facilities used in state parks. Fees must be raised to meet the requirement set by the legislature to generate more revenue for the general fund. More revenue will be raised and the proposed fee structure will reduce the differential with similar facilities offered in the private sector.

Note: The fee changes proposed here include all of the options that will be considered for adoption by the commission. Only a portion of the fees listed may be adopted as a selected option. Any increases in existing fees will be adopted consistent with Initiative 601 and the 6.4% limitation. The agency will seek legislative approval, if required.

Proposal Changes the Following Existing Rules: Raises existing fees and establishes new fees.

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

Hearing Location: Olympic National Forest Office, 1835 Black Lake Boulevard, Olympia, WA 98502, on March 11, 1994, at 9:00 a.m.

Submit Written Comments to: Rex Derr, P.O. Box 42650, Olympia, WA 98504-2650, by February 25, 1994.

Date of Intended Adoption: March 11, 1994.

February 18, 1994
 Sharon Howdeshell
 Office Manager

WSR 94-06-016
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed February 22, 1994, 9:08 a.m.]

The purpose of this letter is to officially withdraw the proposed rules found in WAC 246-227-030 and 246-227-100. The substance of these proposed new sections was included in the proposed rules filed on September 9, 1993, WSR 93-19-048. Based on public comment, the requirements contained in these two sections were incorporated into other sections in the final adopted regulations, the proposed sections are not necessary.

If you have any questions, please contact T. R. Strong, Director, Division of Radiation Protection at (206) 586-8949.

Bruce Miyahara
 Secretary

WSR 94-06-018
WITHDRAWAL OF PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed February 22, 1994, 10:10 a.m.]

Withdraw the supplemental notice, WSR 93-18-027 filed with the code reviser's office by the Higher Education Coordinating Board on August 25, 1993, and original notice, WSR 93-12-106 filed on June 1, 1993, dealing with the Degree Authorization Act, chapter 250-62 WAC.

The Higher Education Coordinating Board will refile a new original notice, form CR-102 (Proposed Rule Making Form), at a future date.

Elson S. Floyd
 Executive Director

WSR 94-06-020
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed February 22, 1994, 11:13 a.m.]

Continuance of WSR 94-03-089.

Title of Rule: WAC 352-74-040 Film permit application, fee.

Purpose: To establish fees for film permit applications for filming other than for personal or news purposes.

Statutory Authority for Adoption: RCW 43.51.060.

Statute Being Implemented: RCW 43.51.060.

Summary: Sets fees for submittal of film permit applications ten or more days in advance of filming date and less than ten days in advance of filming date.

Reasons Supporting Proposal: The legislature requires a contribution of revenue generated by park user fees to the state general fund. Existing fees do not meet the revenue contribution requirement and must be adjusted.

Name of Agency Personnel Responsible for Drafting: Rex Derr, 7150 Cleanwater Lane, Olympia, WA 98504, 753-2066; Implementation and Enforcement: Kathy Smith, 7150 Cleanwater Lane, Olympia, WA 98504, 753-5761.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Increases film permit application fee if submitted less than ten days in advance of filming. Anticipated effects are to, in some cases, raise more revenue, and to provide an incentive for a more timely application.

Proposal Changes the Following Existing Rules: Raise existing fee for those not responding in a timely manner.

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

Hearing Location: Olympic National Forest Office, 1835 Black Lake Boulevard, Olympia, WA 98502, on March 11, 1994, at 9:00 a.m.

Submit Written Comments to: Rex Derr, P.O. Box 42650, Olympia, WA 98504-2650, by February 25, 1994.

Date of Intended Adoption: March 11, 1994.

February 22, 1994
 Sharon Howdeshell
 Officer Manager

WSR 94-06-021
WITHDRAWAL OF PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed February 22, 1994, 12:58 p.m.]

The Washington State Liquor Control Board has decided to withdraw proposed language modifying WAC 314-12-142 as filed on December 23, 1993, as WSR 94-02-013.

The board will revise the existing language, incorporate suggestions obtained in earlier hearings and resubmit the amendatory section to the WAC at a later date.

Joseph L. McGavick
 Chairman

WSR 94-06-023
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed February 23, 1994, 8:51 a.m.]

The Department of Social and Health Services is withdrawing WAC 388-49-535 filed as a proposal with the Office of the Code Reviser under WSR 94-03-041 on January 11, 1994.

Dewey Brock, Chief
 Office of Vendor Services
 Administrative Services

WSR 94-06-027
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed February 23, 1994, 8:59 a.m.]

Continuance of WSR 94-03-050.

Title of Rule: WAC 388-49-590 Monthly reporting.

Purpose: Amended to exclude households from monthly reporting when the households' only earned income is exempt.

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

Date of Intended Adoption: March 16, 1994.

February 23, 1994
 Dewey Brock, Chief
 Office of Vendor Services
 Administrative Services Division

WSR 94-06-028
PROPOSED RULES
COUNTY ROAD
ADMINISTRATION BOARD

[Order 94-E—Filed February 23, 1994, 9:48 a.m.]

Original Notice.

Title of Rule: WAC 136-130-040 Project prioritization in northwest region (NWR) and 136-160-050 Project approval and RATA fund allocation.

Purpose: Increase both the maximum accumulated dollar amount of the projects that can be submitted for competition as well as the maximum accumulated dollar amount of projects that can be approved in the northwest region, both based on the estimated regional allocation for a biennium.

Other Identifying Information: These are amendments to existing rules.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: These amendments will increase the dollar amount of projects submitted as well as those approved. The submitted amount will go from 40 to 50% of the estimated biennial regional allocation, and the maximum approved amount will go from 20 to 25% of the estimated biennial regional allocation. This only affects the northwest region.

Reasons Supporting Proposal: The member counties in the northwest region have evaluated past biennium priority arrays and approved projects. They have recommended these changes in order to improve the competitiveness in the region as well as reflect the relative needs among the member counties.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rule amendments will increase the total cost of projects that may be submitted for the regional priority array as well as the maximum funds that may be allocated to any one county in the region.

Proposal Changes the Following Existing Rules: These amendments increase the percentages of the region's biennial allocation which serve as the base for both project submittals and approvals. The submittal percentage will go from 40 to 50% and the approvals from 20 to 25%.

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

Hearing Location: Four Seasons Inn, East Wenatchee, Washington, on April 22, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by April 19, 1994.

Date of Intended Adoption: April 22, 1994.

February 22, 1994
 Vern E. Wagar
 Executive Director

AMENDATORY SECTION (Amending Order 82, filed 11/6/90, effective 12/7/90)

WAC 136-130-040 Project prioritization in northwest region (NWR). Each county in the NWR may submit projects requesting RATA funds not to exceed five hundred thousand dollars per project and (~~forty~~) fifty percent of the regional allocation total. No bridge replacement projects will be funded. Each project shall be rated in accordance with the NWR RAP rating procedures. NWR RAP rating points shall be assigned on the basis of forty points for structural condition, forty points for geometrics, ten points for traffic volume and ten points for traffic accidents and five points for any project on a major collector (07). Prioritization of NWR projects shall be on the basis of total NWR RAP rating points shown on the project worksheet and the prospectus form of the project application.

AMENDATORY SECTION (Amending Order 89, filed 6/10/92, effective 7/11/92)

WAC 136-160-050 Project approval and RATA fund allocation. The CRABoard will meet as soon as feasible after the passage of each biennial budget by the Legislature to approve RAP projects and allocate RATA funds. RAP projects shall be approved by region in order of their regional priority and RATA funds shall be allocated up to a cumulative dollar amount no greater than 90% of the RATA construction appropriation included in the biennial budget; provided, however, that no county shall receive a total RATA fund allocation greater than the following percentages of the regional apportionment in the respective regions; NWR, (~~20~~) 25%; NER, 12.5%; SER, as follows:

Asotin County	10%
Benton County	14%
Columbia County	11%
Franklin County	13%
Garfield County	10%
Kittitas County	13%
Klickitat County	14%

Walla Walla County	14%
Yakima County	20%;

and SWR, 15% of the regional apportionment. The remaining construction appropriation may be allocated to approved projects later in the biennium at a time deemed appropriate by the CRABoard.

WSR 94-06-029
PROPOSED RULES
COUNTY ROAD
ADMINISTRATION BOARD
 [Order 94-D—Filed February 23, 1994, 9:49 a.m.]

Original Notice.

Title of Rule: WAC 136-130-060 Project prioritization in southeast region (SER).

Purpose: Revise rating point computations for stand-alone bridges in the southeast region.

Other Identifying Information: This is an amendment to an existing rule.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: The amendment will change the method of computing rating points for stand-alone bridges from the SWIBS process to the method contained in the southeast region RAP rating worksheets.

Reasons Supporting Proposal: The method contained in the southeast region RAP rating worksheets is a simplified version of the SWIBS detailed ratings. The simplified method will, for the purpose of prioritizing possible projects, be sufficient. This revision is also requested by the county engineers in the southeast region.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 573-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule amendment will simplify the stand-alone bridge rating procedure. The full SWIBS rating is unnecessarily detailed for the purpose and the proposed process will yield substantially equivalent results.

Proposal Changes the Following Existing Rules: Changes rating for stand-alone bridges in the southeast region from the SWIBS rating to the simplified version contained in the southeast region RAP rating worksheets.

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

Hearing Location: Four Seasons Inn, East Wenatchee, Washington, on April 22, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by April 19, 1994.

Date of Intended Adoption: April 22, 1994.

February 22, 1994
 Vern E. Wagar
 Executive Director

AMENDATORY SECTION (Amending Order 88, filed 6/10/92, effective 7/11/92)

WAC 136-130-060 Project prioritization in southeast region (SER). Each county in the SER may submit projects requesting RATA funds not to exceed twice the per county percent limit of the SER biennial apportionment which is listed as follows:

Asotin County	10%
Benton County	14%
Columbia County	11%
Franklin County	13%
Garfield County	10%
Kittitas County	13%
Klickitat County	14%
Walla Walla County	14%
Yakima County	20%

Each project shall be rated in accordance with the SER RAP rating procedures. 10% of the SER biennial apportionment shall be reserved for bridge projects. Federally funded bridges for which counties are seeking matching funds shall receive first consideration for these funds, ranked against each other according to the WSDOT priority array. Bridges receiving federal funding may be added to this list at any time during the biennium. ~~((Other))~~ Stand-alone bridges may compete for funds in this reserve that remain after all bridges seeking match for federal funds have been funded. These bridges will be rated against each other according to their ~~((State of Washington Inventory of Bridges and Structures (SWIBS) ratings))~~ total points assigned from the RAP Rating Worksheets for the southeast region. Whatever part of the bridge reserve that is not allocated to bridge projects shall be available for allocation to other RAP projects. SER RAP rating points shall be assigned on the basis of 45 points for structural condition, 30 points for geometrics, 20 points for traffic volume, 5 points for traffic accidents. A total of 10 points representing local significance may be added to one project in each county's biennial submittal. Prioritization of SER projects shall be on the basis of total SER RAP rating points shown on the project worksheet and the prospectus form of the project application.

WSR 94-06-030
PROPOSED RULES
COUNTY ROAD
ADMINISTRATION BOARD
 [Order 94-ACF—Filed February 23, 1994, 9:51 a.m.]

Original Notice.

Title of Rule: WAC 136-160-060 Limitations on use of RATA funds.

Purpose: Extend RATA eligibility to include preliminary engineering in the southwest and northwest regions and right of way in the northwest region.

Other Identifying Information: This is an amendment to an existing rule.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: The amendment will add the costs of preliminary engineering as being eligible for RATA partici-

pation in the southwest and northwest RAP regions, and right of way in the northwest RAP region.

Reasons Supporting Proposal: Making preliminary engineering and right of way as reimbursable costs can assist counties in reducing their nonreimbursable investment in project development costs.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule amendment will add the option for any county in the two regions to use RATA funds for preliminary engineering costs (and right of way costs in the northwest region) at the same pro rata as for construction. This would not change the county limit; any RATA funds a county uses for preliminary engineering (and/or right of way) would be offset by a reduction in the amount of construction RATA amounts. These amendments are supported by the counties in the regions.

Proposal Changes the Following Existing Rules: Existing rule does not include preliminary engineering or right of way as RATA reimbursable costs. This proposed rule makes preliminary engineering RATA eligible in the southwest and northwest regions, and right of way in the northwest region.

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

Hearing Location: Four Seasons Inn, East Wenatchee, Washington, on April 22, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by April 19, 1994.

Date of Intended Adoption: April 22, 1994.

February 22, 1994

Vern E. Wagar

Executive Director

AMENDATORY SECTION (Amending Order 89, filed 6/10/92, effective 7/11/92)

WAC 136-160-060 Limitation on use of RATA funds. The RATA funds requested in the project application are intended to reimburse a county for 80% of its RAP construction costs up to the amount of the CRAB/county contract in the PSR and NWR and 90% in the SWR, NER and SER. RATA funds may be used to reimburse a county for 80% of its RAP project preliminary engineering costs in the PSR and NWR, and 90% in the NER, SWR and SER. RATA funds may be used to reimburse a county for 80% of its project right of way costs in the PSR, and 90% of project right of way costs in ~~((both))~~ the NER, NWR and the SER.

WSR 94-06-031

PROPOSED RULES

COUNTY ROAD

ADMINISTRATION BOARD

[Order 94-B—Filed February 23, 1994, 9:52 a.m.]

Original Notice.

Title of Rule: WAC 136-180-040 Payment of vouchers.

Purpose: Remove the department of transportation from the processing of RATA vouchers and payments to counties.

Other Identifying Information: This is an amendment to an existing rule.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: The amendment will remove the Department of Transportation from the RATA voucher-payment process.

Reasons Supporting Proposal: The agency now has its own accountant for the preparation of payment authorizations to the state treasurer. The state treasurer will prepare the warrants and return them to the agency accountant for transmittal to the vouchering county.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, Olympia, Washington, (206) 753-5989; Implementation and Enforcement: Vern Wagar, Olympia, Washington, (206) 753-5989.

Name of Proponent: County Road Administration Board, 2404 Chandler Court S.W. #240, Olympia, WA 98502, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule amendment will change the voucher and warrant processing procedure for RATA funds by using the services of the new agency accountant instead of the Department of Transportation amounts.

Proposal Changes the Following Existing Rules: Removes the Department of Transportation from the voucher-warrant processing procedure and directs the agency to deal directly with the state treasurer.

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

Hearing Location: Four Seasons Inn, East Wenatchee, Washington, on April 22, 1994, at 10:00 a.m.

Submit Written Comments to: Vern Wagar, Director, by April 19, 1994.

Date of Intended Adoption: April 22, 1994.

February 22, 1994

Vern E. Wagar

Executive Director

AMENDATORY SECTION (Amending Order 56, filed 7/30/84)

WAC 136-180-040 Payment of vouchers. Upon approval of each RAP project voucher by the chairman of the CRAB or his designated agent(s), it shall be transmitted to the ~~((department of transportation for payment to the county submitting the voucher. RATA warrants shall be))~~ state treasurer for preparation of the RATA warrant. The RATA warrant will be returned to CRAB and transmitted directly to each county submitting a voucher.

**WSR 94-06-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed February 25, 1994, 4:13 p.m.]

Original Notice.

Title of Rule: New chapter 388-250 WAC, Grant standards and chapter 388-255 WAC, Special payments.

Purpose: Rewriting, reorganizing, and recodifying rules relating to financial and medical assistance programs. This facilitates on-line (computer) access by eligibility staff in our field offices and makes the policies easier to understand. Repeals chapter 388-29 WAC.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Rewritten to clarify and simplify existing rules without making substantive changes to existing policy, e.g.: Shift to outline format; use of short words and sentences; deletion of redundant policies; deletion of procedural material; and reorganization of chapters into a sequence that corresponds with worker process; and use of terms consistently within and between chapters.

Reasons Supporting Proposal: The rewritten material is recodified from chapter 388-29 WAC to new chapter 388-250 WAC, Grant standards and chapter 388-255 WAC, Special payments.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, Division of Income Assistance, 438-8309.

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 April 5, 1994, at 10:00 a.m. If you need sign language assistance, please contact the Office of Vendor Services by March 22, 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, 95804, TELEFAX 586-8487 or SCAN 321-8487, by March 29, 1994.

Date of Intended Adoption: April 6, 1994.

February 25, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

**Chapter 388-250 WAC
GRANT STANDARDS**

NEW SECTION

WAC 388-250-1010 Definitions. (1) "Consolidated standards of need," means combining individual requirement amounts into a single dollar value.

(2) "Energy costs" means space heat, lighting, water heating, and other household energy consumption.

(3) "Grant maximum" means the amount of payment authorized regardless of household size. No incremental increase in the grant payment will be made for additional members of an assistance unit beyond the grant maximum for a designated household size.

(4) "Household maintenance and operations" means household supplies, housewares, linens, sewing supplies, household management, laundry, banking, and telephone.

(5) "Monthly grant amount" means the payment standard and any additional requirements less any countable income, or the grant maximum, whichever is less.

(6) "Need standard" means the income required by an applicant or recipient to maintain a minimum and adequate level of living.

(7) "Payment standard" means the amount to which the applicant's or recipient's available income and resources are compared in determining financial eligibility.

(8) "Rateable reduction" means the percentage difference between the need standard and the payment standard.

(9) "Requirement" means an item or service the department recognizes as essential to the welfare of a person.

(a) "Additional requirement" means a requirement essential to some clients under specified conditions.

(b) "Basic requirements" means food, clothing, shelter, energy costs, transportation, household maintenance and operations, personal maintenance, and necessary incidentals.

(10) "Residing in own home" means living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.

NEW SECTION

WAC 388-250-1050 Standards of assistance. (1) The department shall establish consolidated standards of assistance each fiscal year.

(2) The department may establish standards of assistance that vary by geographical areas, program, and family size.

(3) The department may establish grant maximums and rateable reductions.

(4) The department may establish a separate standard for shelter provided to the recipient at no cost.

NEW SECTION

WAC 388-250-1100 Standards of assistance— Assistance units. (1) The department shall determine which persons to include in an assistance unit.

(2) When creating the assistance unit, the department shall consider:

(a) Household members for whose support the applicant is legally responsible; and

(b) Categorical program requirements.

(3) The department shall not include a person receiving benefits under Title XVI of the Social Security Act in an aid to families with dependent children assistance unit.

NEW SECTION

WAC 388-250-1150 Standards of assistance—Basic requirements. (1) The department shall provide a person eligible for an AFDC, general assistance, or refugee assistance grant the basic requirements.

(2) The department shall apply standards for basic requirements to persons with or without shelter costs.

(3) The department shall base the monthly payment standard and maximums thereto, if in effect, on the number of recipients in the assistance unit.

(4) When two or more assistance units share a common dwelling, the department shall base the monthly standard for each on the number of members in the assistance unit.

(5) When a person is in a medical institution, the department shall not compute basic requirements of food, shelter, and household maintenance in the grant, but pay basic requirements as a medical care cost.

(6) The department shall apply standards for additional requirements to persons with circumstances specified in WAC 388-255-1020.

(7) State supplements for supplemental security income recipients shall not be less than the levels specified under 20 CFR 416.2098.

4	1,361
5	1,569
6	1,781
7	2,056
8	2,276
9	2,500
10 or more	2,716

(2) Effective September 1, 1993, the department shall determine a household with shelter provided at no cost, except as described under WAC 388-250-1200, to be:

Recipients in Household	Need Standard
1	\$ 449
2	569
3	705
4	828
5	955
6	1,084
7	1,251
8	1,385
9	1,522
10 or more	1,653

NEW SECTION

WAC 388-250-1200 Standards of assistance—Basic requirements - Need and payment standards. (1) A household with an obligation to pay shelter costs includes:

(a) A person owning, purchasing, or renting, this includes payment of only costs of property taxes, or fire insurance, or sewer, or water or garbage.

(b) A person residing in a lower income housing project, assisted under the United States Housing Act of 1937, or Section 236 of the National Housing Act, if the person either pays rent or makes a utility payment in lieu of a rental payment.

(2) Effective April 23, 1990, family or person is considered homeless if they:

(a) Lack a fixed, regular, and adequate nighttime residence;

(b) Reside in a public or privately operated shelter designed to provide temporary living accommodations; or

(c) Live in temporary lodging provided through a public or privately funded emergency shelter program.

(3) A household with shelter provided at no cost includes requirements for shelter, food, clothing, energy, personal maintenance and necessary incidentals, household maintenance and operations, and transportation.

NEW SECTION

WAC 388-250-1300 Standards of assistance—One hundred eighty-five percent of need standards. (1)

Effective September 1, 1993, the department shall determine one hundred eighty-five percent of the statewide monthly need standard for basic requirements for a household with an obligation to pay shelter costs to be:

Recipients in Household	185% of Need Standard
1	\$ 1,367
2	1,730
3	2,142
4	2,518
5	2,903
6	3,295
7	3,804
8	4,211
9	4,625
10 or more	5,025

(2) Effective September 1, 1993, the department shall determine one hundred eighty-five percent of the statewide monthly need standard for basic requirements for a household with shelter provided at no cost to be:

Recipients in Household	185% of Need Standard
1	\$ 830
2	1,052
3	1,304
4	1,531
5	1,766
6	2,005
7	2,314

NEW SECTION

WAC 388-250-1250 Standards of assistance—Need standards. (1) Effective September 1, 1993, the department shall determine the statewide monthly need standard for a household with an obligation to pay shelter to be:

Recipients in Household	Need Standard
1	\$ 739
2	935
3	1,158

8	2,562
9	2,815
10 or more	3,058

Recipients in Household	Payment Standard
1	\$ 349
2	440
3	546
4	642
5	740
6	841
7	941
8	1,075
9	1,180
10 or more	1,283

NEW SECTION

WAC 388-250-1350 Standards of assistance—Payment standards for general assistance-unemployable, and alcoholism and drug additional treatment and support act programs. The statewide monthly payment standard for general assistance-unemployable, and alcoholism and drug addiction treatment and support act programs shall be as follows:

(1) Effective January 1, 1991, the department shall determine the statewide monthly payment standard for a household with an obligation to pay for shelter to be:

Recipients in Household	Payment Standard
1	\$ 339
2	428
3	531
4	624
5	719
6	817
7	943
8	1,044
9	1,146
10 or more	1,246

(2) Effective January 1, 1991, the department shall determine the payment standard for a household with shelter provided at no cost, except as described under WAC 388-250-1200, to be:

Recipients in Household	Payment Standard
1	\$ 212
2	268
3	332
4	391
5	451
6	511
7	591
8	654
9	718
10 or more	780

Recipients in Household	Payment Standard
1	\$ 206
2	261
3	323
4	380
5	438
6	497
7	574
8	635
9	698
10 or more	758

NEW SECTION

WAC 388-250-1400 Standards of assistance—Payment standards for aid to families with dependent children, refugee assistance, and general assistance for pregnant women programs. The statewide monthly payment standard for aid to families with dependent children, refugee assistance, and general assistance for Pregnant women programs shall be as follows:

(1) Effective January 1, 1993, the department shall determine the statewide monthly payment standard for a household with an obligation to pay for shelter to be:

NEW SECTION

WAC 388-250-1450 Standards of assistance—Grant maximum. (1) The department shall ensure that a grant to a family of eight or more does not exceed the maximum in subsection (3) of this section.

(2) In computing the grant amount, the department shall deduct nonexempt income available to meet need from the monthly payment standard specified in this chapter.

(3) Effective January 1, 1993, the grant maximum is:

<u>Number in Household</u>	<u>Maximum</u>
8 or more	\$1,075

NEW SECTION

WAC 388-250-1500 Standards of assistance—Consolidated emergency assistance (CEAP). Effective January 1, 1993, the department shall determine the statewide standards for the consolidated emergency assistance program to be the amount necessary to meet allowable emergent needs not to exceed one hundred percent of the payment standard.

(1) Maximum CEAP grant.

Recipients in Household	Maximum Grant
1	\$ 349
2	440
3	546

4	642	7	971
5	740	8 or more	1,075
6	841		

(2) CEAP payment maximums for individual emergent need items.

PROPOSED

	1	2	3	4	5	6	7	8 (or more)
Food	\$211	\$268	\$332	\$391	\$450	\$511	\$583	\$645
Shelter	258	325	404	476	548	621	719	795
Clothing	30	38	47	56	64	73	83	94
Minor Medical	179	228	282	332	382	432	501	554
Utilities	87	110	136	160	184	210	243	268
Household Maint.	64	81	100	118	136	155	178	197

Job-related transportation, as needed, is not to exceed the grant maximum.

Transportation of a child to home, as needed, is not to exceed the grant maximum.

NEW SECTION

WAC 388-250-1550 Standards of assistance—Persons in medical institutions. Effective July 1, 1988, the department shall determine the monthly standard for clothing, personal maintenance, and necessary incidentals for an eligible person in a skilled nursing home, a public nursing home, a general or tuberculosis hospital, joint commission on accreditation of hospitals (JCAH)-approved psychiatric hospital or an intermediate care facility to be forty-one dollars and sixty-two cents.

NEW SECTION

WAC 388-250-1600 Standards of assistance—Persons in congregate care facilities (CCF), adult residential rehabilitation centers/adult residential treatment facilities (ARRC/ARTF), and division of developmental disabilities (DDD) group home facilities. (1) The department shall determine the monthly eligibility standard for CCF, ARRC/ARTF, and DDD group home care to be:

(a) The department-contracted facility rate for payment to such facilities to provide a specific level of care and supervision; plus

(b) A monthly allowance of thirty-eight dollars and eighty-four cents for clothing, personal maintenance, and necessary incidentals (CPI).

(2) The department shall determine the monthly grant payment to be the CPI allowance.

NEW SECTION

WAC 388-250-1650 Standards of assistance—Adult family home care. (1) The department shall determine the monthly eligibility standard for adult family home (AFH) care to be:

(a) The department-contracted facility rate for payment to AFHs to provide a specific level of care and supervision; plus

(b) A monthly allowance of thirty-eight dollars and eighty-four cents for clothing, personal maintenance, and necessary incidentals (CPI); plus

(c) Additional service hours computed at the department contracted rate as described under WAC 388-15-880.

(2) The department shall determine the monthly grant payment standard to be the one-person monthly payment standard as defined under WAC 388-250-1350.

NEW SECTION

WAC 388-250-1700 Standards of assistance—Supplemental security income. Effective January 1, 1994, the standards of SSI assistance paid to an eligible individual and couple are:

(1) Living alone (own household or alternate care, except nursing homes or medical institutions).

	Standard	Federal SSI Benefit	State Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties			
Individual	\$474.00	\$446.00	28.00
Individual with one essential person	691.00	669.00	22.00
Couple:			
Both eligible	691.00	669.00	22.00
Includes one essential person	691.00	669.00	22.00
Includes ineligible spouse	638.00	446.00	192.00
Area II: All Counties Other Than the Above			
Individual	\$453.55	\$446.00	7.55
Individual with one essential person	669.00	669.00	0
Couple:			
Both eligible	669.00	669.00	0
Includes one essential person	669.00	669.00	0
Includes ineligible spouse	606.15	446.00	160.15

Areas I and II:

Eligible individual with more than one essential persons: \$446 for eligible individual plus \$223 for each essential person (no state supplement).

Eligible couple with one or more essential persons: \$669 for eligible couple plus \$223 for each essential person (no state supplement).

(2) Shared living (Supplied shelter): Area I and II

	Standard	Federal SSI Benefit	State Supplement
Individual	\$303.15	\$297.34	\$ 5.81
Individual with one essential person	452.30	446.00	6.30

Couple:			
Both eligible	452.30	446.00	6.30
Includes one essential person	452.30	446.00	6.30
Includes eligible spouse	416.97	297.34	119.63

Area I and II:
 Eligible individual with more than one essential person:
 \$297.34 for eligible individual plus \$148.67 for each essential person (no state supplement).

Eligible couple with one or more essential person:
 \$446 for eligible couple plus \$148.67 for each essential person (no state supplement).

Area I and Area II: Medicaid Institutions	41.62	30.00	11.62
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NEW SECTION

WAC 388-250-1750 Standards of assistance—Additional requirements. (1) The department shall determine:

(a) **Restaurant meals** — Effective January 1, 1993, the monthly standard for restaurant meals to be one hundred eighty-seven dollars and nine cents.

(b) **Home-Delivered Meals** — The monthly standard to be the amount charged by the agency delivering the service when a plan for use of this service is approved by the department.

(c) **Food for Guide Dog or service animal** — Effective January 1, 1991, the monthly standard for food for guide dog or service animal to be thirty-three dollars and sixty-six cents.

(d) **Telephone** — The monthly standard for telephone is the current Washington telephone assistance program (WTAP) discounted payment amount of eight dollars or the minimum standard residential rate available in the area for the service, whichever is less.

(e) **Laundry** — Effective January 1, 1993, the monthly standard for laundry to be eleven dollars and thirteen cents.

(f) **Winterizing Homes—AFDC** — Effective January 1991, the maximum allowance for winterizing a home is five hundred dollars.

(2) The department shall ensure the total of payments made under this section for one month does not exceed one month's AFDC payment standard for a household with an obligation to pay for shelter. See Additional requirements - Emergent Needs Situations (WAC 388-255-1350).

**Chapter 388-255 WAC
 SPECIAL PAYMENTS**

NEW SECTION

WAC 388-255-1020 Additional requirements—General provisions. (1) The department shall provide additional requirements under the circumstances and limitations specified in this chapter.

(2) The department shall provide for certain additional requirements when a person's circumstances indicate that the item is essential in according to the department established criteria. In determining whether the need for an additional requirement exists, the department shall consider:

- (a) The circumstances that created the need;
- (b) The person's health or living conditions; and

(c) Other pertinent factors as described under subsection (4) of this section.

(3) The department shall verify the need for an additional requirement.

(4) The need for an additional requirement may regularly recur or be nonrecurring. When the requirement is ongoing, the department shall:

(a) Add the requirement to the basic monthly grant payment for the assistance unit;

(b) Establish a plan for periodically reviewing the need for the requirement;

(c) Re-establish the need for an ongoing additional requirement as often as the case plan indicates, but at least:

(i) Semiannually for AFDC, or refugee assistance recipients; or

(ii) Annually for general assistance or SSI recipients, when the need is not likely to change; or

(iii) More frequently if circumstances are likely to change.

NEW SECTION

WAC 388-255-1050 Additional requirements—Restaurant meals. (1) The department may authorize additional requirements for restaurant meals for clients eligible for AFDC, refugee or general assistance grants, and SSI recipients.

(2) The department shall authorize restaurant meals as an additional requirement when the department determines:

(a) A client is physically or mentally unable to prepare meals; and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for the person.

(3) The monthly standard for restaurant meals is described under WAC 388-250-1750(1).

NEW SECTION

WAC 388-255-1100 Additional requirements—Home-delivered meals (meals on wheels). (1) The department may authorize additional requirements for home-delivered meals (meals on wheels) for clients eligible for AFDC grants, refugee cash assistance, general assistance grants, or SSI benefits.

(2) The department shall authorize home-delivered meals (meals on wheels) as an additional requirement when the department determines:

(a) A person cannot be expected to prepare all of their own meals, and home-delivered meals are available; and

(b) The person requires help in preparation of meals and would benefit nutritionally or otherwise from home-delivered meals; and

(c) Help in preparation of meals is not reasonably available without cost to the person; and

(d) Board (or board and room) is not available, is not feasible, or is costlier for the recipient.

(4) The department shall determine the monthly standard to be the amount charged by the agency delivering the service. (See WAC 388-250-1750.)

NEW SECTION

WAC 388-255-1150 Additional requirements—Food for guide dog or service animal. (1) The department may authorize additional requirements for food for a guide dog or service animal for clients eligible for AFDC grants, refugee cash assistance, general assistance grants, or SSI benefits.

(2) The department shall determine the cost of food for a guide dog or service animal to be an additional requirement when the animal has been trained or certified by an accredited school.

(3) The monthly standard for food for a guide dog or service animal is described under WAC 388-250-1750.

NEW SECTION

WAC 388-255-1200 Additional requirement—Telephone. (1) The department may authorize additional requirements for telephone assistance for clients eligible for AFDC grants, refugee cash assistance, general assistance grants, or SSI benefits.

(2) The department shall authorize telephone services as an additional requirement when the department determines:

(a) The lack of a telephone would endanger the clients life or make a more expensive type of care necessary; and

(b) The function of a telephone cannot be performed by other means, including the help of neighbors, relatives or other community services.

(3) The monthly standard for telephone is described under WAC 388-250-1750.

NEW SECTION

WAC 388-255-1250 Additional requirements—Laundry. (1) The department may authorize additional requirements for laundry for clients eligible for AFDC grants, refugee cash assistance, general assistance grants or SSI benefits.

(2) The department shall authorize laundry as an additional requirement when the department determines:

(a) The client is physically unable to do laundry; and

(b) A person is not able to perform this service for the client at no cost.

(3) The monthly standard for laundry is described under WAC 388-250-1750.

NEW SECTION

WAC 388-255-1300 Additional requirements—Winterizing homes AFDC. (1) The department may authorize additional requirements for winterizing homes for clients eligible for AFDC grants assistance.

(2) The department shall authorize repairs to a home owned or being purchased by an AFDC client as an additional requirement under the following circumstances:

(a) The primary purpose of the repairs is to minimize heat loss or otherwise increase the efficiency of the home heating system;

(b) The repairs are necessary to render the home habitable;

(c) Lack of repairs would require the assistance unit to move to rental quarters;

(d) The rental costs expended by the assistance unit over a period of two years would exceed the costs, including repairs, attributable to continued occupancy; and

(e) Expenditures for home repair has not been previously made under the policies outlined under subsection (2)(a), (b), (c) and (d) of this section.

(3) The department shall ensure all expenditures for repairs are paid by vendor payments when there is sufficient recorded evidence that a home repair was performed.

(4) The maximum allowance for winterizing a home is described under WAC 388-250-1750.

NEW SECTION

WAC 388-255-1350 Additional requirements for emergent situations. (1) The department may authorize additional requirements for emergent situations for clients eligible for AFDC grants or refugee cash assistance.

(2) The department shall allow additional requirements in the following emergent situations when, for good cause, a client does not have adequate funds to:

(a) Secure housing and necessary clothing in the event of a natural disaster, such as flood or fire, and relief is not available through the department of community development's individual and family grant program;

(b) Prevent imminent eviction or secure new housing, where a formal written notice of eviction, notice to pay or vacate, or notice of foreclosure has been received. The department shall limit payment to the amount needed to either prevent the eviction, or to secure new housing, as described under subsection (4) of this section, whichever is less;

(c) Correct a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities. The client is legally responsible for the repairs when winterization funds are not available. The department shall limit payment to actual costs of repairs or replacement when another alternative does not exist.

(d) Obtain new housing when:

(i) The premises contains a verifiable material defect jeopardizing the occupant's health and safety; and

(ii) The landlord or owner fails or refuses to correct the defect within the time allowed by law.

(e) Prevent an impending utility shutoff when:

(i) A notice of impending shutoff has been received; or

(ii) Verified by the department that the client is without necessary fuel for heating or cooking. The department shall authorize only the amount necessary to meet the emergent need.

(f) Obtain new housing for needs caused by an abusive spouse. The department shall limit payment to:

(i) Established fees paid to shelters for abused spouses;

or

(ii) The amount necessary to obtain new housing.

(g) Obtain food when another resource is not available.

(3) The department shall establish good cause when the department determines funds ordinarily available to meet are not available because of:

(a) Stolen proceeds from cashed warrants;

(b) Payment for the necessities of:

(i) Medical bills;

(ii) Child care in an emergency;

Richard J. Poelker
Administrative Regulations Officer

- (iii) Avoiding abuse; or
- (iv) Dental care for alleviation of pain or to obtain employment.

(c) Payments to meet temporary extra costs for the necessary need items of housing, utilities, food, or clothing provided the actions of the recipient were reasonable under the circumstances. The department shall:

(i) Presume a recipient acted reasonably when the amount expended for these necessities does not exceed the amount specified under WAC 388-250-1400.

(ii) Determine other cases on a case-by-case basis. If the amount in WAC 388-250-1400 is exceeded, the department shall make a judgment regarding reasonableness.

(4) The department shall ensure the total of payments made under this section for one month does not exceed one month's AFDC payment standard for a household with an obligation to pay for shelter, as established under WAC 388-250-1400.

NEW SECTION

WAC 388-255-1400 One-time grant—Authorization—Disbursement. (1) The department shall make a one-time grant to supplement or replace a regular monthly grant payment.

(2) The department shall authorize a one-time payment for:

(a) An additional requirement under WAC 388-255-1050 through WAC 388-255-1350, unless the payment is otherwise specified;

(b) Income or assistance budgeted by the department as available to, but not received by, the assistance unit;

(c) Supplemental assistance a client needs from the date the recipient leaves an institution to the date the client receives the regular, adjusting, or reinstated grant;

(d) Initiating, reinstating, or increasing a grant as required by a fair hearing or court decision;

(e) Compensation for an underpayment to client or former client;

(f) An exception to the rule approved by the department under chapter 388-200-1150 WAC;

(g) Reissuance of a canceled warrant to adjust the grant;

(h) A change in the basic requirements which results in an increase in the regular grant;

(i) Assistance which requires a partial month payment in compliance with the ten-day advance notice rules on reduction, suspension, or termination of a grant; and

(j) A person added to the assistance unit.

(3) Except as provided in subsection (2)(d) and (e) of this section, the department shall ensure a retroactive one-time grant does not cover a period of more than sixty days before the date of authorization.

WSR 94-06-036
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 25, 1994, 4:20 p.m.]

The proposed rule adopting WAC 232-12-131 Permits for special hunting and trapping seasons, filed on February 2, 1994, WSR 94-04-118 is hereby withdrawn.

WSR 94-06-037
PROPOSED RULES
DEPARTMENT OF WILDLIFE
 [Filed February 25, 1994, 4:21 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-131 Permits for special hunting and trapping seasons.

Purpose: Amending WAC 232-12-131 Permits for special hunting and trapping seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment will eliminate the two year waiting period for disabled, blind/visually handicapped, muzzleloader elk hunters from the two year waiting period after drawing an elk permit. This will also eliminate additional waiting periods for persons applying for any special permit when they are ineligible. This amendment also imposes at two year waiting period for a person receiving a special hunting season cougar permit before they can apply for another special hunting season cougar permit.

Reasons Supporting Proposal: Many of the disabled, blind/visually impaired or muzzleloader special hunts are undersubscribed. Therefore, there is no need for a waiting period for those hunts. The additional disqualification penalty for those applying when ineligible is no longer necessary because of computerized drawings. Because the number of applicants exceeds the number of special hunting season cougar permits available by about ten times, a waiting period will allow for a fairer distribution of the available permits over time.

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 regulates the lengths of waiting periods to be eligible for applying for special hunting and trapping season permits after successfully drawing a permit in a random drawing. The purpose and the effects are to allow for a fairer distribution of the available permits.

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 South Capitol Way, Olympia, WA 98501, on April 8, 1994, at 8:00 a.m.

Submit Written Comments to: Richard J. Poelker, 600 Capitol Way North, Olympia, WA 98501, by March 26, 1994.

Date of Intended Adoption: April 8, 1994.

February 25, 1994
Richard J. Poelker
Administrative Rules Officer

AMENDATORY SECTION [(Amending Order 289, filed 5/29/87)]

WAC 232-12-131 Permits for special hunting and trapping seasons. (1) Holders of valid hunting licenses may apply for permits for special hunting seasons as prescribed by the commission.

(2) Holders of valid trapping licenses may apply for permits for special trapping seasons as prescribed by the commission.

(3) It is unlawful for a person receiving a special modern firearm or archery hunting season elk permit to apply for ~~((such a))~~ an elk permit for the next two years. Holders of Disabled Hunter Permits, or Blind/Visually Handicapped Hunter Permits, and muzzleloader hunters are exempt from the two year waiting period. ((A person applying for an elk permit during that period will be disqualified for an additional two years, in addition to any other penalty provided by law.))

(4) It is unlawful for a person receiving a special hunting season cougar permit to apply for such a permit for the next two years. A person applying for a cougar permit during that period will be made ineligible for that year's drawing.

~~((4))~~ (5) It is unlawful for a person receiving a special hunting season goat permit to apply for such a permit for the next five years. A person applying for a goat permit during that period will be ~~((disqualified for an additional five years, in addition to any other penalty provided by law))~~ made ineligible for that year's drawing.

~~((5))~~ (6) It is unlawful for a person receiving a special hunting season permit for mountain sheep to apply for another permit for that species if they are successful in taking a mountain sheep. A person who receives a special permit for mountain sheep and is unsuccessful in taking a sheep may reapply after waiting for five years. A person applying for a sheep permit during that period will be ((disqualified for an additional five years, in addition to any other penalty provided by law)) made ineligible for that year's drawing.

~~((6))~~ (7) It is unlawful for a person receiving a moose permit to apply for another permit for that species.

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

WSR 94-06-038

PROPOSED RULES

DEPARTMENT OF WILDLIFE

[Filed February 25, 1994, 4:24 p.m.]

Original Notice.

Title of Rule: WAC 232-28-61945 1994-95 Washington game fish seasons and catch limits—Columbia River.

Purpose: Reinstates a twelve-inch minimum for trout for the Columbia River.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Adopts permanently a twelve-inch minimum for trout for the Columbia River. This regulation was approved by the Wildlife Commission as an emergency rule at its meeting January 22, 1994.

Reasons Supporting Proposal: During the 1994-95 game fish regulation development process a recommendation was presented by the Department of Wildlife to the Washington Wildlife Commission to establish an eight-inch minimum size limit for trout statewide. Regions 4, 5, and 6 at that time managed trout under the eight-inch minimum size, but Regions 1, 2, and 3 maintained no minimum size limit. The proposal requested increasing the size limit from none to eight inches in Regions 1, 2, and 3, thereby establishing an eight-inch minimum size limit for trout statewide. The purpose for the recommendation was to allow more trout the opportunity to spawn at least one time before being subject to harvest, and to increase the survival of juvenile anadromous fish. The Washington Wildlife Commission adopted this regulation at its October 1, 1993, meeting. Within the technical process for providing bill-draft language for regulation changes statewide, language was inadvertently included for the Columbia River, reducing the trout minimum size limit from twelve inches to eight inches. The intent of the Department of Wildlife was not to change the minimum size limit for trout on the Columbia River. The intent was to leave the minimum size limit at twelve inches as established. The state of Oregon manages trout under a twelve-inch minimum size limit for the Columbia River. An eight-inch minimum size limit is not adequate to protect smolts or sea-run cutthroat trout in the Columbia River. Correction of this error is necessary to provide adequate protection for the steelhead and trout resources in this river.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-5713; and Enforcement: Tony de la Torre, A.D., 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: See above. Resource impacts: Provides adequate protection for the steelhead and trout resources in this river. Financial impacts: None.

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: Ramada Inn Governor House, 621 South Capitol Way, Olympia, WA 98501, 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 21, 1994.

Date of Intended Adoption: April 8, 1994.

February 25, 1994

Richard J. Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61945 1994-95 Washington game fish seasons and catch limits—Columbia River. Notwithstanding the provisions of WAC 232-28-619, the following regulations apply to the Columbia River:

<u>Game Fish Species</u>	<u>Daily Catch Limits</u>	<u>Minimum Size Limits</u>
Trout (Including kokanee and steelhead)	Two	Twelve inches

All other provisions of WAC 232-28-619 relating to the above water remain in effect and unchanged.

**WSR 94-06-039
PROPOSED RULES
DEPARTMENT OF WILDLIFE**
[Filed February 25, 1994, 4:25 p.m.]

Original Notice.

Title of Rule: WAC 232-28-61946 1994-95 Washington game fish seasons and catch limits—Grande Ronde River (Region 1), Tucannon River (Region 1), and Sauk River (Region 4).

Purpose: Item 1: Grande Ronde River: Corrects season from June 1 through April 30 to June 1 through April 15; and provides consistent, updated language for "wild steelhead release."

Item 2: Tucannon River: Corrects season from November 1 through April 15 to September 1 through April 15; and establishes a trout catch limit of five.

Item 3: Sauk River: Deletes reference to June 15 through October 31 wild steelhead release.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: The above changes are to provide regulations that are clear, concise, consistent, and to provide recreational opportunity and resource protection as needed (see Reasons Supporting Proposal below).

Reasons Supporting Proposal: Item 1: Grande Ronde River. Reverting the season back to June 1 through April 15 provides consistency with the wild steelhead release season ending April 15. This reinstates the steelhead season closing date of April 15 which is the current and preferred standard regulation to protect wild steelhead as adopted by the Wildlife Commission at its October 1993 meeting. Additionally, previously used language referring to wild steelhead release is proposed for replacement with the consistent language "wild steelhead release." This provides for clarity and consistency.

Item 2: Tucannon River. Regulations adopted for the Tucannon River inadvertently reduced the game fishing season by two months. This change reinstates September and October as open months for game fishing. This maintains the season anglers are familiar to enjoying and incurs no negative resource impacts. Also, a trout catch limit of 5, rather than 2 is proposed from Highway 12 Bridge upstream to mouth of Cummings Creek. This is to provide recreational opportunity on hatchery fish.

Item 3: Sauk River. Deleting the special regulation referring to a June 15 through October 31 wild steelhead release causes the Sauk River (from its mouth to mouth of White Chuck River) regulation to default to the general statewide regulation—June 1 through November 30 Wild Steelhead Release. This will provide needed protection for wild steelhead June 1 through June 14 and for the month of November.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-5713; and Enforcement: Tony de la Torre, A.D., 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: See above. Resource impacts: See supporting information provided above. Financial impacts: None.

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: Ramada Inn Governor House, 621 South Capitol Way, Olympia, WA 98501, 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 21, 1994.

Date of Intended Adoption: April 8, 1994.

February 25, 1994

Richard J. Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61946 1994-95 Washington game fish seasons and catch limits—Grande Ronde River (Region 1), Tucannon River (Region 1), and Sauk River (Region 4). Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to the Grande Ronde River (Region 1), Tucannon River (Region 1), and Sauk River (Region 4).

Item 1: GRANDE RONDE RIVER

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through April 15 season. Trout, minimum length twelve inches. Selective fishery regulations June 1 through August 31. Wild steelhead release September 1 through April 15.

Item 2: TUCANNON RIVER

From Highway 261 Bridge upstream to Highway 12 Bridge: June 1 through August 31 season. Open only to fishing for steelhead and whitefish September 1 through April 15.

From Highway 12 Bridge upstream to mouth of Cummings Creek: Open only to fishing for steelhead and whitefish November 1 through April 15. Trout-catch limit-five.

Item 3: SAUK RIVER

From its mouth to mouth of White Chuck River: June 1 through February 28 season. Trout, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily catch limit, minimum length twenty inches.

All other provisions of WAC 232-28-619 relating to the above waters remain in effect and unchanged.

WSR 94-06-040
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed February 25, 1994, 4:30 p.m.]

Original Notice.

Title of Rule: WAC 232-28-61947 1994-95 Washington game fish seasons and catch limits—Baker Lake and Shannon Lake (Region 4).

Purpose: To assist the Washington Department of Fisheries in the protection of reduced sockeye production efforts on Baker and Shannon lakes.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This regulation would implement a minimum size limit on trout of six inches, and a maximum size limit of twenty inches. Retaining trout under six inches or over twenty would be prohibited.

Reasons Supporting Proposal: Migrating sockeye smolts are generally less than six inches in length. This regulation would restrict retention of anything under six inches, thereby affording protection to sockeye smolts. The twenty-inch maximum affords protection to adult sockeye by allowing them to spawn. There is no surplus of adult sockeye for angler harvest.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-5713; and Enforcement: Tony de la Torre, A.D., 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: See above. Resource impacts: Providing protection to these particular sockeye runs. No resource impacts are anticipated on game fish. Financial impacts: None.

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: Ramada Inn Governor House, 621 South Capitol Way, Olympia, WA 98501, 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 21, 1994.

Date of Intended Adoption: April 8, 1994.

February 25, 1994

Richard J. Poelker

Administrative Regulations Officer

NEW SECTION

WAC 232-28-61947 1994-95 Washington game fish seasons and catch limits — Baker Lake and Shannon Lake (Region 4). Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to Baker Lake and Shannon Lake:

BAKER LAKE: April 30 through October 31 season. Feeding (chumming) permitted. TROUT - minimum length 6", maximum length 20". Retaining TROUT under 6" or over 20" is prohibited.

An area 200' in radius around the pump discharge, at the south end of the lake is closed.

SHANNON LAKE: April 30 through October 31 season. Feeding (chumming) permitted. TROUT - minimum length 6", maximum length 20". Retaining TROUT under 6" or over 20" is prohibited.

WSR 94-06-043
PROPOSED RULES
DEPARTMENT OF WILDLIFE

[Filed February 28, 1994, 4:24 p.m.]

Original Notice.

Title of Rule: WAC 232-12-166 Northern squawfish sport-reward fishery Columbia and Snake rivers.

Purpose: To insure the rules and regulations for the northern squawfish sport-reward fishery are clear, concise, and enforceable.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This regulation will provide rules and regulations governing the northern squawfish sport-reward fishery that are clear, concise and enforceable.

Reasons Supporting Proposal: This proposed regulation change will reflect the change of time the sport-reward registration stations are open. Regulations need to be in place both in Washington and Oregon to enable enforcement agencies to enforce the fishery regulations. Concurrent regulations are being promulgated by the Oregon Department of Fish and Wildlife for Oregon waters.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, A.D., Fisheries Management, Olympia, (206) 753-5713; and Enforcement: Tony de la Torre, A.D., 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 regulation will provide clear rules for anglers participating in the northern squawfish sport-reward fishery that will be consistent with those being promulgated in Oregon. The purpose of the regulation is to provide clear

rules for participation in the fishery. The anticipated affect is increased compliance with the fishery rules.

Statement of Finding: An effective date of May 1, 1994, which is earlier than the 31 days after filing is necessary because the time requirements would be contrary to the public interest. This is essential because sport fishery goes into effect May 1, 1994.

Hearing Location: Ramada Inn Governor House, 621 South Capitol Way, Olympia, WA 98501, 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 21, 1994.

Date of Intended Adoption: April 8, 1994.
 February 28, 1994
 Richard J. Poelker
 Administrative Regulations Officer

AMENDATORY SECTION (Amending Order #596 [WSR 93-10-013], filed 4/23/93)

WAC 232-12-166 Northern squawfish sport-reward fishery Columbia and Snake rivers. During days, at times, and at sites to be specified by the Washington Department of Fish and Wildlife, a bounty in an amount to be specified by the Department shall be paid for each northern squawfish (*Ptychocheilus oregonensis*) taken by legal angling methods, in waters open to fishing, from the mouth of the Columbia River to the boat restricted zone below the Priest Rapids Dam; from the mouth of the Snake River to the boat restricted zone below Hells Canyon Dam, and from backwaters and sloughs as well as up to 400 feet into the tributaries of the reaches listed above on the Columbia and Snake rivers. In addition, the following requirements shall be met to qualify for payment:

- (a) Each angler must register in person, prior to fishing, at one of the registration stations each fishing day. A fishing day is a 24-hour period from 9:01 p.m. though 9:00 p.m. of the following day;
- (b) Each angler, in person must exchange their eligible northern squawfish for a voucher (~~between the hours 9:00 a.m. and 9:00 p.m.~~) during the posted hours, and at the same registration station where the angler registered during the same fishing day;
- (c) To be eligible for a voucher, each northern squawfish must be eleven inches or longer in total length and presented in fresh condition or alive;
- (d) Anglers shall provide information regarding their catch as requested by Department personnel at the registration site and mail in survey forms;
- (e) Anglers shall obtain angling licenses and must use a single rod, reel, and line with up to three hooks with no more than three points each((.)); and
- (f) A reward payment may be refused if in the judgement of the Department, any of the above conditions have not been met.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

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

WSR 94-06-045
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Board of Massage)
 [Filed March 1, 1994, 8:35 a.m.]

Original Notice.

Title of Rule: Meeting date notice, limits on initial licensing, and apprenticeship and training rule modifications.
 Purpose: To provide two new needed rules and to amend and clarify current rule language.

Statutory Authority for Adoption: RCW 18.108.025(1).
 Statute Being Implemented: Chapter 18.108 RCW.

Summary: Provides meeting date schedule per RCW 42.30.075, provides limits on how long a candidate has before applying for licensure, and clarifies existing rules on apprenticeship.

Reasons Supporting Proposal: New rules provide procedures that have been identified as necessary; rule changes provide clearer language to existing apprenticeship definitions.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice K. Boden, 1300 Quince, 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: The first new rule provides notice of where a schedule of meeting dates can be obtained. The effect: A better informed public. The second new rule provides a time limit for how long after successful examination an initial licensure application can be made. The effect: Assurance of competent practitioners with meeting current education standards. The rule changes simplify language regarding apprenticeship programs. The effect would be clarification of process and procedures for approving apprenticeship applications.

Proposal Changes the Following Existing Rules: WAC 246-83-410 and 246-830-430 are simplified and clarified.

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, on April 18, 1994, at 1:30 p.m.

Submit Written Comments to: Ann Foster, Rules Coordinator, 1112 Quince, P.O. Box 47890, Olympia, WA 98504-7890, by April 15, 1994.

Date of Intended Adoption: April 18, 1994.
 February 28, 1994
 Bruce Miyahara
 Secretary

NEW SECTION

WAC 246-830-010 The board shall meet as needed throughout the year to accomplish the business of the board. The meeting dates are listed in the Washington state register. Information regarding meetings of the board may be obtained by contacting: Department of Health, Board of Massage, PO Box 47869, 1300 Quince St SE, Olympia, WA 98504-7869.

NEW SECTION

WAC 246-830-255 Time limitation on initial application for licensure. If an applicant does not apply for a license within three years of the successful completion of the license examination, reexamination shall be required. An individual who has been notified of his/her passing scores has three years from the date of notification to obtain a license. If a license is not obtained, the passing scores shall re-apply and pay the fee for full examination, meeting all current requirements and submitting original documents as needed.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

WAC 246-830-410 Definitions. For the purpose of administering chapter 18.108 RCW, the following terms shall be considered in the following manner:

(1) A massage school is an institution which has the sole purpose of offering training in massage therapy.

(2) A massage program is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.

(3) ~~(An apprentice is defined, for purposes of this chapter, as one who has successfully completed:~~

~~(a) One hundred thirty hours of instruction in anatomy, physiology, and kinesiology including palpation, range of motion and physics of joint function. There must be a minimum of forty hours of kinesiology.~~

~~(b) Fifty hours of instruction in pathology, including indications and contraindications to massage therapy and palpations.~~

~~(c) Certification in American Red Cross first aid and American Heart Association CPR or the equivalent.~~

~~The above courses must be successfully completed within five years immediately preceding entry into an apprenticeship agreement. The apprentice then shall receive complete training in:~~

~~(i) Hydrotherapy (fifteen hours);~~

~~(ii) Theory and practice of massage therapy (two hundred fifty hours) at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic; and~~

~~(iii) Clinical practices (fifty five hours), at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws. Training in hydrotherapy, theory and practice of massage therapy, and clinical practices shall be completed in no less than six~~

~~months or longer than two years from the date of entry into an apprenticeship program.~~

~~(4) A massage apprenticeship is training in massage therapy which is offered by a qualified massage practitioner to an apprentice on the basis of an apprenticeship agreement between the massage practitioner and the apprentice. Such agreement shall comply with the educational standards as set forth in this chapter. A qualified massage practitioner is defined as a person that shall have not less than three years full-time experience in the practice of massage immediately preceding the function as an apprenticeship trainer of massage therapy in an apprenticeship agreement and shall be licensed under this chapter and currently engaged in the practice of massage.~~

~~Hereinafter, qualified massage practitioner is referred to as apprenticeship trainer.~~

~~(5)) An apprenticeship program is defined for the purposes of this chapter as training in massage administered by an apprenticeship trainer that satisfies the educational requirements for massage set forth in WAC 246-830-430, 246-830-440 and 246-830-450. This training shall be offered by an apprenticeship trainer to no more than three apprentices at one time and shall be completed within two years.~~

~~(4) An apprenticeship trainer is defined as a massage practitioner licensed in the state of Washington with not less than five current years of experience in full-time practice.~~

~~(5) An apprentice is defined as an individual enrolled in an apprenticeship program.~~

~~(6) A national educational institution is an institution which has the purpose of directly supervising training programs in bodywork/somatic education. A national educational institution may also be a program which is established for the purpose of offering training in bodywork/somatic education offered in an academic institution which also offers training in other areas of study.~~

~~((6)) (7) A program is an established area of study offered on a continuous or periodic basis. The national educational institution's certification program must have a permanent administrative location and must have training location requirements. The institution's certification program may have its own registered trademark TM/servicemark SM. The certification program must have a code of ethics.~~

~~((7)) (8) Bodywork/somatic education shall be defined as any established method other than swedish massage in which the practitioner uses touch to improve the function, organization, structure, and well-being of a person.~~

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

WAC 246-830-430 Training. (1) The training in massage therapy shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training in massage therapy. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and

physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications to massage therapy and palpations.

(c) Two hundred fifty hours of theory and practice of massage therapy, at a minimum to include Swedish and deep tissue techniques, remedial gymnastics, body mechanics of the practitioner, and medical treatments. A maximum of fifty of these hours may include time spent in a student clinic.

(d) Fifteen hours of hydrotherapy.

(e) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(2) To receive credit in an apprenticeship program for previous education, this education must have been completed within the five-year period prior to enrollment in the apprenticeship program.

(3) The training in a national educational institution program shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training required of the national educational institution. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications.

(c) Two hundred sixty-five hours of theory and practice of bodywork/somatic education, a minimum to include analysis and evaluation of the physical and/or energetic structure, tissue handling techniques, body mechanics of the practitioner, and medical implications. A maximum of fifty of these hours may include time spent in a student clinic.

(d) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(e) A bodywork/somatic education program shall have a curriculum and system of training consistent with its particular area of practice.

WSR 94-06-046
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed March 1, 1994, 8:38 a.m.]

Original Notice.

Title of Rule: WAC 246-818-020 Examination eligibility and application.

Purpose: To amend the rule to reflect the current revised dental education standards of the American Dental Association.

Statutory Authority for Adoption: RCW 18.32.035.

Statute Being Implemented: RCW 18.32.040.

Summary: The amendment will reflect the revision date for the American Dental Association's dental education accreditation standards, which were revised in May 1993.

Reasons Supporting Proposal: To establish accurate dates for the most current education standards.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Shoblom and Lisa Anderson, Olympia, Washington 98504, (206) 586-6898.

Name of Proponent: Department of Health, Board of Dental Examiners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To establish specific education requirements for dental licensure applicants. This will revise the date of the education accreditation standards from the American Dental Association.

Proposal Changes the Following Existing Rules: Amends existing rule to reflect the current date of the American Dental Association's Dental Accreditation Standards, which was May 1993.

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

This rule does not impact small business.

Hearing Location: WestCoast Hotel SeaTac, 18220 Pacific Highway South, Seattle, WA 98188, on May 6, 1994, at 9:00 a.m.

Submit Written Comments to: Ms. Ann Foster, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504, by April 25, 1994.

Date of Intended Adoption: May 6, 1994.

February 15, 1994
 Susan Shoblom
 Executive Director

AMENDATORY SECTION (Amending Order 228B, filed 12/19/91, effective 1/19/92)

WAC 246-818-020 Examination eligibility and application. (1) To be eligible for the dental examination, the applicant must be a graduate from a dental school approved by the Washington state board of dental examiners. The board of dental examiners adopts those standards of the American Dental Association's Commission on Accreditation which were relevant to accreditation of dental schools and current in (~~January 1981~~) May 1993 and has approved all and only those dental schools which were accredited by the commission as of (~~January 1981~~) May 1993. Other dental schools which apply for board approval and which meet these adopted standards to the board's satisfaction will be approved, but it is the responsibility of a school to apply for approval and of a student to ascertain whether or not a school has been approved by the board.

(2) To be eligible for the dental examination the applicant must provide certification of the successful completion of the National Dental Examination Parts I and II.

(3) Applications for the examination may be secured from the state of Washington department of health. The application must be completed in every respect, and reach

the state of Washington department of health at least sixty days prior to the examination.

(4) The only acceptable proof of graduation from an approved dental school is an official transcript from such school, or a verified list of graduating students from the dean of the dental school. The verified list of students will only be acceptable from applicants who have graduated within forty-five days of the examination for which they are applying. An applicant may complete his/her other application requirements and be scheduled for the examination before he/she has graduated, but no applicant will be admitted to the examination unless the official transcript or the verified list from the dean has been received by the department of health on or before the first day of the examination.

(5) In case of applicant having previously been in practice, the board requires a sworn statement covering history of practice for a five-year period immediately preceding application for this examination. This statement must accompany the application when returning it to the department of health.

(6) Upon establishing examination eligibility, the department of health will mail to each applicant examination forms, instructions and schedule. It is imperative that the applicant bring this information to the examination as it will be used by the board throughout the practical examination.

WSR 94-06-049
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed March 1, 1994, 9:12 a.m.]

Original Notice.

Title of Rule: Chapter 352-28 WAC, Tree cutting and disposal.

Purpose: To update and clarify language governing tree removal in state parks.

Statutory Authority for Adoption: RCW 43.51.040.

Statute Being Implemented: RCW 43.51.045 and 43.51.047.

Summary: This rule establishes guidelines for the management of timber and timberland administered by state parks.

Reasons Supporting Proposal: To remain current with forest land management issues in state parks.

Name of Agency Personnel Responsible for Drafting: Rex Derr, 7150 Cleanwater Lane, Olympia, 98504, 753-2066; Implementation and Enforcement: Kathy Joyce Smith, 7150 Cleanwater Lane, Olympia, 98504, 753-5761.

Name of Proponent: Washington State Parks and Recreation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes criteria for the cutting and disposal of trees under the jurisdiction of the state parks commission. The rule provides a means for identifying and evaluating management alternatives. The rule creates appropriate stewardship objectives for state park lands.

Proposal Changes the Following Existing Rules: The primary change is to clarify direction concerning the use of fallen trees. Proposal also improves on scientific and grammatical correctness. Little substantive change results.

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

Hearing Location: WestCoast Wenatchee Center, 201 North Wenatchee Avenue, Wenatchee, WA 98801, on April 22, 1994, at 9:00 a.m.

Submit Written Comments to: Rex Derr, P.O. Box 42650, Olympia, WA 98504-2650, by April 8, 1994.

Date of Intended Adoption: April 22, 1994.

March 1, 1994
Sharon Howdeshell
Office Manager

Chapter 352-28 WAC
((TIMBER)) TREE CUTTING AND ((SALES))
DISPOSAL

AMENDATORY SECTION (Amending Resolution No. 76, filed 3/27/84)

WAC 352-28-005 Definitions. When used in this chapter the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

(1) "Catastrophic forest event" means a natural or accidental devastation of major ~~((park))~~ proportions that results in drastic alteration of the natural environment by, but not limited to, wind, fire, insect infestation, forest disease, flooding, or landslide.

(2) "Commission" means the Washington state parks and recreation commission.

(3) "Director" means the director of the Washington state parks and recreation commission.

(4) "Endangered species" means each ~~((vascular))~~ plant, fungus and lichen species identified as endangered on the list of such species prepared by the department of natural resources Washington natural heritage program and each wildlife species identified as endangered by the Washington department of ~~((game))~~ fish and wildlife in WAC 232-12-014.

(5) "Environmental learning center" means resident camping facilities ~~((with buffers))~~ made available to interested groups to provide their members with the opportunity to live, work, study, and play in the outdoor environment.

(6) "Heritage area" means the parts of a park ~~((with buffers))~~ which are maintained for preservation and interpretation, and, which contain unique or unusual geological, paleontological, archaeological, historical, scientific, and cultural features of the state which transcend local interest and are of state-wide or national significance.

(7) "Launch area" means the parts of a park ~~((with buffers))~~ which are solely developed for boating ingress and egress.

(8) "Natural area" means the parts of a park ~~((with buffers))~~ which are maintained for the conservation of a natural environment in a nearly undeveloped state for passive low density outdoor recreation activities.

(9) "Natural area preserve" means the parts of a park ~~((with buffers))~~ which are considered important in preserving rare or vanishing flora, fauna, geological, natural historical or similar features of scientific or educational value and which are registered and committed as a natural area preserve through a cooperative agreement with the department of natural resources pursuant to chapter 79.70 RCW and chapter 332-60 WAC.

(10) "Natural forest area" means certain forest areas ~~((with buffers))~~ which are natural ecosystems designated for preservation and interpretation of natural forest processes pursuant to RCW 43.51.045, and, which contain:

(a) Old-growth forest communities that have developed for approximately one hundred fifty to two hundred fifty years or longer and have the following structural characteristics: Large old-growth trees, large snags, large logs on land, and large logs in streams; or

(b) Mature forest communities that have developed for approximately ninety to one hundred fifty years; or

(c) Unusual forest communities.

(11) "Ocean beach access area" means sites of limited acreage along the Washington coastline which provide public access to waters, shore, and recreational opportunities of the Pacific Ocean.

(12) "Recreation area" means the parts of a park ~~((with buffers))~~ which are land and/or water sites that are suited and/or developed for high density outdoor recreational use.

(13) "Sensitive species" means each ~~((vascular))~~ plant, fungus and lichen species identified as sensitive on the list of such species prepared by the department of natural resources Washington natural heritage program and each wildlife species identified as sensitive on the list of such species prepared by the Washington department of ~~((game))~~ fish and wildlife.

(14) "Threatened species" means each ~~((vascular))~~ plant, fungus and lichen species identified as threatened on the list of such species prepared by the department of natural resources Washington natural heritage program and each wildlife species identified as threatened on the list of such species prepared by the Washington department of ~~((game))~~ fish and wildlife.

AMENDATORY SECTION (Amending Resolution No. 76, filed 3/27/84)

WAC 352-28-010 ~~((Timber))~~ Tree cutting criteria.

(1) Significant trees:

(a) Significant trees in any area under the jurisdiction and/or management of the commission shall, except in fire, weather, or other natural emergencies, be cut or removed only upon the written approval of the director or the assistant directors of the operations and resources development divisions when so designated by the director. Except in emergencies and when feasible, significant trees shall be removed only after they have been marked or appraised by a professional forester. Significant trees include all old-growth trees, mature trees, and all other younger trees of ten inches or greater in diameter at four and one-half feet in height. In case of fire, weather, or other natural emergencies, the director or the designee of the director may declare that an emergency exists and thereby authorize the cutting or

removal of damaged or down significant trees that are an imminent threat to persons and/or property.

(b) The cutting or removal of any significant trees in a natural forest area shall, except in emergencies as defined in subsection (1)(a) of this section, be approved only by the director and only after consultation with the Washington department of ~~((game))~~ fish and wildlife and the department of natural resources Washington natural heritage program, the preparation of a mitigation plan for affected resources, and a public hearing on each such proposed cutting or removal conducted in ~~((Olympia and/or))~~ the county/counties in which the cutting or removal is to take place as determined by the director. Prior notice of a hearing shall be published in a newspaper of general circulation in the county/counties in which ~~((hearings are to be held))~~ the park is located. Any person who requests notification of such proposed cutting or removal shall be sent prior notice of a hearing by mail. A summary of the testimony presented at a hearing or received in writing shall be presented to the director.

(c) The cutting or removal of ~~((any))~~ trees, ((flora)) other plants, or dead organic matter in any area known to be inhabited by endangered, threatened, or sensitive species shall, except in emergencies as defined in subsection (1)(a) of this section, follow restrictive guidelines of the department of fish and wildlife for animals and of the department of natural resources for plants and be approved only by the director ~~((and only))~~ after consultation with the Washington department of ~~((game))~~ fish and wildlife and the department of natural resources Washington natural heritage program, and the preparation of a mitigation plan for affected species.

(2) Cutting and removal criteria: Trees or other ~~((flora))~~ plants may be cut and/or removed from the areas listed below for the following reasons only:

(a) Natural area preserves:

(i) Maintenance or construction of ~~((fire lanes))~~ service roads, boundary fences, and interpretive trails, or modification of conditions only as may be required to maintain a native plant community, species population, or ecological process as specified in a natural area preserve management plan prepared in consultation with the department of natural resources Washington natural heritage program.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities ~~((from trees with a high degree of hazard))~~ on or adjacent to park land.

(iii) ~~((Modification of conditions only as may be required to maintain a plant community, species population, or ecological process as specified in a natural area preserve management plan prepared in consultation with the department of natural resources Washington natural heritage program.~~

~~((iv))~~ Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur, after consultation with the natural heritage program and other agencies and groups with expertise in forest health.

~~((v))~~ (iv) Prevent the deterioration or loss of historical ((remnants)) cultural resources.

(b) Natural forest areas:

(i) Maintenance or construction of trails ~~((and))~~ trail head facilities and service roads.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities (~~((from trees with a high degree of hazard))~~) on or adjacent to park land.

(iii) (~~(Maintenance or construction of fire lanes for abatement of fires.~~))

(~~(iv))~~) Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur.

(~~((v))~~) (iv) Prevent the deterioration or loss of historical ((remnants)) cultural resources.

(c) Natural areas:

(i) (~~((Area clearing necessary only for))~~) Construction and maintenance of passive low density outdoor recreation ((activities)) facilities such as, but not limited to, trails, trail head facilities, and interpretive sites, and (~~(, for road and utility easements authorized by the commission or mandated by condemnation))~~) or to achieve visual aspects appropriate to a natural or historical setting.

(ii) Construction and maintenance for road and utility easements authorized by the commission or mandated by condemnation.

(iii) Correction of conditions hazardous to persons, properties, and/or facilities (~~((from trees with a high degree of hazard))~~) on or adjacent to park land.

(~~((iii))~~) (iv) Maintenance or construction of ((fire lanes)) service roads for abatement of fires.

(~~((iv))~~) (v) Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur.

(~~((v))~~) (vi) Prevent the deterioration or loss of historical ((remnants)) cultural resources.

(~~((vi))~~) Create diversity of tree size, age, and species only within immature forests to achieve visual aspects appropriate to a natural or historical setting, or that improve wildlife habitat. (vii) Improve wildlife habitat after consulting with the department of fish and wildlife.

(d) Recreation areas, heritage areas, launch areas, ocean beach access areas, and environmental learning centers:

(i) Area clearing necessary for park maintenance, and/or park development projects, road and utility easements.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities (~~((from trees with a moderate or high degree of hazard))~~) on or adjacent to park land.

(iii) Cleanup of trees fallen, tipped, or damaged by the weather, fire, or other natural causes.

(iv) Creation of diversity of tree size, age, and species to achieve visual aspects that resemble a formal landscape, natural, or historical setting or improve wildlife habitat.

(v) Daylighting as appropriate to the site.

(vi) Maintenance or creation of a regenerating natural environment that will sustain low ground cover, shrubs, and understory and overstory trees to provide screening, wind, and sun protection.

(vii) (~~((Forest and flora protection and interpretation such as, but not limited to, abatement of forest diseases, insect infestations, and fires.))~~) Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur.

(viii) Prevent the deterioration or loss of historical cultural resources.

(3) **Hazard tree review:** At least two persons, (~~((preferably))~~) one being a (~~((forest pathologist or ecologist))~~) qualified professional in forestry or arboriculture, shall examine potentially hazardous trees and rate such trees in accordance with department of natural resources, report number 42, detection and correction of hazard trees in Washington's recreation areas. The rating of each tree examined shall be recorded on a hazard tree form by each of the two persons who examine such trees. For trees identified as hazardous and when feasible, action such as, but not limited to, pruning, topping, crown reduction, and relocation of a target facility, shall be taken prior to tree cutting or removal.

(4) **Tree cutting and removal operations:** Tree cutting or removal shall be done by park personnel, unless the personnel lack necessary expertise. If tree cutting or removal work is done by a contractor, park personnel shall provide daily on-site supervision to ensure that work and safety standards are met to prevent harm or damage to persons, trees, shrubbery, soils, and other park resources. When feasible, trees shall be felled in sections with the tops and limbs lowered first by guy wires and ropes in order to protect adjacent old-growth trees and the integrity of the remaining stand. Only skid trails premarked by park personnel may be used and equipment shall be kept on existing roads and parking areas to the fullest extent possible. When feasible, all trees damaged during cutting or removal shall be repaired.

(5) (~~((Timber utilization: When feasible, felled timber))~~) Use of fallen trees: Except where they may create safety hazards and/or interfere with the normal operation of a park, fallen trees shall be left on the ground (~~((for natural purposes))~~) when deemed environmentally beneficial or used for park purposes such as, but not limited to, approved building projects, trail mulching, and firewood. In natural forest areas and natural areas first consideration shall be given to leaving (~~((timber))~~) trees on the ground for natural purposes.

WSR 94-06-050

PROPOSED RULES

ATTORNEY GENERAL'S OFFICE

[Filed March 1, 1994, 12:15 p.m.]

Original Notice.

Title of Rule: Amendments to chapter 44-06 WAC, Public records.

Purpose: The proposed amendments update the provisions of chapter 44-06 WAC to accurately state the current locations of the offices of the Attorney General; to add provisions applicable to the lemon law program created pursuant to chapter 19.118 RCW; to indicate the appropriate persons responsible for responding to requests for public records and how to make such requests; and to otherwise bring the WACs into compliance with the Public Records Act, chapter 42.17 RCW; the Administrative Procedure Act, chapter 34.05 RCW and other laws.

Other Identifying Information: The amendments are to the Attorney General's Office's provisions for the implementation of chapter 42.17 RCW relating to public records generated by the Attorney General's Office (which include

the office's Consumer and Business Fair Practices Division and lemon law program rules).

Statutory Authority for Adoption: RCW 43.10.110 and chapters 42.17, 19.118, and 34.05 RCW.

Statute Being Implemented: RCW 43.10.110, 42.17.250, and 19.118.080.

Summary: There is a need to make current rules more comprehensive with respect to specific and current Attorney General programs.

Reasons Supporting Proposal: Current rules have not been updated since 1984 and require clarification regarding structure, locations and functions of the office and require clarification due to statutory changes over that period of time.

Name of Agency Personnel Responsible for Drafting: Tom Anderson, Assistant Attorney General and Kathleen D. Spong, Deputy Attorney General, Olympia, (206) 753-6200; Implementation: Jane Halligan, Rules Coordinator and Shirley Battan, Deputy Attorney General, 753-6200; and Enforcement: Washington State Attorney General's Office, 905 Plum Street, Olympia, 753-6200.

Name of Proponent: Washington State Attorney General's Office, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule and the proposed amendments is to provide guidance to citizens seeking public records from the Washington State Attorney General's Office in accordance with chapter 42.17 RCW. The amendments to the rule indicate the physical locations where inquiries for public records can be made depending on the type of record being sought. The amendments also reflect the current status of the Attorney General's Office's index system and adds additional information concerning record requests of the new motor vehicle arbitration board as well as the lemon law administration. The amendments also correctly identify the office's public records officer for the office's various programs. The amendments further set out the office's procedures for responding to public records requests and clarifies that many of the records of the office are protected by the attorney client privilege and/or the attorney work product doctrine.

Proposal Changes the Following Existing Rules: The proposal amends existing rules as set forth above but does not significantly change the substantive provisions dealing with the Attorney General's Office's responsibility to comply with the provisions of chapter 42.17 RCW. The rules have been amended to add provisions for public records requests from the lemon law administration and other Attorney General's Office programs. The amendments also include a new section setting out the Attorney General's Office's process for responding to requests for disclosure and clarifies other existing provisions of the current rules.

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

These rules fall within the exception to the small business economic impact statement requirement set forth in chapter 19.85 RCW. These rules are exempt because they will have a minor or negligible economic impact.

Hearing Location: Attorney General's Conference Center, 4224 6th Avenue S.E., Building 1 (Rowesix), Lacey, WA, on April 6, 1994, at 9:00 a.m.

Submit Written Comments to: Jane Halligan, Rules Coordinator, Office of the Attorney General, P.O. Box 40115, Olympia, WA 98504-0115, by April 6, 1994.

Date of Intended Adoption: April 7, 1994.

February 28, 1994

Christine O. Gregoire
Attorney General

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-010 Purpose. The purpose of this chapter is to provide rules (~~implementing sections 25 through 32, chapter 1, Laws of 1973 (RCW 42.17.250 through 42.17.320) for the Washington state attorney general's office~~) for the Washington state attorney general's office, implementing the provisions of chapter 42.17 RCW relating to public records.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

WAC 44-06-020 Definitions. (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) "Intra-agency memoranda" includes but is not limited to memoranda from one member of the attorney general's staff to another and memoranda by members of the attorney general's staff to the particular state client which they represent.

(3) "Consumer and business fair practices division" is the division of the attorney general's office which enforces chapter 19.86 RCW and other trade and business regulation and consumer protection statutes.

(4) "Lemon law administration" means the agency created to administer the New Motor Vehicles Warranty Act, chapter 19.118 RCW within the office of the attorney general.

(5) "Office" is the attorney general's office.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

WAC 44-06-030 Function—Organization—Administrative offices. The attorney general's office is charged by the constitution and statutes with the general obligation of advising and legally representing the state of Washington, its officials, departments, boards, commissions and agencies but not the local units of government. In response to requests from state officers, legislators and prosecuting attorneys, the attorney general's office issues attorney general opinions. The published opinions of the attorney general's office are numbered as AGO (year of issue and number; i.e., AGO 1974 No. 1). ~~((The attorney general's office also issues office opinions which are not published, which are numbered as AGLO (year of issue and number; i.e., AGLO 1974 No. 1).))~~

~~The organization of the office of the attorney general necessarily mirrors the organization of state government itself and a number of the assistant attorneys general are physically housed with the agency which they represent.))~~

Inquiries and correspondence concerning a matter where a specific assistant attorney general is identified as representing a specific agency should be directed to the specifically named assistant attorney(§) general, if known; or the appropriate section of the office, if known.

Consumer protection complaints should be directed to the Consumer and Business Fair Practices Division, ((~~Dexter Horton Building~~)) 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012 or to local division offices located in Tacoma, Olympia, or Spokane. Communication concerning the New Motor Vehicles Warranty Act (the lemon law) should be directed to the Lemon Law Administration, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012. Other inquiries, including requests for attorney general's opinions, should be directed to the Attorney General's Office, ((~~Temple of Justice~~)) State of Washington, Olympia, Washington 98504-0100.

In addition to the areas mentioned above, the office is divided into several divisions which provide legal advice to state agencies in particular subject matter areas. Because regional office addresses may change from time to time, current division addresses and telephone numbers should be obtained from the local telephone directory or you may obtain an organizational chart and the addresses and telephone numbers of the regional offices of the attorney general by requesting it from the Attorney General's Office, State of Washington, Olympia, Washington 98504-0100, phone (206) 753-6200. Attorney general offices are located in other cities ((~~are as follows~~)) in the state and are denominated as regional offices.

- | | |
|---|---|
| <p>((1)) Everett Office
1411 Wall Street
Everett, Washington</p> <p>(2) Tacoma Office
940 Market Street
Suite 380
Tacoma, Washington</p> <p>(3) Vancouver Office
500 West 8th Street
Suite 751
Vancouver, Washington</p> <p>(4) Spokane Office
1116 West
Riverside Street
Spokane, Washington</p> <p>(5) Olympia Office
122 North Capitol Way
Olympia, Washington</p> | <p>Social and Health Services
Public Assistance</p> <p>Consumer Protection
(Pierce County)</p> <p>Social and Health Services
Public Assistance</p> <p>Consumer Protection
(Eastern Washington)
Labor and Industries
Social and Health Services</p> <p>Consumer Protection
(Thurston County)</p> |
|---|---|

Offices of sections of the attorney general's office and their addresses are as follows (inquiries involving subject matters described in the following list should be initially directed to the respective section):

- (1) Agriculture — Legal Division
General Administration Bldg.
Olympia, Washington 98504
- (2) Ecology — Legal Division
St. Martin's College
Lacey, Washington 98504
- (3) Education — Legal Division
531 E. 15th
Olympia, Washington 98504

- (4) ~~Employment Security — Legal Division
Employment Security Building
Olympia, Washington 98504~~
- (5) ~~Departments of Game and Fisheries — Legal Division
600 North Capitol Way
Olympia, Washington 98504~~
- (6) ~~Highways — Legal Division
5th Floor — Highway Licenses Building
Olympia, Washington 98504~~
- (7) ~~Human Rights Commission — Legal Division
WEA Building
Olympia, Washington 98504~~
- (8) ~~Labor and Industries — Legal Division
General Administration Building
Olympia, Washington 98504~~
- (9) ~~Legal Fiscal Division (Auditor, General
Temple of Justice Administration, Office of
Olympia, Washington Program Planning and Fiscal
98504 Management, Public-
Disclosure Commission)~~
- (10) ~~Liquor Board — Legal Division
Capitol Plaza Building
Olympia, Washington 98504~~
- (11) ~~Motor Vehicles — Legal Division
5th Floor — Highway Licenses Building
Olympia, Washington 98504~~
- (12) ~~Natural Resources — Legal Division
Public Lands Building
Olympia, Washington 98504~~
- (13) ~~Revenue Department — Legal Division
General Administration Building
Olympia, Washington 98504~~
- (14) ~~Social and Health Services — Legal Division
101 Public Lands Bldg.
Olympia, Washington 98504~~
- (15) ~~Tort Claims
5th Floor — Highway Licenses Building
Olympia, Washington 98504~~
- (16) ~~Utilities and Transportation Commission — Legal Division
5th Floor — Highway Licenses Building
Olympia, Washington 98504~~
- (17) ~~University of Washington
112 Administration Building
Seattle, Washington~~
- (18) ~~Washington State University
432 French Administration Bldg.
Pullman, Washington~~
- (19) ~~Western Washington University
Room 335, Old Main
Bellingham, Washington~~

Other inquiries should be directed to the Attorney General's Office, Temple of Justice, Olympia, Washington 98504, unless the sender is aware of another specific address for the appropriate attorney general legal section.))

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-040 Public records available. Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by RCW 42.17.310, any other law and these rules.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

WAC 44-06-050 Index. The attorney general's office ~~((biennial reports have))~~ has indexed by subject matter the published opinions of the attorney general. ~~((A card))~~ An index is maintained in the central office, ~~((Temple of Justice,))~~ Olympia, Washington, indexing all attorney general opinions (published and unpublished), as described in WAC 44-06-030, by subject matter and by statute. Appellate briefs filed by the office of the attorney general are ~~((card))~~ indexed by subject and case name in the same office.

~~((A card))~~ An index is maintained in the central office, ~~((Temple of Justice,))~~ Olympia, Washington, for cases which have been filed involving the state, giving the name, the county and the cause number. ~~((For cases involving the department of labor and industries a comparable card index file is maintained in the Attorney General's Office, Dexter-Horton Building, Seattle, Washington.))~~

The volume of correspondence received by the attorney general's office is such that it would be unduly burdensome to formulate and maintain an index for all such correspondence. In lieu of an index the following filing system is utilized.

(1) Consumer protection complaints received by the consumer and business fair practices division are filed by firm name of the subject of the complaint, or by the subject matter of the complaint if no specific firm is named.

~~((2))~~ ~~((Letters from the public and the responses thereto are filed in the central office, Temple of Justice, Olympia, Washington, by alphabetical batching for specific time periods.))~~

~~((3))~~ ~~((Letters to and from agencies are filed in the central office, Temple of Justice, Olympia, Washington, by the name of the agency in a chronological sequence.))~~ Records of the new motor vehicle arbitration board as well as the lemon law administration are filed in the Seattle office, Lemon Law Administrator, Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

WAC 44-06-060 Public records officer. (1) The public records officer for the attorney general's office shall be the ~~((administrative assistant to the attorney general for all records maintained in the central office, Temple of Justice, Olympia, Washington. For those records maintained at other locations, the assistant attorney general in charge of the legal division having custody of the records or any staff member designated by the assistant attorney general shall be the public records officer))~~ office services manager who shall be responsible for responses to requests for public records. Except as provided in subsections (2), (3) and (4) of this section, all requests for public records shall be directed to Office Services Manager, Office of the Attorney General, 1110 Capitol Way S., PO Box 40107, Olympia, Washington 98504-0107.

(2) For those records maintained for lemon law administration for the New Motor Vehicles Warranty Act (chapter 19.118 RCW) the disclosure coordinator shall be located at the Office of Lemon Law Administration, Office of the

Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

(3) For those records maintained by the "business and fair practices division" aka consumer protection division (chapter 19.86 RCW), the disclosure coordinator shall be located at the Office of the Attorney General, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-070 ((Office hours.)) Hours for seeking public records. Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-080 Requests for public records. In accordance with requirements of chapter ~~((1, Laws of 1973))~~ 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the office which shall be available at the offices where records are maintained. The form shall be presented to the public records officer; or to a member of the staff designated by him, if the public records officer is not available, at the office during the office hours specified in WAC 44-06-070. The request shall include the following information:

(a) The name of the person requesting the record;
 (b) The time of day and calendar date on which the request was made;
 (c) The nature of the request;
 (d) If the matter requested is referenced within ~~((the))~~ a current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to ~~((the office's))~~ a current index maintained by the office, an appropriate description of the record requested.

(f) If the request is for a list of individuals, the requester shall certify that the request is not for commercial purposes except as provided in RCW 42.17.260(7).

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

(3) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

NEW SECTION

WAC 44-06-085 Response to public records requests. (1) The office shall respond promptly to requests for disclosure. Within five business days of receiving a public record request, the office will respond by:

- (a) Providing the record;
 - (b) Acknowledging that the office has received the request and providing a reasonable estimate of the time the office will require to respond to the request; or
 - (c) Denying the public record request.
- (2) Additional time for the office to respond to a request may be based upon the need to:
- (a) Clarify the intent of the request;
 - (b) Locate and assemble the information requested;
 - (c) Notify third persons or agencies affected by the request; or
 - (d) Determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

(3) In acknowledging receipt of a public record request that is unclear, the office may ask the requester to clarify what information the requester is seeking. If the requester fails to clarify the request, the office need not respond to it.

(4)(a) If the office does not respond in writing within five working days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

- (i) Consider the request denied; and
 - (ii) Petition the public records officer under WAC 44-06-120.
- (b) If the office responds within five working days acknowledging receipt of the request and providing an estimate of the time required to respond to the request, and the requester feels the amount of time stated is not reasonable, the person seeking disclosure shall be entitled to:
- (i) Consider the request denied; and
 - (ii) Petition the public records officer under WAC 44-06-120.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-090 Copying fees. No fee shall be charged for the inspection of a public record. The office, however, will for requests under this chapter, charge one dollar for the first ten pages and ten cents per copy for additional pages. The public records officer may waive the fee for copies when the expense of processing the payment exceeds the costs of providing the copies. These charges are necessary to reimburse the office for the costs of providing the copies of the public records and the use of the copying equipment. Payment should be made by check to the attorney general's office. The office may require that all charges be paid in advance of release of the copies of the records.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-110 Exemptions. (1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 44-06-080

is exempt under the provisions of RCW 42.17.310 or other law.

(2) ~~((In addition,))~~ Many of the records of the office are protected by the attorney-client privilege and/or the attorney work product doctrine. The office, in the course of representing agencies, may at times have materials or copies of materials from such agencies. A request for such records may be referred by the attorney general to the agencies whose records are being requested. The office may assert exemptions applicable to the agency or agencies which transmitted the material to the office.

(3) Pursuant to RCW 42.17.260, the office reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ~~((Laws of 1973))~~ 42.17 RCW. The public records officer will fully justify such deletion in writing.

~~((3))~~ (4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

WAC 44-06-120 Review of denials of public records requests. (1) Any person who objects to the office's denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review to the public records officer. 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 attorney general or his designated deputy attorney general. The attorney general or his designee shall immediately consider the matter and either affirm or reverse such denial within two business days following the ~~((original denial))~~ receipt of the written request for review of the denial of the public record.

(3) Administrative remedies shall not be considered exhausted until the attorney general or the designated deputy attorney general has returned the petition with a decision or until the close of the second business day following ~~((denial of inspection))~~ receipt of the written request for review of the denial of the public record, whichever occurs first.

(4) For purposes of WAC 44-06-160, the office shall have concluded a public record is exempt from disclosure only after the review conducted under this section has been completed.

AMENDATORY SECTION (Amending Order 102, filed 2/20/74)

WAC 44-06-130 Consumer protection complaints. Unless a complainant on a consumer protection matter specifically provides to the contrary, the ~~((consumer protection))~~ business and fair practices division is authorized when

it deems it appropriate to forward a copy of the letter of complaint to the firm which is the subject of the complaint.

AMENDATORY SECTION (Amending Order 103, filed 4/30/84)

WAC 44-06-140 Adoption of form. The attorney general's office hereby adopts use by all persons requesting inspection and/or copies of records of the form set out below, entitled "Request for public records."

Return to:

Public Records Officer
Office of the Attorney General
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NEW SECTION

WAC 44-06-150 Availability of pamphlet. The office has available a pamphlet, written in plain language, explaining the provisions of the Public Records Act. Requests for a copy of the pamphlet should be directed to the Public Records Officer, Office of the Attorney General, 1110 Capitol Way S., Suite 120, PO Box 40107, Olympia, Washington 98504-0107.

NEW SECTION

WAC 44-06-160 Requests for review. As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter." Requests for such review shall be directed to the Opinions Division, Office of the Attorney General, Olympia, Washington 98504-0100. The office will provide the person with a written opinion on whether the record is exempt.

Nothing in this section shall be deemed to establish an attorney-client relationship between the attorney general and a person making a request under this section.

WSR 94-06-051
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 1, 1994, 2:15 p.m.]

This is to officially request withdrawal of proposed rule making originally filed in your office on December 21, 1993, WSR 94-01-163; and filed for continuance on February 17, 1994, WSR 94-06-003.

K. Diane Dolstad
Assistant Director

WSR 94-06-055
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 2, 1994, 8:55 a.m.]

Original Notice.

Title of Rule: Manual of rules, classifications, rates, and rating system for Washington workers' compensation insurance, chapter 296-17 WAC.

Purpose: Agency proposes to establish a new general reporting rule, a new risk classification definition and a new base rate applicable to workers' compensation insurance underwritten by Washington State Fund, Department of Labor and Industries and specifically for employers engaged in "logging and/or tree thinning-mechanized operations."

Statutory Authority for Adoption: RCW 51.04.020(1).

Statute Being Implemented: RCW 51.16.035.

Summary: Agency proposes to establish a new general reporting rule which outlines criteria that must be met by an employer in order to qualify for a proposed new risk classification applicable to logging and/or tree thinning-mechanized operations; establishment of a new risk classification definition for logging and/or tree thinning-mechanized operations; and establishment of a new insurance base rate for the proposed new classification.

Reasons Supporting Proposal: During the past decade and a half, the industry of logging and reforestation have undergone many changes. Some of these changes are the result of technological advances, while others have been the result of environmental considerations and changes in forest management practices. Included in the area of technological

change is a modern method of tree harvesting and processing which the industry refers to as mechanized operations. As a result of these technological changes, industry members have inquired about the possibility of establishing a new classification for mechanized logging and tree thinning operations. In response to these inquiries, the department conducted a series of seven informal meetings statewide during August 1993 to discuss the possibility of establishing a new risk classification for logging and/or tree thinning-mechanized operations. Based on the feedback for these meetings and written input received from the public relative to these meetings, we conclude that general support exists to establish such a risk classification. In concert with these meetings, a study was undertaken by labor and industries—insurance services relative to employers which were identified as having logging and/or tree thinning operations which use mechanized processes. The purpose of this study was to identify the difference in hazard (if one existed) between the operative hazards of mechanized operations when compared to their nonmechanized counterparts and whether or not a new classification was justified. The study disclosed that such difference did exist and that a new classification should be established for logging and/or tree thinning-mechanized operations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Theresa J. Whitmarsh, Assistant Director, Insurance Services; William White, Senior Actuary; Francis A. Romero, Classification Development; and Douglas J. Mathers, Chief Auditor; 7273 Linderson Way S.W., Tumwater, WA 98504-4100, (206) 956-4776.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules represent a change in how some employers will report their employees to labor and industries for premium payment purposes under the state's workers' compensation insurance program. These changes include the separation of employees working in mechanized logging and/or tree thinning operations under a separate risk classification and premium report form from other workers of the employer. In addition to reporting employees working in mechanized logging or tree thinning operations under the new classification and separate premium report form, employers are required to also submit a supplemental report form which lists the name of the firm's employees which are being reported under the new classification, their Social Security number, the piece of equipment they operate, the hours they worked during the quarter, and the wages they earned for the quarter. With the exception of the equipment which the employee operates, all other information is maintained by the employer for unemployment reporting purposes. The primary reason behind these requirements is to reduce the need for audit of these employers, to provide detail necessary to validate data for rate making, and to reduce the potential for reporting abuses which will be present given the proposed difference in premium rates between mechanized and nonmechanized processes.

Proposal Changes the Following Existing Rules: Labor and industries proposes to amend chapter 296-17 WAC

through the establishment of a new general reporting rule, WAC 296-17-45005, a new risk classification definition, WAC 296-17-66003 and revisions to WAC 296-17-895 industrial insurance base rate tables, applicable to "logging and/or tree thinning-mechanized operations." All other existing rules remain unchanged.

Outline of Proposed Rule Changes: WAC 296-17-45005 Logging and/or tree thinning—Mechanized operations—General reporting rule, establishes a new general reporting rule applicable to logging and/or tree thinning-mechanized operations, which will be used in the administration of a new risk classification and base rate on the same subject; WAC 296-17-66003 Classification 5005 - Logging and/or tree thinning-mechanized operations, establishes a new risk classification for the logging and reforestation industry relative to mechanized operations; and WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry, amends industrial insurance base rate tables to include new base rates for risk classification 5005.

Small Business Economic Impact Statement

Summary of Rule Changes: In regards to workers' compensation insurance premiums, the proposed regulatory change would establish a new general reporting rule, a new risk classification, and a new base rate applicable to the logging industry. The proposed rate and reporting changes would specifically impact logging and/or tree thinning-mechanized operations.

The proposed additions and/or modifications to the Washington Administrative Code include: WAC 296-17-895, addition of the base rate for the new classification, 5005; WAC 296-17-45005, addition of a new general reporting rule for logging and/or tree thinning-mechanized operations; and WAC 296-17-66003, addition of the definition of classification 5005, logging and/or tree thinning-mechanized operations.

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 industrial classification (SIC) codes, shall be reviewed to determine if there exists a proportionately higher economic burden compliance on small business. Small businesses are defined as businesses having fifty or less employees.

Summary of Economic Analysis

General: The department has determined that the proposed rule may potentially impact more than 10% of the small businesses within the affected industries as determined by the three-digit standard industrial classification (SIC) codes. Thus, in accordance with the Regulatory Fairness Act, the department must further analyze the potential costs of the compliance relative to the proposed rule.

Impacted SIC:	241	Logging
	2411	Logging

This industrial classification includes establishments primarily engaged in cutting timber in producing rough, round, hewn, or riven primary forest or wood raw materials, or in producing wood chips in the field.

The proposed rule would impact those businesses involved in mechanized logging operations as defined in WAC 296-17-66003.

Estimated Cost of Compliance: In order to comply with the proposed rule, businesses would be required to establish a subaccount for mechanized logging operations (there is no cost to establish this account); a premium report would be required quarterly; and an addendum report form for mechanized operation would also be required quarterly. The cost of compliance would be the time required to establish the subaccount, and to generate the two additional reports on a quarterly basis.

The department has determined that the administrative costs (documentation of quarterly reports) associated with these additional responsibilities would be minor or negligible as determined by the Business Assistant Center (BAC). The cost of compliance relative to the proposed rule on a per business basis would be lower than the minor or negligible threshold calculated by the BAC.

Potential Benefits of the Proposed Rule: The indirect benefits of the proposed rule would include a more equitable workers' compensation rate setting process for the logging industry. Workers' compensation premiums would be more commensurate with the employee's potential exposure to occupational hazards. Employers involved in nonmechanized logging operations would continue to pay the current rate while employers involved in mechanized logging operations would pay the new proposed premium.

Current premium/employee/hour:	\$7.88
Proposed premium/employee/hour for mechanized operations:	\$2.24

Conclusion: The department has evaluated the economic impact of the proposed rule in accordance with the Regulatory Fairness Act and concluded that there would be no economic impact to business. Thus, neither a more substantive small business economic impact statement, nor a proposal for the mitigation of an adverse economic impact is necessary.

Hearing Location: First Floor Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98504, on April 29, 1994, at 10:30 a.m.

Submit Written Comments to: Theresa J. Whitmarsh, Assistant Director, Insurance Services, P.O. Box 44100, Olympia, WA 98504-4100, by April 27, 1994.

Date of Intended Adoption: May 27, 1994.

March 2, 1994
Mark O. Brown
Director

NEW SECTION

WAC 296-17-45005 Logging and/or tree thinning—Mechanized operations—General reporting rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17-66003.

(1) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account.

Annual surveys will be required after the initial survey to retain the risk classification assignment.

(2) Every employer as a prerequisite of being assigned risk classification 5005 and having exposure (work hours) which is reportable under other risk classifications assigned to the employer shall be required to establish a separate subaccount for the purpose of reporting exposure (work hours) and paying premiums under this risk classification (5005). Except as otherwise provided for in this rule, only exposure (work hours) applicable to work covered by risk classification 5005 shall be reported in this subaccount. In the event that the employer's only other reportable exposure (work hours) is subject to one of the standard exception risk classifications, or the shop or yard risk classification then all exposure (work hours) will be reported under a single main account.

(3) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

NEW SECTION

WAC 296-17-66003 Classification 5005.

Logging and/or tree thinning - mechanized operations: Use of this classification is limited to employers who are engaged in the "entire operation" of mechanical logging and/or tree thinning. For purposes of this rule the "entire operation" refers to the felling of trees, removal (skidding) of trees, processing (delimiting and bucking) of trees, and loading of trees on to log trucks by machines. Employers who are only involved in a portion of the work, and not involved in the "entire operation" of mechanical logging or tree thinning as described above are not covered by this classification and are to be reported separately in classification 5001 "logging, N.O.C." For example, an employer that subcontracts to fell trees with a feller/buncher or processor but is not involved in the removal (skidding) of the trees, the processing (delimiting and bucking) of trees and the loading of trees is excluded from this classification (5005) and is to be reported under classification 5001 "logging, N.O.C." Any employer whose operation includes any manual felling, removal, processing or loading of trees is excluded from this classification (5005) and is to be reported under classification 5001 "logging, N.O.C."

Equipment used by employers subject to this classification will consist of the following:

Feller/buncher - this machine is used to fell trees and place felled trees into stacks (bunches) for removal to the log landing for further processing. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation

Processor - this machine is used to fell trees, delimit them, buck the tree to the desired log length and stack them (bunches) for removal to the landing where they will be

segregated by general grade and loaded onto log trucks. In some cases a processor is used at the landing to delimb trees and buck them to log length. This is especially true when the trees are felled by a feller/buncher. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation

Grapple skidder - this machine is used to remove (ground skid) stacks (bunches) of felled trees from the woods to the landing. The industry refers to the skidder as a tractor. A bulldozer is also referred to by the industry as a tractor. The two are distinguished from one another in that the skidder is a tire driven tractor and the bulldozer is a track driven tractor. A bulldozer equipped with a grapple is an acceptable piece of equipment to be used in the removal of trees. The operator of either the grapple skidder or bulldozer equipped with grapple does not leave the cab of the machine in the performance of duties in the logging operation

Forwarder - this machine is used to remove logs as cut by a processor from the woods to an awaiting log truck or to be stacked in piles for a future pickup by a log truck. This is a small specialized tractor equipped with a self-loader and a log bunk. The operator of this machine does not leave the machine in the performance of duties in the logging operation

Harvester - this machine is used at the landing of the logging side to delimb trees and buck trees to desired log length. This machine can also be used to load logs on to log trucks. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation

Loader - this machine is used at the landing to load logs on to log trucks. The operator of this machine does not leave the cab of the machine in the performance of duties in the logging operation

All equipment used by employers subject to this classification must meet WISHA guidelines for Roll Over Protection Standards (ROPS) and Falling Object Protection Standards (FOPS)

See risk classification 5206 (WAC 296-17-675) for permanent shop/yard operations.

AMENDATORY SECTION (Amending WSR 93-24-114, filed 12/1/93, effective 1/1/94)

WAC 296-17-895 Industrial insurance accident fund base rates and medical aid base rates by class of industry. Industrial insurance accident fund and medical aid fund base rates by class of industry shall be as set forth below.

Base Rates Effective
January 1, 1994

Class	Medical Aid	
	Accident Fund	Fund
0101	1.3982	0.7894
0102	1.2970	0.7702
0103	1.4836	1.0467
0104	2.0611	1.0538
0105	1.2586	0.8944

0106	4.0487	3.6391
0107	1.2935	0.7310
0108	1.2520	0.6469
0109	4.7286	2.3896
0201	2.5381	1.3046
0202	2.8343	1.8592
0206	2.7195	1.1299
0301	0.5589	0.4541
0302	2.1415	1.0803
0306	1.0650	0.6421
0307	0.7808	0.5437
0403	1.3102	0.9729
0502	1.1912	0.6685
0504	1.4982	0.8277
0506	4.3824	2.3677
0507	3.1345	1.8771
0508	3.4097	1.6003
0509	2.0208	1.1829
0510	1.4609	0.9626
0511	1.1947	0.7891
0512	1.8712	1.0760
0513	0.7526	0.5053
0514	1.4609	0.9626
0515	2.6498	1.2995
0516	1.4609	0.9626
0517	1.8332	1.3207
0518	1.8819	0.9755
0519	1.4911	1.1874
0601	0.6279	0.4454
0602	0.4096	0.2795
0603	0.8048	0.5104
0604	1.0263	0.8291
0606	0.2162	0.2398
0607	0.2359	0.2460
0608	0.2431	0.2260
0701	2.7346	1.0169
0803	0.3342	0.2684
0804	0.9284	0.5816
0901	1.7463	1.0350
1002	0.9260	0.6628
1003	0.5997	0.4131
1004	0.5997	0.4131
1005	4.7327	2.3634
1007	0.2420	0.2329
1101	0.5192	0.4306
1102	1.2691	0.7464
1103	0.4065	0.3885
1104	0.4994	0.4737
1106	0.1773	0.2408
1108	0.3684	0.3710
1109	0.6350	0.6252
1301	0.2959	0.2502
1303	0.1909	0.1444
1304	0.0193	0.0214
1305	0.2835	0.2877
1401	0.6026	0.5351
1404	0.5032	0.3921
1405	0.4871	0.4366
1501	0.3705	0.2815
1507	0.2820	0.2514
1701	1.8241	0.9221
1702	1.8241	0.9221

1703	0.4268	0.2864	3901	0.1438	0.1645
1704	0.8537	0.5869	3902	0.4003	0.4127
1801	1.0190	0.5852	3903	0.9394	1.0456
1802	0.8894	0.6168	3905	0.1218	0.1696
2002	0.5185	0.5252	3906	0.4504	0.4279
2003	0.3711	0.3615	3909	0.2054	0.2310
2004	0.6474	0.5591	4002	0.6593	0.5067
2007	0.3572	0.4009	4101	0.1884	0.1863
2008	0.2458	0.2010	4103	0.1970	0.2284
2009	0.2448	0.2477	4107	0.1097	0.1171
2101	0.6013	0.5183	4108	0.1884	0.1863
2102	0.3711	0.3615	4109	0.1884	0.1863
2104	0.2486	0.2738	4201	0.2404	0.1854
2105	0.5205	0.3805	4301	0.7203	0.6542
2106	0.3500	0.3199	4302	0.6888	0.4666
2201	0.2152	0.1983	4304	0.5275	0.5179
2202	0.4905	0.4913	4305	1.0830	0.6850
2203	0.2639	0.2578	4401	0.4860	0.4356
2401	0.3775	0.3699	4402	0.5579	0.5396
2903	0.5468	0.5350	4404	0.4509	0.3768
2904	0.5946	0.5305	4501	0.1190	0.1144
2905	0.4393	0.4410	4502	0.0368	0.0366
2906	0.3713	0.2828	4504	0.0588	0.0879
2907	0.4675	0.4074	4601	0.5543	0.5645
2908	0.9338	0.7930	4802	0.2574	0.2369
2909	0.5063	0.4774	4803	0.1984	0.2453
3101	0.7319	0.4725	4804	0.4246	0.4408
3102	0.2875	0.2724	4805	0.2603	0.2828
3103	0.6204	0.4526	4806	0.0697	0.0716
3104	0.4673	0.3740	4808	0.4269	0.3909
3105	0.9304	0.7006	4809	0.2256	0.2534
3303	0.2055	0.1995	4810	0.1345	0.1508
3304	0.5522	0.5380	4811	0.2172	0.2364
3309	0.3081	0.3754	4812	0.3941	0.3191
3401	0.3635	0.3125	4813	0.2388	0.2194
3402	0.3906	0.3437	4901	0.0389	0.0371
3403	0.1776	0.1573	4902	0.0444	0.0389
3404	0.3792	0.3827	4903	0.0389	0.0371
3405	0.2846	0.2502	4904	0.0163	0.0195
3406	0.1715	0.2002	4905	0.2219	0.2784
3407	0.3043	0.2485	4906	0.0572	0.0581
3408	0.0792	0.0697	4907	0.0598	0.0537
3409	0.0822	0.0884	4908	0.0592	0.1396
3410	0.1518	0.1994	4909	0.0592	0.1396
3501	0.8988	0.6594	4910	0.3483	0.3581
3503	0.2022	0.2912	5001	5.2245	2.6082
3506	0.8275	0.5198	5002	0.4840	0.3953
3509	0.3848	0.3796	5003	1.7720	0.8264
3510	0.3975	0.4035	5004	2.9733	2.0671
3511	0.6130	0.5538	<u>5005</u>	<u>1.3982</u>	<u>.7894</u>
3512	0.3084	0.3619	5101	0.6491	0.6043
3602	0.0855	0.1060	5103	0.7026	0.6455
3603	0.2981	0.3371	5106	0.4621	0.5026
3604	1.3498	1.0083	5108	0.6829	0.5104
3605	0.4223	0.3581	5109	0.5572	0.4119
3701	0.2401	0.2212	5201	0.3200	0.2642
3702	0.5096	0.4317	5204	0.9147	0.6744
3707	0.3959	0.3914	5206	0.3954	0.3090
3708	0.2875	0.2724	5207	0.1056	0.1386
3801	0.2189	0.1925	5208	0.8348	0.6872
3802	0.1760	0.1731	5209	0.5870	0.5653
3808	0.2597	0.2347	5301	0.0206	0.0219

5305	0.0352	0.0376	6801	0.2376	0.2009
5306	0.0333	0.0352	6802	0.2554	0.3222
5307	0.3337	0.2746	6803	1.6138	0.3486
6103	0.0420	0.0607	6804	0.1683	0.1704
6104	0.2137	0.2130	6809	2.1394	5.0284
6105	0.1578	0.1650	6901	0.0000	0.0474
6107	0.1113	0.1369	6902	0.7423	0.4056
6108	0.4310	0.4580	6903	4.7024	2.9071
6109	0.0398	0.0443	6904	0.2091	0.1837
6110	0.4146	0.3779	6905	0.2178	0.2166
6201	0.1664	0.1655	6906	0.0000	0.2166
6202	0.4936	0.4190	6907	1.0575	0.8286
6203	0.0658	0.0792	6908	0.3367	0.3177
6204	0.1368	0.1715	6909	0.0636	0.0712
6205	0.1368	0.1715	7101	0.0271	0.0263
6206	0.1368	0.1715	7102	16.00*	36.42*
6207	0.7777	1.0893	7103	0.2627	0.2074
6208	0.2119	0.2685	7104	0.0185	0.0239
6209	0.1782	0.2200	7105	0.0284	0.0277
6301	0.0986	0.0842	7106	0.1695	0.1489
6302	0.1354	0.1370	7107	0.2282	0.1877
6303	0.0552	0.0566	7108	0.1961	0.2089
6304	0.1152	0.1667	7109	0.2358	0.2551
6305	0.0519	0.0634	7110	0.3382	0.2529
6306	0.2063	0.2189	7111	0.4954	0.3954
6308	0.0416	0.0391	7112	0.6213	0.4795
6309	0.1123	0.1302	7113	0.7438	0.4784
6402	0.2342	0.2283	7114	0.5257	0.6543
6403	0.1540	0.1946	7115	0.5571	0.4298
6404	0.1130	0.1525	7116	0.6024	0.4505
6405	0.4644	0.4439	7117	1.2373	1.6166
6406	0.0607	0.0752	7118	2.7234	2.2154
6407	0.1633	0.1800	7119	1.7968	1.3897
6408	0.2972	0.2945	7120	5.0776	4.5910
6409	0.4320	0.3552	7121	5.4988	4.5460
6410	0.1304	0.1416	7201	0.7427	0.5316
6501	0.0756	0.0779	7202	0.0381	0.0400
6502	0.0194	0.0233	7203	0.0891	0.1417
6503	0.0698	0.0473	7204	0.0000	0.0000
6504	0.3006	0.4105	7301	0.5759	0.4760
6505	0.0799	0.1001	7302	0.5482	0.5867
6506	0.0521	0.0692	7307	0.6980	0.6684
6508	0.3026	0.3063	7308	0.1611	0.2162
6509	0.1623	0.2022	7309	0.1359	0.1980
6601	0.1629	0.1905			
6602	0.3706	0.3846			
6603	0.2389	0.2452			
6604	0.0530	0.0516			
6605	0.3150	0.4043			
6607	0.1056	0.1386			
6608	0.2881	0.1861			
6614	272.0000**	249.7000**			
6615	203.2000**	186.5000**			
6616	27.0000**	24.7000**			
6617	20.2000**	18.5000**			
6618	77.5000**	71.2000**			
6704	0.1201	0.1271			
6705	0.7053	0.8321			
6706	0.3154	0.3717			
6707	11.32*	13.70*			
6708	3.1900	4.8240			
6709	0.1359	0.1980			

¹ The base rate for this classification shall be effective July 1, 1994.

* Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

** These rates are calculated on a per license basis for parimutuel race tracks and are base rated.

WSR 94-06-058
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed March 2, 1994, 9:39 a.m.]

Original Notice.

Title of Rule: Chapter 16-212 WAC, Grain, hay, beans and peas—Inspection fees.

Purpose: Establishes fees for services performed by the department in sampling, testing, grading, weighing and inspecting grain, pulses, and similar commodities.

Statutory Authority for Adoption: Chapter 22.09 RCW. Statute Being Implemented: Chapter 22.09 RCW.

Summary: Proposal increases fees established by rule by amounts within the fiscal growth factor set for FY 1994.

Reasons Supporting Proposal: Revenues generated by the current fee schedule are not adequate to support program activity.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Gore, Olympia, Washington, (206) 902-1827.

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 rule establishes the schedule of user fees for grain inspection program services and related activities. These fees are the sole source of funds for program activities, and revenue generated must be adequate to support it. We anticipate this fee increase will furnish more revenue per unit service and offset recent losses in fee income and increases in necessary program expenditures.

Proposal Changes the Following Existing Rules: Increases individual fees within the 7.18% fiscal growth factor permitted by provisions of Initiative 601.

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

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street, 2nd Floor, Room 259, Olympia, WA 98504-2560, on April 7, 1994, at 10:00 a.m.

Submit Written Comments to: Robert Gore, Grain Inspection Program Manager, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, by April 7, 1994.

Date of Intended Adoption: April 20, 1994.

March 2, 1994
Mary Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 92-15-046, filed 7/10/92, effective 8/10/92)

WAC 16-212-020 Grain and commodity inspection points. The following cities in the state of Washington are hereby designated as inspection points for the purpose of inspecting and weighing standardized grains, beans, peas, lentils and other commodities: Clarkston, Colfax, Kalama, Pasco, Seattle, Spokane, Tacoma and Vancouver.

AMENDATORY SECTION (Amending Order 1913, filed 12/12/86)

WAC 16-212-030 General provisions for hourly charges.

(1) Straight time, rate per hour ~~\$(23.00)~~
24.50

This hourly rate shall be applied on any job where the fee is not sufficient to provide revenue of ~~\$(23.00)~~ 24.50 per hour, per employee, and where no other hourly rate or

fee is specified in the schedule of fees and charges. Whenever the lot size or workload is not of sufficient size to generate ~~\$(23.00)~~ 24.50 per hour, per employee, an additional fee shall be assessed so that total revenue generated is equal to the ~~\$(23.00)~~ 24.50 rate: *Provided*, That such revenue insufficiency may be established on the basis of the average hourly revenue generated at the worksite over the Monday through Sunday work week, upon written request of the applicant for service. In the absence of such request, fees shall be assessed on a daily basis.

(2) Overtime, and night shift rate per hour . . . ~~\$(6.00)~~
6.40

Whenever a service is requested before or after regularly scheduled working hours, Monday through Friday, or anytime on Saturdays, Sundays or holidays, a fee of ~~\$(6.00)~~ 6.40 per hour, per employee, shall be charged in addition to the regular inspection and weighing fees.

(a) Requests for service on Saturdays, Sundays, or holidays, or for work shifts other than 8:00 a.m. to 5:00 p.m., Monday through Friday, must be received by the inspection office no later than 4:00 p.m. of the last regularly scheduled working day prior to the requested service. When the request is not received by 4:00 p.m., service will be provided where personnel are available, but an additional fee of ~~\$(4.00)~~ 4.25 per hour, per employee, will be assessed for that shift.

(b) Requests for service which is beyond the scope or volume normally provided at an inspection site must be received by the inspection office no later than 4:00 p.m. of the last regularly scheduled working day prior to the date of the requested service in order for the department to guarantee to have adequate staff available to perform the service.

(c) Whenever an employee is called from home after regular working hours, or on a Saturday, Sunday or holiday, a minimum of two additional hours shall be charged at the rate of ~~\$(10.00)~~ 10.70 per hour and added to other fees charged.

(d) Scheduled night shifts.

At all designated inspection points, for night shifts, Monday through Friday (usually from 6:00 p.m. to 3:00 a.m.) that are, or will be, continuous for a period of one month or longer, with only an occasional work stoppage, additional overtime fees per hour will not apply.

(i) The department shall be given at least seven calendar days notice, in writing, to establish a scheduled night shift. If notice is not given, a fee of ~~\$(6.00)~~ 6.40 per hour, per employee, shall be assessed until the seven day notice period has elapsed.

(ii) The department shall be given at least twenty-one calendar days' notice, in writing, of cancellation of any scheduled night shift operation. If such notice is not given, a fee of ~~\$(6.00)~~ 6.40 per hour, per employee, shall be assessed for each hour under the regular night shift schedule that would have been worked until the twenty-one day notice period has elapsed.

(3) Standby rate per hour ~~\$(25.00)~~
26.80

Whenever a service is requested before or after working hours, Monday through Friday or anytime on Saturdays, Sundays or holidays, and service cannot be performed through no fault of the department, a minimum of four hours at the standby rate of ~~\$(25.00)~~ 26.80 per hour, per employ-

ee, shall be charged. Whenever a service is requested before or after working hours or anytime on a Saturday, Sunday or holiday, and a cancellation of such request is not received by 4:00 p.m. of the last regularly scheduled working day prior to the requested service, the four hour standby charge shall be applied.

(4) Guarantee of expense. When a service is requested that requires assignment of personnel at a facility where the volume of work at the established fees may not be adequate to pay the cost of providing the service, a guarantee of the expense of providing the service may be required. These facilities may enter into agreement with the department at guaranteed staffing levels and negotiated minimum hours and unit fees.

AMENDATORY SECTION (Amending WSR 92-15-046, filed 7/10/92, effective 8/10/92)

WAC 16-212-060 Official inspection and/or weighing fees under the United States Grain Standards Act.

(1) Combination inspection and weighing fees. Ships, barges, unit trains and transfers of bulk grain.

(a) From vessel to elevator, per ton \$ ~~((0.12))~~
0.128

(b) Bin transfers, per ton \$ ~~((0.12))~~
0.128

(c) From elevator to vessel, per ton \$ ~~((0.12))~~
0.128

(d) From railcars of a unit train, sampled by diverter samplers, batch weighed and inspected under the subplot inspection plan in units of not less than five cars, per ton \$ ~~((0.12))~~
0.128

(2) Inspection only of railroad boxcars, open hopper-type cars or covered hopper-type cars, original inspection.

(a) When sampled by United States Department of Agriculture approved mechanical belt, spout or leg samplers, per car (batch grades-up to a maximum of 5 car units are charged at the per car rate) \$ ~~((14.50))~~
15.50

(b) When sampled by United States Department of Agriculture approved grain trier, original and subsequent original inspections, per car \$ ~~((23.00))~~
24.00

(3) Inspection only of trucks, per truck . . \$ ~~((14.00))~~
15.00

(4) Reinspections of railroad boxcars, open hopper-type cars, covered hopper-type cars, ship subplot samples, barge lots, truck lots, and submitted samples.

(a) When based on an official file sample, per reinspection \$ ~~((8.50))~~
9.00

(b) When based on a new sample, for railcars only, per reinspection \$ ~~((23.00))~~
24.00

(c) When based on a new sample, for trucks only, per reinspection \$ ~~((14.00))~~
15.00

(5) Submitted samples,
(a) Standardized grains, except canola per inspection \$ ~~((7.00))~~
7.50

(b) Canola, per inspection \$ ~~((13.00))~~
13.75

(6) Fees for laboratory determination of erucic acid, and/or glucosinolate, and/or oil content of canola, identical to the fees assessed by the Federal Grain Inspection Service.

(7) Factor analysis and/or certification.

(a) Factors added to existing certificates, or requested on ship subplot analyses, that do not affect the grade: per factor \$ 2.50
Provided, That on submitted sample certificates of grade for wheat and barley, dockage to the nearest one-tenth percent will be shown in remarks section and, for wheat, foreign material shown on the factor line, when it is not a grading factor, without additional charge.

(b) Factor certification only (maximum of two factors), per certificate \$ 3.00

(i) Additional factors added to a factor certificate, per factor \$ 2.50
(A maximum of \$~~((7.00))~~ 7.50 will be charged for grading factors only.)

(ii) When submitted samples are not of sufficient size to provide official grade analysis, obtainable factors will be provided, upon request of the applicant, at the factor only rate.

(8) Official (NIRR or NIRT) protein analysis.

(a) Protein and/or oil analysis in conjunction with official inspection for grade \$ 6.25

(b) Protein and/or oil only \$ 8.50

When based on official sample (including new sample reinspection) add the applicable sampling charges.

(c) Protein and/or oil only: Submitted sample or reinspection based on official file sample. \$ 8.50

(9) Inspection of sacked grain at inspection points, per cwt \$ 0.06

(10) Checkloading sacked grain, per man-hour \$ ~~((23.00))~~
24.50

(11) Waxy corn determination, on request, per determination \$ ~~((12.00))~~
12.75

(12) Aflatoxin testing fees

(a) Screening or quantitative testing determinations, based on official sample, except thin layer chromatography, per test \$ ~~((35.00))~~
37.50

(b) Submitted samples, screening or quantitative determinations, except thin layer chromatography, per test \$ ~~((23.00))~~
24.50

(c) Reinspection, based on official file, screening or quantitative, except thin layer chromatography, per test \$ ~~((23.00))~~
24.50

(d) Reinspection, based on a new sample, screening or quantitative, except thin layer chromatography, per test \$ ~~((35.00))~~
37.50

(e) Thin layer chromatography determinations will be assessed at a rate identical with the fees charged by the Federal Grain Inspection Service.

(13) Stowage examinations - ships, barges or vessels.

(a) Per stowage space and/or tank, per examination \$ ((22.50))
24.00

(b) Initial inspection, minimum charge . . . \$((112.50))
120.00

(c) Subsequent inspections, minimum charge \$ ((67.50))
72.00

(d) Stowage examinations will be made on ships or vessels at anchor in midstream when requested.

(i) It is the responsibility of the applicant to provide safe transportation by licensed tug or water taxi to and from the vessel.

(ii) A minimum of two hours of regular time at \$((23.00)) 24.50 per hour (one inspector) for general cargo vessels and a minimum of four hours of regular time at \$((23.00)) 24.50 per hour (two inspectors) shall be charged for tankers in addition to the established inspection fee.

(iii) Inspections can only be made at the convenience of the grain inspection office, during daylight hours, under safe working conditions, when weather conditions permit.

(iv) Inspections can only be made within the area of the designated tidewater grain inspection office.

(v) A ship's or vessel's officer or company agent shall accompany the licensed shiphold inspector(s).

(e) A minimum of four hours per inspector at the applicable overtime rate shall also be assessed on Saturdays, Sundays, or holidays.

((13)) (14) Other stowage examinations.

(a) Sea van-type containers (when checkloading is not required) \$ ((7.60))
8.10

(b) Railroad cars, trucks and other containers, not in conjunction with loading, per container . . . \$ ((7.60))
8.10

(15) Checktesting of diverter and mechanical samplers, per man-hour \$ ((23.00))
24.50

(16) Ship samples.

(a) Ship composite samples.

(i) Initial set of samples to applicant (maximum of three samples) no charge

(ii) Additional samples or samples at the request of other interested parties, per sample (two sample minimum when not requested with initial set) . \$ ((5.00))
5.25

(b) Ship samples on a subplot basis, per sample \$ ((5.00))
5.25

(17) Weighing services.

(a) Class X weighing services.

(i) From railroad boxcars, open or covered hopper-type cars (without inspection required) or vessels to elevator (grain only), per ton \$ ((0.10))
0.107

(ii) From elevator to boxcars, open or covered hopper-type cars, barges (without inspection required) or vessels (without inspection, grain only), per ton \$ ((0.10))
0.107

(iii) Bin transfers (grain only), per ton . . . \$ ((0.10))
0.107

(iv) Trucks, per truck or weight lot \$ ((7.00))
7.50

(b) Class Y weighing services, per man-hour \$ ((23.00))
24.50

(c) Checkweighing of sacked grain, per man-hour \$ ((23.00))
24.50

(d) Scale certification/checktesting of official weighing scales.

(i) Weights and measures scale specialist, per man-hour \$ ((31.50))
33.75

(ii) Grain inspection personnel, per man-hour \$ ((23.00))
24.50

AMENDATORY SECTION (Amending WSR 92-15-046, filed 7/10/92, effective 8/10/92)

WAC 16-212-070 Official services under the Agricultural Marketing Act of 1946.

(1) Inspection or analysis of graded and nongraded commodities.

(a) Inspection of bagged commodities at inspection points, per cwt \$ 0.06

(b) Bulk commodity inspection at inspection points, per ton \$ ((0.28))
0.30

(c) Minimum charge for bulk or bagged commodities (one hour) \$ ((23.00))
24.50

(d) Submitted sample inspection, per sample \$ ((13.00))
13.75

(2) Weighing and combination inspection/weighing services for bulk commodities.

(a) Weighing only, other than grain, per ton \$ ((0.11))
0.117

(b) Combination inspection/weighing of bulk commodities under federal grade standards, state standards, or for factor determinations, per ton \$ ((0.12))
0.128

(c) Weigh grain by-products into portable containers including fitness examination of the container, weigh and sample the by-product (thirty ton maximum) \$ ((14.00))
15.00

(3) Factor analysis.

(a) Moisture only \$ ((5.00))
5.25

(b) Additional factors, the determination of which are not required to establish grade, or otherwise not required by regulation, added to an existing certificate, per factor \$ 2.50

(c) Certification, factor only (maximum two factors), per certificate \$ 3.00

(d) Additional factors added to a factor certificate, per factor \$ 2.50

(A maximum of \$13.00 will be charged for grading factors only.)

(e) Analysis of rapeseed for official factors, per certificate \$ ((~~13.00~~))
13.75

(f) If official inspection is required for rapeseed, the applicable sampling only fee shall be assessed in addition to the factor analysis fee.

(4) Sampling only, bulk commodities.

(a) Trucks or containers, per carrier \$ ((~~14.00~~))
15.00

(b) Boxcars, open or covered hopper-type cars, per car \$ ((~~23.00~~))
24.00

(5) Processed commodity and defense personnel support center (DPSC) inspection fees.

(a) Per man-hour, two hour minimum, rate per hour \$ ((~~23.00~~))
24.50

(b) In addition to the charges, if any, for sampling and other requested service, a fee will be assessed for each laboratory analysis or test identical with the amount charged by the federal grain inspection service for laboratory tests performed under authority of the Agricultural Marketing Act and for any postage or other costs of mailing not included in these fees.

(6) Sanitation inspections.

(a) Initial inspection no charge
(b) Reinspections, four hour minimum, per man-hour \$ ((~~23.00~~))
24.50

(7) Stowage examinations under the Agricultural Marketing Act shall be subject to the rates, restrictions, and conditions cited in WAC 16-212-060 (13) and (14).

(8) Mycotoxin testing fees.

(a) Screening or quantitative testing determinations, except thin layer chromatography per test \$ ((~~35.00~~))
37.50

(b) Thin layer chromatography determinations will be assessed at a rate identical with the fees charged by the Federal Grain Inspection Service.

(9) Falling numbers determinations, per determination \$ ((~~12.00~~))
12.75

Liquefaction number, per determination \$ 0.50

AMENDATORY SECTION (Amending WSR 92-15-046, filed 7/10/92, effective 8/10/92)

WAC 16-212-080 Miscellaneous fees.

(1) Mailing of samples shall be charged at actual mailing costs, minimum charge \$ 2.00

(2) Fee for pickup of samples on routes established by the department, per sample \$ 0.60

(3) Fees for services performed at places other than established grain and commodity inspection points.

(a) Travel time, per employee, will be charged at the applicable straight time or overtime rate from office to inspection point and return.

(b) Car mileage will be charged at the current published department of general administration rates (WAC 82-28-

080), except where suitable transportation is provided by the applicant.

(c) If the travel is of sufficient duration to require payment of subsistence or per diem to the employee, an amount equal to the established subsistence and/or per diem rate (WAC 82-28-040 and 82-28-050) shall be assessed, except where applicable subsistence and lodging are furnished, or paid, by the applicant.

(d) Incidental costs of telephone, mailing, etc. shall be at actual cost.

(e) Facsimile transmissions, per page \$ 1.00

(4) Certificate charges for certificates under the United States Grain Standards Act or the Agricultural Marketing Act of 1946.

(a) Divided original certificates, per certificate \$ 1.50

(b) Extra copies of inspection, protein, weight, falling number, commodity or aflatoxin certificates, per copy \$ 3.00

(5) Phytosanitary certification

(a) When performed in conjunction with official inspection, per certificate \$ ((~~6.50~~))
6.75

(b) When performed without official inspection, add sampling fee, per hour \$ ((~~23.00~~))
24.50

(6) Timely payment. Payment of fees and charges is due within thirty days after the date of the statement.

(a) If payment is not received within thirty days, service may be withheld until the delinquent account is paid; or

(b) In the case of such delinquent accounts, cash payment for subsequent service may be required; and

(c) A penalty of twelve percent per annum shall be assessed on the delinquent account balance.

AMENDATORY SECTION (Amending WSR 92-15-046, filed 7/10/92, effective 8/10/92)

WAC 16-212-082 Fees for services performed under state regulation. (1) Inspection of cultivated buckwheat and safflower under Washington state standards shall be at the rate applicable for the same type of sample under the fees for services under the United States Grain Standards Act.

(2) Cracked corn, corn screenings, and mixed grain screenings shall be inspected and/or weighed under the tonnage rate applicable for standardized grains as per WAC 16-212-060.

(3) Unofficial (NIRR or NIRT) protein analysis, per unit \$ 6.25

(4) Rapeseed (except canola) inspection under state standards.

(a) Submitted sample for factors or grade, per sample \$ ((~~13.00~~))
13.75

(b) When sampled by official personnel, add applicable sampling only fee.

(c) Export inspection and weighing in bulk, per ton \$ ((~~0.12~~))
0.128

(d) Inspection of bagged rapeseed, per cwt \$ 0.06

(e) Fees for laboratory determination of erucic acid and/or glucosinolate and/or oil content will be identical to the fees assessed by the Federal Grain Inspection Service.

Note: This fee is applied in addition to the inspection fee for grading under state standards.

(5) For other laboratory analysis not identified herein, a fee will be assessed for each test or analysis identical with the amount charged by USDA or Washington state agency laboratories.

WSR 94-06-059
PREPROPOSAL COMMENTS
HEALTH SERVICES COMMISSION

[Filed March 2, 1994, 10:04 a.m.]

Subject of Possible Rule Making: The Washington Health Services Commission is required to adopt rules implementing the provisions of RCW 43.72.300 and 43.72.310 concerning managed competition and antitrust immunity. The commission is seeking advice on: Conduct among providers, health care facilities, and certified health plans, including provider and facility contracts with plans; the use of "most favored nation" clauses in provider and health care facility contracts with certified health plans; assurance that certified health plans in rural areas contract with a sufficient number and type of health care providers and health care facilities to ensure consumer access to all local health services; the ability of health care providers within the service area of a certified health plan to collectively negotiate the terms and conditions of contracts with a certified health plan; and cooperative activities among health care facilities and providers.

Persons may comment on this subject in writing to Carol A. Smith, Assistant Attorney General, Washington Health Services Commission, P.O. Box 40100, Olympia, WA 98504-0100, by Friday, April 1, 1994.

March 1, 1994
Bernadene Dochnahl
Commission Chair

WSR 94-06-060
PROPOSED RULES
HEALTH SERVICES COMMISSION

[Filed March 2, 1994, 10:06 a.m.]

Original Notice.

Title of Rule: Competitive oversight and antitrust immunity—Submission of petitions and requests for informal opinions.

Purpose: The purpose of this new chapter is to set forth the form and manner of written petitions and requests for informal opinions submitted to the commission pursuant to RCW 43.72.310 Competitive oversight and antitrust immunity.

Statutory Authority for Adoption: RCW 43.72.040(3); 43.72.310.

Statute Being Implemented: RCW 43.72.310.

Summary: Amends WAC 245-01-020 Definitions. Creates a new chapter in Title 245 WAC to implement RCW

43.72.310 Competitive oversight and antitrust immunity. Sets forth the form and manner of written petitions and requests for informal opinions authorized by that statute.

Reasons Supporting Proposal: These administrative procedures are necessary to implement RCW 43.72.310 and to give affected parties a mechanism for taking action authorized therein.

Name of Agency Personnel Responsible for Drafting and Implementation: Carol Smith, Assistant Attorney General, 905 Plum Street, Building #3, Olympia, WA 98504, 753-4556; and Enforcement: Tom Hilyard, 605 Woodland Square Loop S.E., Olympia, WA 98504-1185, 407-0041.

Name of Proponent: Washington Health Services Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rulemaking creates a new chapter in Title 245 WAC for the purpose of implementing RCW 43.72.310 Competitive oversight and antitrust immunity. It sets forth the required form and manner of written petitions and requests for informal opinions authorized by that statute. The rules are necessary to give affected parties a mechanism for submitting a written petition or request for informal opinion from the commission.

Proposal Changes the Following Existing Rules: Proposal amends WAC 245-01-020 Definitions to incorporate new definitions necessary to clarify new chapter. New definitions include "attorney general," "parties," "petition," "proposal," and "request for informal opinion." The section is renumbered as necessary.

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

Hearing Location: Ninth Floor Education Center, Roleigh, Schwartz and Powell, 1201 Pacific Avenue, First Interstate Building, Tacoma, WA, on April 21, 1994, at 4:00 p.m.

Submit Written Comments to: Carol A. Smith, Attorney General's Office, P.O. Box 40100, Olympia, WA 98504, by April 8, 1994.

Date of Intended Adoption: April 21, 1994.

March 1, 1994
Bernadene Dochnahl
Commission Chair

Chapter 245-01 WAC
ADMINISTRATION AND OPERATIONS
ORGANIZATION, OPERATIONS,
AND PROCEDURES

AMENDATORY SECTION [(Amending WSR 94-04-046, filed 1/28/94, effective 2/28/94)]

WAC 245-01-020 Definitions. (1) "Attorney General" means the antitrust section of the Office of the Attorney General.

((+)) (2) "Act" means the Washington Health Services Act of 1993, chapter 492, laws of 1993, as amended by chapter 494, Laws of 1993.

~~((2))~~ (3) "**Commission**" means the Washington health services commission created by RCW 43.72.020 and also refers to employees of the commission.

(4) "**Parties**" means the natural persons, corporations or associations involved in the plan or activity which is the subject of the proposal being reviewed.

(5) "**Petition**" means the document that shall be filed with the commission by a certified health plan, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health services or certified health plans pursuant to RCW 43.72.310(3) in order to request approval of conduct that could tend to lessen competition in the relevant market.

(6) "**Proposal**" means the plan or activity that is being reviewed.

~~((3))~~ (7) "**Public record**" means 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 physical form or characteristics.

(8) "**Request for Informal Opinion**" means the document that may be filed with the commission pursuant to RCW 43.72.310(1) by a certified health plan, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or certified health plans asking whether particular conduct is authorized by the Act.

~~((4))~~ (9) "**Writing**" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including but not limited to, letters, words, pictures, sounds or symbols, or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion pictures, film and video recordings, magnetic or punch cards, disks, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.

The terms defined in the Act shall have the same meaning when used in Title 245 WAC.

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.

Chapter 245-02 WAC
COMPETITIVE OVERSIGHT AND ANTITRUST
IMMUNITY
SUBMISSION OF PETITIONS AND REQUESTS
FOR INFORMAL OPINIONS

NEW SECTION

WAC 245-02-010 Purpose. Purpose of this chapter is to set forth the form and manner of written petitions and requests for informal opinions submitted to the commission pursuant to RCW 43.72.310. The commission reserves the right to refuse to obtain an informal opinion where the

request is routine and should more appropriately be responded to by private counsel.

NEW SECTION

WAC 245-02-020 Contents of written petitions and requests for informal opinions. The following information shall be contained in a written petition or request for informal opinion submitted to the commission pursuant to RCW 43.72.310, unless the requested information or document is not relevant to the proposal. The parties will provide an explanation as to why the information or document is not supplied. The commission and the attorney general will be the final decision-maker as to what is relevant to the proposal.

(1) **Identification of parties:** identify all parties involved in the proposal, and for each one state:

(a) the name(s) under which it is doing business, and proposes to do business, in Washington;

(b) its business address(es);

(c) its type of business organization (nonprofit, corporation, association);

(d) a description of the nature or type of business conducted at each of its business locations within the state of Washington; and

(e) the person to whom questions regarding the petition or request for informal opinion should be directed.

(2) **Nature and Description of the Proposal:** Describe the nature of the proposal (for example, joint venture, merger, or acquisition) and state:

(a) the products and services involved or affected;

(b) the scheduled timeline, including completion or closing date;

(c) each factor that was considered in making the proposal;

(d) whether the same products or services are currently offered within thirty miles of the proposal, and if so, by whom;

(e) the manner in which the proposal is expected to improve access to health services or lower costs to purchasers and the time it will take to achieve that goal; and

(f) the estimated cost of the proposal.

(3) **Documentary materials:** Provide

(a) all contracts, agreements, correspondence, corporate minutes, memoranda or other documents describing or related to the proposal;

(b) financial statements for all parties for the past three fiscal years, including balance sheets, income statements and statements of changes in financial position;

(c) all documents filed with any other state or federal agency with respect to the proposal;

(d) all plans, studies, or reports prepared in anticipation of the proposal;

(e) all advertisements, brochures or other publications used for marketing the parties' products or services within the state of Washington during the last three years;

(f) the parties' articles of incorporation and documents providing the names of the board of directors, owners and officers;

(g) all fee schedules in use by all parties during the last three years in the state of Washington;

(h) all documents related to the parties' market share, geographic market, product market, sales plans, assessments of competitive strengths and weaknesses or competitive position during the past three years;

(i) all documents related to the change in the delivery of health services, or the impact on prices, resulting from the proposal; and

(j) all customer, marketing and patient surveys conducted in the state of Washington by the parties during the past three years.

(4) **Simultaneous review:** Identify any other state or federal agency reviewing the proposal and state the date on which each review was requested.

(5) **Information to be submitted for collaborative efforts by competitors:** If the proposal includes collaboration between parties, including but not limited to, mergers or joint ventures, state or identify the following additional information:

(a) each participant's contribution of capital, equipment, or other value to the transaction;

(b) each participant's ownership interest and their expected consideration or return from the proposal;

(c) each participant's nonmonetary involvement in the arrangement, if any;

(d) the market share of each of the participants in the proposed collaborative effort, for each of the products sold by that participant;

(e) every other person who competes with the applicants in the sale of products and services in Washington state, and if known, each person's market share; and

(f) all steps a potential competitor would have to take to enter the product or service market within two years.

(6) **Information to be submitted for hospital mergers:** If the proposal is for the merger two acute care inpatient hospitals, the following additional information shall be provided for the three years prior to the proposed merger:

(a) all data reported to the Comprehensive Hospital Abstract Reporting System (CHARS), in computerized form if possible;

(b) copies of the parties' response to the American Hospital Association's Annual Hospital Survey;

(c) a list of all purchasers who generate more than three percent of each hospital's annual gross revenues, specifying what percentage of gross revenues each one purchases;

(d) all contracts with third party payers or other purchasers, including those affiliated with the hospitals;

(e) the total number of licensed, staffed and occupied beds for each of the parties;

(f) for each zip code from which patients for each hospital involved in the proposal have been admitted, state the number of admissions and discharges, by Diagnostic Related Group, and specify the charges and revenues per discharge; and

(g) a description of the geographic market in which the parties do business, specifying the cities included.

(7) **Additional Information:** The commission and attorney general may request such additional information as may be required to complete the analysis necessary to form an opinion.

(8) Describe in narrative form:

(a) how the proposal will enhance the quality of health services to consumers;

(b) whether gains in cost efficiency of health services will occur;

(c) whether there will be improvements in utilization of health services and equipment; and

(d) whether duplication of health service resources will be avoided.

If it is alleged in the petition or request for informal opinion that there will be gains in cost efficiency of health services and improvements in utilization of health services and equipment, outline whether the proposal will facilitate the exchange of information relating to performance expectations, simplify the negotiation of delivery arrangements and relationships and reduce the transaction costs on the part of certified health plans and providers in negotiating cost-effective delivery arrangements.

(9) Describe in narrative form whether competition among certified health plans, health care providers or health care facilities will be reduced as a result of the proposal; whether there will be adverse impact on quality, availability, or price of health care services' to consumers; or whether arrangements less restrictive to competition that achieve the same benefits are available. If any or all of the above will not occur, for each one explain why not.

NEW SECTION

WAC 245-02-030 Acceptable format for submission of information. Information required by this chapter may be submitted in hard copy or in machine readable form:

(1) If hard copy, documents shall be submitted and organized by particular request;

(2) If in machine readable form, the data should comply with the specifications required by the commission and attorney general. These specifications will be provided upon request.

NEW SECTION

WAC 245-02-040 Submission of information. The party requesting an informal opinion or submitting a written petition shall direct the request or petition to the commission. Simultaneously, it shall send a copy of the request or written petition to the Office of the Attorney General, Antitrust Section, 900 Fourth Avenue, Suite 2000, Seattle, Washington 98164-1012.

NEW SECTION

WAC 245-02-050 Certification of truth and accuracy. Each petition and request for informal opinion shall contain a certificate from each person submitting information stating that the information submitted is true and accurate to the best of that person's knowledge.

**WSR 94-06-061
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY**
[Filed March 2, 1994, 10:14 a.m.]

Original Notice.

Title of Rule: Amending sections 1.07, 8.03, and 8.04 of Regulation I.

Purpose: To repeal the prohibition on land clearing fires in the Bremerton area; to exempt outdoor fires from the agency's opacity, incinerator, and fugitive emission standards; to repeal unused definitions and to add new definitions.

Other Identifying Information: Section 1.07 pertains to Definitions; Section 8.03 pertains to Outdoor fires—Prohibited areas; and Section 8.04 pertains to General conditions.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

Summary: A six square mile area in which land clearing fires are now prohibited would be repealed to allow local fire protection agencies the option of permitting such fires, as appropriate. Outdoor fires would be exempted from the agency's emission standards for opacity, incineration, and fugitive emissions. Unused definitions will be repealed and new definitions added.

Reasons Supporting Proposal: Local fire protection agencies in the Bremerton area have requested the agency to repeal the prohibition on land clearing fires. Outdoor fires were not intended to be subject to agency emission standards for opacity, incineration, and fugitive emissions. Unused definitions are unnecessary, and new definitions are necessary for clarity.

Name of Agency Personnel Responsible for Drafting: Gerry Pade, 110 Union Street, #500, Seattle, 98101, 689-4065; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, 98101, 689-4050; and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, 98101, 689-4053.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeal of the prohibition on land clearing fires in the Bremerton area would allow local fire protection agencies the option of permitting such fires, as appropriate. Explicitly exempting outdoor fires from the agency's emission standards for opacity, incineration, and fugitive emissions would clarify the general requirements for outdoor fires. Amendments to the definitions would provide additional clarity.

Proposal Changes the Following Existing Rules: Section 8.03 would be amended to allow land clearing fires in the Bremerton area, subject to permit by the local fire protection agency. Section 8.04 would be amended to exempt outdoor fires from the agency's emission standards for opacity, incineration, and fugitive emissions. Section 1.07 would be amended to repeal unused definitions, and to add new definitions.

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

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on April 14, 1994, at 9:00 a.m.

Submit Written Comments to: Arthur Davidson, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, by April 4, 1994.

Date of Intended Adoption: April 14, 1994.

March 1, 1994

Gerald S. Pade

Air Pollution Engineer

AMENDATORY SECTION

REGULATION I SECTION 1.07 (~~GENERAL~~) DEFINITIONS

When used herein (~~in Regulation I, II, or III of the Puget Sound Air Pollution Control Agency~~):

(a) ACCEPTABLE SOURCE IMPACT LEVEL (ASIL) means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk-based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of Regulation III.

(b) (~~(a)~~) ACTUAL EMISSIONS (~~as of a specified date~~) means the average rate at which the source actually emitted (~~pollutants~~) air contaminants during the 2-year period preceding (~~the specified~~) a specific date, and which is representative of normal source operations. To account for unusual circumstances such as strikes, the Control Officer may approve or require the use of another time period that (~~which~~) is more representative of normal operations than is the immediately preceding 2-year period.

(c) (~~(b)~~) ADEQUATE SOURCE OF HEAT means the ability to maintain 70°F at a point 3 feet above the floor in all normally inhabited areas of a dwelling.

(d) (~~(c)~~) AGENCY means the Puget Sound Air Pollution Control Agency.

(e) (~~(d)~~) AIR CONTAMINANT means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(f) (~~(e)~~) AIR POLLUTION means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

(g) (~~(f)~~) AIR POLLUTION EPISODE means a period when a forecast, alert, warning, or emergency air pollution stage is declared by the Department of Ecology pursuant to RCW 70.94.715.

(~~(g)~~) AIR QUALITY STANDARD means an established concentration, exposure time, and frequency of occurrence of an air contaminant in the ambient air which shall not be exceeded.)

(h) ALLOWABLE EMISSIONS means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to a federally enforceable permit (~~which~~) that limits the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) Any applicable standard (~~New Source Performance Standards and National Emission Standards for Hazardous~~

~~Air Pollutants promulgated by the United States Environmental Protection Agency) under 40 CFR Parts 60, (and) 61, and 63;~~

(2) Any applicable emission standard under Regulation I, II, or III;

(3) Any applicable State Implementation Plan emission standard, including those with a future compliance date; or

(4) Any applicable ~~(The)~~ emission standard ~~(rate)~~ specified ~~((as a federally enforceable permit condition))~~ in an Order of Approval or operating permit, including those with a future compliance date.

~~((See also definition of Total Allowable Emissions.))~~

(i) **AMBIENT AIR** means ~~((that))~~ the portion of the atmosphere, external to buildings, to which the general public has access.

(j) **AMBIENT AIR QUALITY STANDARD** means an established concentration, exposure time, and frequency of occurrence of an air contaminant in the ambient air that shall not be exceeded.

(k) ~~((+))~~ **BEST AVAILABLE CONTROL TECHNOLOGY** means technology that will result in an emission standard, including a visible emission standard, based on the maximum degree of reduction which the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts, and other costs, determines is achievable for such source through application of production processes, available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques for control of each air contaminant. In no event shall application of the best available control technology result in emissions of any air contaminant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, ~~(and)~~ 61, and 63. The Agency may prescribe a design, equipment, work practice, or operational standard, or combination thereof, to meet the requirements of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means that achieve equivalent results.

(l) ~~((+))~~ **BOARD** means the Board of Directors of the Puget Sound Air Pollution Control Agency.

(m) **COMMENCED CONSTRUCTION** means that the owner or operator has all the necessary preconstruction approvals or permits and either has begun, or has caused to begin, a continuous program of actual on-site construction of the source or has entered into binding agreements or contractual obligations to undertake construction of the source which cannot be canceled or modified without substantial loss to the owner or operator.

(n) ~~((+))~~ **COMBUSTIBLE REFUSE** means solid or liquid combustible waste material.

(o) ~~((+))~~ **CONTROL EQUIPMENT** means any device which prevents or controls the emission of any air contaminant.

(p) ~~((+))~~ **CONTROL OFFICER** means the Air Pollution Control Officer of the Puget Sound Air Pollution Control Agency.

~~((e) **CURTAILMENT** means reduction or cessation of any operation for the purpose of reducing emissions.))~~

(q) ~~((+))~~ **EMISSION** means a direct or indirect release of any air contaminant into the ambient air.

(r) ~~((+))~~ **EMISSION STANDARD** means a requirement that limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice, or operational standard.

(s) ~~((+))~~ **EQUIPMENT** means any stationary or portable device or any part thereof that emits or may emit ~~((has the potential to emit))~~ any air contaminant into the atmosphere.

~~((s) **EQUIPMENT USED IN A MANUFACTURING PROCESS** means equipment as defined in this section in which some air contaminant emitted is caused by a manufacturing process.))~~

(t) **FACILITY** means the sum total of all of the pollutant emitting activities that belong to the same industrial grouping (as defined by major groups in the Standard Industrial Classification Manual, NTIS Order No. PB 87-100012), are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or persons under common control.

(u) **FIRST STAGE OF IMPAIRED AIR QUALITY** means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 75 micrograms per cubic meter measured on a 24-hour average or when carbon monoxide is at an ambient level of 8 parts of contaminant per million parts of air by volume measured on an 8-hour average.

(v) **FUEL BURNING EQUIPMENT** means equipment ~~((as defined in this section which))~~ that produces hot air, hot water, steam, or other heated fluids by external combustion of fuel.

(w) **FUGITIVE DUST** means particulate matter or any visible air contaminant other than uncombined water that is not collected by a capture system and emitted from a stack, but is released to the atmosphere at the point of generation.

(x) **FUGITIVE EMISSION** ~~((s))~~ means an emission ~~((s which))~~ that does not pass and ~~((which))~~ that could not reasonably pass through a stack, chimney, or other functionally equivalent opening.

(y) **GASOLINE** means a volatile organic compound having a true vapor pressure greater than 1.5 pounds per square inch at 68°F, that is a liquid at standard conditions, and is used as a fuel for internal combustion engines.

(z) ~~((+))~~ **GASOLINE STATION** means any site dispensing gasoline into fuel tanks of motor vehicles, marine vessels, or aircraft from stationary storage tanks.

(aa) ~~((+))~~ **INCINERATOR** means a furnace for the destruction of waste.

(bb) ~~((+))~~ **INSTALLATION** means the placement, assemblage, or construction of equipment or control equipment at the premises where the equipment or control equipment will be used, and includes all preparatory work at such premises.

(cc) ~~((+))~~ **LOWEST ACHIEVABLE EMISSION RATE** means that rate of emissions ~~((which))~~ that reflects either the most stringent emission standard ~~((which))~~ that is contained in the implementation plan of any state for such class or category of source unless the owner or operator of the proposed source demonstrates that such emission standards are not achievable, or the most stringent emission

standard ~~((which))~~ that is achieved in practice by such class or category of source, whichever is more stringent.

~~((dd))~~ ~~((ee))~~ **MAJOR MODIFICATION** means ~~((any))~~ a modification of a major source that would increase the actual emissions of any air contaminant for which the area is designated nonattainment by more than the following:

Air Contaminant	Tons/Year
Carbon Monoxide	100.0
Volatile Organic Compounds	40.0
Nitrogen Oxides	40.0
PM ₁₀	15.0
Sulfur Dioxide	40.0
Lead	0.6

In determining whether the thresholds defining a major modification have been exceeded, the emissions permitted under Orders of Approval issued to the facility since the designation of nonattainment that were not major modifications, and all fugitive emission increases that can be reasonably quantified shall be included. Any emission reduction credits banked by the facility since the designation of nonattainment may be subtracted from this amount provided that any credits so applied are then considered to have been used. For modifications of an individual piece of equipment, the baseline shall be the source's actual emissions or allowable emissions, whichever is smaller. (Note: volatile organic compounds and nitrogen oxides are the air contaminants for which an area is designated nonattainment for ozone.)

~~((ee))~~ ~~((dd))~~ **MAJOR SOURCE** means a facility that emits or has the potential to emit 100 tons per year or more of any air contaminant subject to regulation under the federal Clean Air Act. In determining whether the threshold defining a major source has been exceeded all fugitive emissions that can be reasonably quantified shall be included. Any emission reduction credits banked by the facility may be subtracted from this amount provided that any credits so applied are then considered to have been used.

~~((ff))~~ ~~((ee))~~ **MODIFICATION** means any physical change in, or change in the method of operation of, a source, except an increase in the hours of operation or production rates (not otherwise prohibited) or the use of an alternative fuel or raw material that the source is approved to use under an Order of Approval or operating permit, ~~((which))~~ that increases the amount of any air contaminant emitted or ~~((which))~~ that results in the emission of any air contaminant not previously emitted.

~~((gg))~~ ~~((ff))~~ **MOTOR VEHICLE** means any operating vehicle or one capable of being operated ~~((which))~~ that has its own self-contained sources of motive power, is designed for the transportation of people or property, and is of the type for which a license is required for operation on a highway.

~~((hh))~~ ~~((gg))~~ **MULTIPLE CHAMBER INCINERATOR** means ~~((any incinerator))~~ a furnace for the destruction of waste consisting of three or more refractory-lined combustion chambers in series, physically separated by refractory

walls, interconnected by gas passage ports or ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.

~~((ii))~~ ~~((hh))~~ **NONATTAINMENT AREA** means a geographic area designated by the United States Environmental Protection Agency ~~((which))~~ that violates a primary or secondary national ambient air quality standard. ~~((In an ozone nonattainment area, both volatile organic compounds and nitrogen oxides are considered ozone precursors.))~~

~~((jj))~~ ~~((ii))~~ **OUTDOOR FIRE** means the combustion of material in the open or in a container with no provision for control of such combustion or the control of the emissions of the combustion products.

~~((kk))~~ ~~((jj))~~ **OWNER OR OPERATOR** means the person who owns, leases, supervises, or operates the equipment or control equipment.

~~((ll))~~ ~~((kk))~~ **PARTICULATE MATTER** means any material, except water in an uncombined form, that is, has been, or is likely to become airborne and exists as a liquid or a solid at standard conditions.

~~((mm))~~ ~~((ll))~~ **PERSON** means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or governmental agency.

~~((nn))~~ ~~((mm))~~ **PM₁₀** means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

~~((oo))~~ ~~((nn))~~ **POTENTIAL TO EMIT** means the maximum capacity of a facility to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air contaminant, including ~~((air pollution))~~ control equipment and restrictions on the hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable.

~~((pp))~~ ~~((oo))~~ **PRIMARY AIR MASS STATION or PAMS** means a type of station designed to measure contamination in the air mass and representing a relatively broad area. The sampling shall be representative of the general area concerned and not be contaminated by any special source. The probe inlet shall be a minimum of 4.6m (15 feet) and a maximum of 45.7m (150 feet) above ground level. Actual elevation should vary to prevent adverse exposure conditions caused by surrounding buildings and terrain. The probe inlet shall be placed approximately 1.5m (5 feet) above the supporting rooftop.

~~((qq))~~ ~~((pp))~~ **PRIMARY GROUND LEVEL MONITORING STATION or PGLMS** means a station designed to provide information on contaminant concentrations near the ground and provide data valid for the immediate area only. The probe inlet shall be 1.8 to 4.6m (6 to 15 feet) above ground level with a desired optimum height of 3.0m (10 feet). The probe inlet shall not be less than 0.6m (2 feet) from any building or wall. The sampling site shall be representative of the immediate area and not be contaminated by any unique source.

~~(qq) **PROCESS WEIGHT** means total weight of the materials consumed or charged in any specific process including solid fuels charged, but excluding liquid and gaseous fuels, and combustion air.-)~~

~~(pp) **REASONABLY AVAILABLE CONTROL TECHNOLOGY** means the lowest emission standard that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Reasonably available control technology is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls.~~

~~(qq) **REFUSE BURNING EQUIPMENT** means equipment ~~(as defined in this section)~~ employed to burn any solid or liquid combustible refuse.~~

~~((tt) **REGULATION** means any regulation or any subsequently adopted additions or amendments thereto of the Puget Sound Air Pollution Control Agency.-)~~

~~(rr) **SEASONED WOOD** means wood of any species that has been sufficiently dried so as to contain 20% or less moisture by weight.~~

~~(ss) **SECOND STAGE OF IMPAIRED AIR QUALITY** means a condition declared by the Control Officer when particulates 10 microns and smaller in diameter are at an ambient level of 105 micrograms per cubic meter measured on a 24-hour average.~~

~~(tt) **SOLID FUEL BURNING DEVICE** means a device that burns wood, coal, or any other nongaseous or nonliquid fuels, and includes any device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than 1 million Btu per hour.~~

~~(uu) **SOURCE** means ~~(any)~~ a building, structure, equipment, control equipment, ~~(storage pile)~~ or facility ~~(which)~~ that emits or may emit any air contaminant into the atmosphere.~~

~~((yy) **SPECIAL STATION** or **SS** means any station that does not meet the criteria or purpose of a Primary Air Mass Station or a Primary Ground Level Monitoring Station.-)~~

~~(vv) **STANDARD CONDITIONS** means ~~((20°C and 1013 mb (68°F and 29.92 in. Hg)))~~ a temperature of 68°F and a barometric pressure of 29.92 inches of mercury.~~

~~(ww) **TOTAL ALLOWABLE EMISSIONS** means allowable emissions, including the emissions from all Orders of Approval issued to the facility since the designation of nonattainment that were not major modifications, ~~((as defined in this section))~~ and all fugitive emissions that can be reasonably quantified.~~

~~(xx) **TOXIC AIR CONTAMINANT** or **TAC** means an air contaminant listed in Appendix A of Regulation III.~~

~~(yy) **TREATED WOOD** means wood of any species that has been chemically impregnated, painted, or similarly modified.~~

~~(zz) **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of an organic liquid (determined by methods described in American Petroleum Institute Bulletin~~

2517, "Evaporation Loss from Floating Roof Tanks", February 1989).

~~(aaa) **URBANIZED AREA** means those portions of King, Pierce, Kitsap, and Snohomish Counties designated as urbanized areas by the U.S. Department of Commerce, Bureau of the Census.~~

~~(bbb) **VOLATILE ORGANIC COMPOUND** or **VOC** means ~~(any)~~ an organic compound that participates in atmospheric photochemical 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 I SECTION 8.03 OUTDOOR FIRES - PROHIBITED AREAS

(a) It shall be unlawful for any person to cause or allow any outdoor fire described in Section 8.02 (c)(4) or (5) of this Regulation:

(1) Within Snohomish County Fire District #11 or King County Fire District #25;

(2) In any area where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning, including but not limited to carbon monoxide and particulates (PM₁₀); or

(3) In any area in which the applicable fire protection agency, county, or conservation district has determined not to issue burning permits for outdoor fires pursuant to RCW 70.94.745, RCW 70.94.750, RCW 70.94.775, and/or RCW 70.94.780(4).

~~((4) In any area in which the applicable fire protection agency, county, or conservation district has determined that selected types of outdoor fires are prohibited under a valid burning permit program established pursuant to RCW 70.94.745, RCW 70.94.750, RCW 70.94.775, and/or RCW 70.94.780.)~~

(b) It shall be unlawful for any person to cause or allow any outdoor fire described in Section 8.02 (c)(4) or (5) of this Regulation within the Urban Growth Areas of Snohomish, King, and Pierce Counties.

~~((e) It shall be unlawful for any person to cause or allow any outdoor fire described in Section 8.02 (c)(5) in Kitsap County Township 24N, Range 1E, Sections 1, 2, 10-15, and 22-24.)~~

AMENDATORY SECTION

REGULATION I SECTION 8.04 GENERAL CONDITIONS

(a) ~~((It shall be prima facie evidence that the person who owns or controls property on which an outdoor fire occurs has caused or allowed said outdoor fire.-))~~ The provisions of Sections 9.03, 9.05, and 9.15 of Regulation I shall not apply to outdoor fires.

(b) Nothing contained in Article 8 shall be construed to allow outdoor fires in those areas in which open burning is prohibited by laws, ordinances, or regulations of the state or any city, county, or fire district.

(c) Nothing contained in Article 8 shall relieve the applicant from obtaining permits required by any state or local fire protection agency or from compliance with Section 11.101 of the Uniform Fire Code.

WSR 94-06-062
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY
 [Filed March 2, 1994, 10:16 a.m.]

Original Notice.

Title of Rule: Amending Regulation I - Sections 6.06, 6.07, 6.09, 9.07, 9.08, Article 11, Regulation III - Sections 2.01, 2.05; repealing Regulation I - Sections 11.01, 11.03, 11.04, 11.05, 11.06, 11.07, 11.08, 11.09, Regulation III - Section 2.03; and adopting Regulation I - Sections 11.01, 11.02.

Purpose: To amend the public notice and construction permit requirements to be consistent with chapter 173-400 WAC; to incorporate certain toxic air contaminant review requirements in the construction permit section (formerly in Section 2.03 of Regulation III); to amend the sulfur dioxide emission standards to be consistent with chapter 173-400 WAC; to amend the fuel oil requirements to be more consistent with RCW 70.04.610; to amend the ambient air quality standards for sulfur dioxide to be consistent with the state and federal ambient air quality standards; to amend the ambient air quality standards for suspended particulate to be consistent with the federal ambient air quality standards; and to clarify the applicability of the requirements for sources of toxic air contaminants.

Other Identifying Information: Regulation I - Article 6 pertains to new source review, Article 9 pertains to emission standards, Article 11 pertains to ambient air quality standards. Regulation III - Article 2 pertains to review of toxic air contaminant sources.

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Statute Being Implemented: RCW 70.94.141.

Summary: Public notice and construction permit requirements would be amended to be consistent with chapter 173-400 WAC. Requirements for new or modified sources of toxic air contaminants would be relocated to the construction permit section. Certain sulfur dioxide emission standards would be relocated to the sections on ambient air quality standards and fuel oil standards. Fuel oil standards would be amended to be more consistent with RCW 70.94.610. Ambient air quality standards would be incorporated into single section; certain standards for sulfur dioxide suspended particulates would be repealed. Minor housekeeping changes are being made for clarity throughout.

Reasons Supporting Proposal: Requirements for public notice and construction permit review are inconsistent with chapter 173-400 WAC. Requirements for review of new or modified sources of toxic air contaminants belong in the construction permit section. Certain emission standards for sulfur dioxide belong in the ambient air quality standards and fuel oil standard sections. Fuel oil standards are inconsistent with RCW 70.94.610. Certain ambient air quality standards are no longer necessary or relevant.

Name of Agency Personnel Responsible for Drafting: Gerry Pade, 110 Union Street, #500, Seattle, 98101, 689-4065; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, 98101, 689-4050; and Enforcement: Jim Nolan, 110 Union Street, #500, Seattle, 98101, 689-4053.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendments to the public notice, construction permit requirements, sulfur dioxide emission standards, and fuel oil standards would improve consistency with chapter 173-400 WAC and chapter 70.94 RCW. Repeal of certain ambient air quality standards for sulfur dioxide and total suspended particulates is not anticipated to have any effect.

Proposal Changes the Following Existing Rules: Sections 6.06, 6.07, and 9.07 of Regulation I would be amended to be consistent with chapter 173-400 WAC. Section 9.08 of Regulation I would be amended to be consistent with chapter 70.94 RCW. Requirements of Regulation I, Article 11, would be consolidated into Sections 11.01 and 11.02; total suspended particulate standards and the standards for sulfur dioxide, which were never adopted by the United States Environmental Protection Agency or the state of Washington, would be repealed. Requirements of Section 2.03 of Regulation III would be relocated to Section 6.07 of Regulation I. Minor housekeeping changes would be made throughout.

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

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on April 14, 1994, at 9:00 a.m.

Submit Written Comments to: Arthur Davidson, Puget Sound Air Pollution Control Agency, 110 Union Street, #500, Seattle, WA 98101, by April 4, 1994.

Date of Intended Adoption: April 14, 1994.

March 1, 1994

Gerald S. Pade

Air Pollution Engineer

AMENDATORY SECTION

REGULATION I SECTION 6.06 ((REQUIREMENTS FOR)) PUBLIC NOTICE

(a) ~~((Within 15 days of the receipt of the information required by Section 6.03, the Board or Control Officer shall publish notice to the public of the opportunity to submit written comment during a 30 day period under any of the following conditions))~~ The Agency shall provide public notice for any proposed Order of Approval if:

(1) ((If otherwise required by the state or federal laws or regulations; or)) The proposed installation or modification would increase the emissions of any air contaminant by more than the following:

Air Contaminant	Tons/Year
Carbon Monoxide	100.0
VOC	40.0
Nitrogen Oxides	40.0
PM ₁₀	15.0
Sulfur Dioxide	40.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid	7.0
Total Reduced Sulfur	10.0

(2) ~~((If the proposed source would cause an annual increase of 10 tons of any air contaminant for which ambient air quality standards have been established; or))~~ The applicant requests a limit on the potential to emit;

(3) ~~((If offsetting emission reductions are required; or))~~ The applicant requests to bank emission reduction credits;

(4) The applicant requests approval of a risk analysis;

(5) The proposed installation or modification involves refuse burning equipment; or

(6) ~~((4) If t))~~ The ((Board or)) Control Officer determines that ((such)) there may be substantial public interest in the proposal ((comment would be appropriate)).

~~((b) The cost of publishing any public notice required by Section 6.06(a) shall be paid by the owner or applicant to the Agency-))~~

(b) ~~((e) Such p))~~ Public notice shall be published in a newspaper of general circulation in the area of the proposed project and shall ((contain)) include the following ((information)):

(1) The ((N)) name and address of the owner or operator and the facility;((-))

(2) A ((B)) brief description of the proposal; ((proposed construction-))

(3) The locations at which ((e)) copies((y)) of the preliminary determination and a summary of information considered in making such preliminary determination are available for ((to the)) public inspection;((-))

(4) The deadline for submitting written comment; and

(5) That a public hearing may be held if the Agency determines within a 30-day period that significant public interest exists.

~~((d) If public notice is given by another agency on the proposed construction of a new source not required to have offsetting emission reductions, no public notice shall be required under this section-))~~

(c) Notice shall also be sent to the U.S. Environmental Protection Agency Regional Administrator.

(d) The cost of providing public notice shall be borne by the applicant.

(e) The Agency shall not make a final decision on any application until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the 30-day period for written comment published as provided above. If a public hearing is held, the public comment period shall extend through the hearing date.

(f) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the 30-day period published as provided above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The Agency may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the Agency deems reasonable. The Agency shall provide at least 30 days prior notice of any hearing.

AMENDATORY SECTION

REGULATION I SECTION 6.07 ORDER OF APPROVAL - ORDER TO PREVENT CONSTRUCTION

(a) ~~Within ((30)) 60 days of receipt of a complete Notice of Construction and Application for Approval, or ((30 days)) as promptly as possible after the close of the public comment period if subject to the public notice requirements of Section 6.06 of this Regulation, the Board or Control Officer shall issue an Order of Approval or an Order to Prevent Construction. A person seeking approval to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required by Article 7 of this Regulation provided that any such application shall be processed in accordance with the operating permit program procedures and deadlines.~~

(b) An Order of Approval may provide such conditions of operation as are reasonably necessary to assure compliance with ((Regulations I, II, and III)) all applicable emission standards.

(c) No Order of Approval shall be issued unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:

(1) The operation of the source at the location proposed will not cause or contribute to a violation of an ambient air quality standard;

(2) The source will meet((s)) the requirements of all applicable emission standards ((including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants promulgated by the United States Environmental Protection Agency));

(3) Best available control technology is employed for the ((construction,)) installation((, or establishment)) of new sources and the modification of existing sources; and

(4) Reasonably available control technology is employed for the replacement of existing control equipment.

(d) No Order of Approval shall be issued for a new major source or major modification ((as defined in Section 1.07 of this Regulation)) in a nonattainment area unless the Notice of Construction and Application for Approval also demonstrates to the Board or Control Officer that:

(1) For those air contaminants for which the area is designated nonattainment, lowest achievable emission rate is employed for each new source at a new major source, and each new or modified source involved in a major modification;

(2) All existing major sources owned or operated by the applicant in the state of Washington are in compliance with

all applicable emission standards under the federal Clean Air Act or are on an approved compliance schedule;

(3) Offsets in the form of emission reduction credits (banked pursuant to Section 6.08 of this Regulation) (and) in an amount greater than or equal to 1.10 times the proposed total allowable emissions from the new major source, or the increase from current actual emissions to the proposed total allowable emissions for a major modification, have been obtained from sources in the same nonattainment area and occur by the time the new major source or major modification begins operation; and

(4) The benefits of the proposed new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, installation (construction), or modification. (This demonstration, which shall include an analysis of alternative sites, sizes, production processes, and environmental control techniques, may be in the form of an environmental impact statement prepared under the State Environmental Policy Act or the National Environmental Policy Act.)

(e) No Order of Approval shall be issued for a new or modified source of toxic air contaminants, except for sources exempted by Section 2.01 of Regulation III, unless the Notice of Construction and Application for Approval demonstrates to the Board or Control Officer that:

(1) The toxic air contaminant emissions from the source will not result in the exceedance of any acceptable source impact level listed in Appendix A of Regulation III; or

(2) The emissions from the source will not cause air pollution. This demonstration shall be performed in accordance with the Agency "Guidelines for Evaluating Sources of Toxic Air Contaminants" and requires approval from the Department of Ecology.

(f) ((e)) An Order of Approval shall expire unless ((construction)) the owner or operator has commenced construction of the source within ((24)) 18 months of the date of its issuance or if construction is discontinued for a period of more than ((24)) 18 months.

(g) ((f)) An Order to Prevent Construction shall set forth the objections in detail with references to the provisions of this Regulation((s I, H, and III)) that would not be met. Such Order shall become final unless, no later than 15 days after the date the Order is served, the ((owner or)) applicant petitions for a reconsideration of the Order, with reasons for the reconsideration. The ((Board or)) Control Officer shall consider the petition, and shall within 30 days give written Order of Approval or final disapproval of the Notice of Construction setting forth the reasons for disapproval.

AMENDATORY SECTION

REGULATION I SECTION 6.09 NOTICE OF COMPLETION

((a)) Within 30 days of completion of the ((construction)) installation((; establishment;)) or modification of an air contaminant source subject to the provisions of Section 6.03 of this Regulation, the owner or operator or applicant shall file a Notice of Completion with the Agency. Each Notice of Completion shall be submitted on a form provided

by the Agency, and shall specify the date upon which operation of the source has commenced or will commence.

~~((b) It shall be unlawful to cause or allow the construction, installation, establishment, or modification of an air contaminant source that is not in accordance with the plans, specifications, or other information approved by the Agency.))~~

AMENDATORY SECTION

REGULATION I SECTION 9.07 ((EMISSION OF)) SULFUR DIOXIDE EMISSION STANDARD ((OXIDES))

~~((For the purpose of this section, all sulfur present in gaseous compounds containing oxygen shall be deemed to be present as sulfur dioxide.~~

~~((a) It shall be unlawful for any person to cause or permit the emission of sulfur dioxide from any premises which will result in concentrations and frequencies at a primary air mass station, a primary ground level monitoring station, or a special station, that exceed those shown in the following table:~~

TABLE I

Maximum Allowable Sulfur Dioxide Concentrations

*Concentration	Averaging Time	Frequency of Occurrence
1.0 ppm	5 minutes	once in any 8 consecutive hours
0.4 ppm	60 minutes	never to be exceeded
0.25 ppm	60 minutes	twice in any 7 consecutive days
0.10 ppm	24 hours	never to be exceeded
0.04 ppm	30 days	never to be exceeded
0.02 ppm	365 days	never to be exceeded

*Parts per million by volume

Emissions exceeding the limits established in this Section 9.07(a) shall not constitute a violation of Section 9.07, provided such emissions, from the emission point to the point of any such concentration, are on property controlled by the person responsible for such emissions.

~~((b)) It shall be unlawful for any person to cause or allow the emission of sulfur dioxide from any source ((equipment)) in excess of 1,000 ((ppm)) parts per million by volume on a dry basis, 1-hour average (corrected to 7% oxygen for fuel burning equipment and refuse burning equipment) ((combustion sources)).~~

~~((c) When the emission of sulfur dioxide exceeds 18 kg (40 pounds) per hour, then it shall be unlawful for any person to cause or permit equipment used in a manufacturing process to emit to the atmosphere more than 10% of the sulfur contained in the process weight per hour. Any person processing such sulfur containing material shall, upon request, provide to the Agency such information and samples as may be required to determine compliance with this section.~~

~~((d) It shall be unlawful for any person to burn, sell or make available for sale any fuel containing a weight percentage of sulfur in excess of:~~

~~(1) Two percent (2.00%) for all oil except as provided for hereinafter in Section 9.07 (d)(3) and (d)(4).~~

~~(2) One percent (1.00%) for coal.~~

(3) ~~Three tenths of a percent (0.30%) for Distillate No. 1 oil (ASTM D 396-69).~~

(4) ~~Five tenths of a percent (0.50%) for Distillate No. 2 oil (ASTM D 396-69).~~

Except that when flue gas desulfurization equipment is used, higher sulfur content fuel may be sold if the resulting stack concentration of sulfur dioxide shall not be greater than that which would have occurred by burning the fuel described in 9.07 (d)(1), (2), (3) and (4).

(e)(1) ~~When used in Regulation I:~~

(i) ~~A WHOLESALE FUEL FACILITY means any refiners, distribution terminal, or primary fuel handling facility which sells, makes available for sale, or distributes liquid or solid fuel on a wholesale basis for subsequent use in fuel burning equipment located in the jurisdiction of this Agency; and~~

(ii) ~~A WHOLESALE FUEL DEALER means the owner of a wholesale fuel facility.~~

(2) Each wholesale fuel dealer shall report information to the Agency for each calendar month after the effective date of this section, as follows:

(i) ~~The quantity, specification, seller and percent sulfur by weight of fuel received at the wholesale fuel facility and the date of such receipt;~~

(ii) ~~The method used in obtaining the sulfur content of such fuel;~~

(iii) ~~Other pertinent information as required by the Control Officer;~~

(iv) ~~Such reports to be submitted within 15 days of the end of the reporting month.)~~

AMENDATORY SECTION

REGULATION I SECTION 9.08 ((COMBUSTION AND MARKETING OF WASTE DERIVED FUELS)) FUEL OIL STANDARDS

(a) It shall be unlawful for any person to ((burn)) cause or allow the combustion of oil in fuel burning equipment or refuse burning equipment that exceeds any of the following limits unless that person has obtained an Order of Approval from ((waste derived fuel unless a "Notice of Construction and Application for Approval" to burn waste derived fuel has been filed with the Agency, and ordered approved by)) the Agency in accordance with Section 6.07 of this Regulation: ((Article 6, Regulation I:))

Ash.....	0.1% (maximum)
Sulfur.....	1.0% (maximum for used oil)
Sulfur.....	2.00% (maximum for fuel oil)
Lead.....	100 ppm (maximum)
Arsenic.....	5 ppm (maximum)
Cadmium.....	2 ppm (maximum)
Chromium.....	10 ppm (maximum)
Total Halogens.....	1,000 ppm (maximum)
Polychlorinated Biphenyls (PCBs).....	2 ppm (maximum)
Flash Point.....	100°F (minimum)

(b) It shall be unlawful for any person to sell((;)) or make available for sale((; waste derived fuel for burning to a person who has not obtained prior Agency approval to burn such fuels in accordance with Section 9.08(a:)) any oil in excess of the limits of this section to any person who has

not obtained an Order of Approval from the Agency in accordance with Section 6.07 of this Regulation.

~~((e)) Any person who sells or makes available for sale ((waste derived fuel for burning)) such oil shall submit a report((s)) to the Agency within 15 days of the end of the ((each reporting)) month ((on Agency supplied forms for each calendar month after the effective date of this section as follows:)) that includes the name and address of the recipient, the amount of oil delivered, and the concentration of contaminants therein.~~

~~((1) The name and address of, and the amount delivered to, each customer;~~

~~(2) Other pertinent information as may be required by the Control Officer.~~

~~(d) The following are exempt from the provisions of Sections 9.08(a), 9.08(b), and 9.08(e:))~~

(c) The provisions of this section shall not apply to:

(1) Ocean-going vessels;

~~((1) Gasoline when used as a fuel for internal combustion engines;))~~

~~((2) Aviation fuel;))~~

(2) ((3)) Used oil burned in space heaters that have a maximum heat output ((input of less)) of not greater than ((0.5 GJ (·))0.5 million Btu((·)) per hour((; provided that:)) and

~~((i) The used oil burned is either generated on-site or received from do it yourself oil changers; and~~

~~(ii) The used oil burned is not contaminated with added dangerous wastes.))~~

(3) Persons in the business of collecting used oil from residences when under authorization by a city, county, or the utilities and transportation commission.

~~((e) When used in Regulation I:~~

(1) WASTE DERIVED FUEL means any fuel that is contaminated with dangerous waste or exceeds, in the case of fuels in a liquid state under standard conditions, any of the following limits:

(i) 0.10% ash by weight

(ii) 100 parts per million (ppm) by weight of lead

(iii) 5 ppm arsenic by weight

(iv) 2 ppm cadmium by weight

(v) 10 ppm chromium by weight

(vi) 1000 ppm by weight chlorides

(vii) 5 ppm polychlorinated biphenyls (PCBs)

(viii) a flash point lower than 38°C (100°F)

Procedures for determining compliance with the above specifications have been adopted by the Board and are on file at the offices of the Agency. Alternate procedures must be mutually agreed upon by the Board or the Control Officer and the person burning, selling or making available for sale a waste derived fuel.

(2) DANGEROUS WASTES means those solid, semi-solid, liquid or contained gaseous materials designated in the Washington Dangerous Waste Regulations (WAC 173-303-070 through 173-303-103) as dangerous or extremely hazardous waste, Exhibit B, on file at the offices of the Agency.

(3) USED OIL means any oil that has been refined from crude oil, used, and as a result of such use is contaminated by physical or chemical impurities:))

AMENDATORY SECTION

REGULATION I ARTICLE 11: AMBIENT AIR QUALITY STANDARDS (~~AND CONTROL MEASURES REQUIRED~~)

REPEALER

REGULATION I SECTION 11.01 AIR QUALITY CONTROL MEASURES

REPEALER

REGULATION I SECTION 11.03 AMBIENT AIR QUALITY STANDARDS: SUSPENDED PARTICULATE

REPEALER

REGULATION I SECTION 11.04 AMBIENT AIR QUALITY STANDARDS: PM₁₀

REPEALER

REGULATION I SECTION 11.05 AMBIENT AIR QUALITY STANDARDS: LEAD

REPEALER

REGULATION I SECTION 11.06 AMBIENT AIR QUALITY STANDARDS: CARBON MONOXIDE

REPEALER

REGULATION I SECTION 11.07 AMBIENT AIR QUALITY STANDARDS: OZONE

REPEALER

REGULATION I SECTION 11.08 AMBIENT AIR QUALITY STANDARDS: NITROGEN DIOXIDE

REPEALER

REGULATION I SECTION 11.09 AMBIENT AIR QUALITY STANDARDS: SULFUR DIOXIDE

NEW SECTION

REGULATION I SECTION 11.01 AMBIENT AIR QUALITY STANDARDS

(a) Ambient air quality standards shall be as follows:

Averaging Period	Carbon Monoxide (ppm)	PM ₁₀ (µg/m ³)	Ozone (ppm)	Sulfur Dioxide (ppm)	Lead (µg/m ³)	Nitrogen Dioxide (ppm)
annual		50 ^a		0.02 ^b		0.053 ^b
calendar quarter					1.5 ^b	
24 hours		150 ^c		0.10 ^b		
8 hours	9 ^d					
1 hour	35 ^d		0.12 ^c	0.25 ^f /0.40 ^b		

ppm = parts per million by volume

µg/m³ = micrograms per cubic meter (@ 25°C and 760 mm Hg)

- a attained when the expected annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix K, is less than or equal to 50 µg/m³
- b never to be exceeded
- c attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with 40 CFR Part 50, Appendix K, is equal to or less than one
- d not to be exceeded more than once per year
- e attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm is equal to or less than one, as determined by 40 CFR Part 50, Appendix H
- f not to be exceeded more than twice in 7 consecutive days

(b) It shall be unlawful for any person to cause or allow the emission of air contaminants in sufficient quantity as to exceed any ambient air quality standard in this section.

NEW SECTION

REGULATION I SECTION 11.02 AMBIENT AIR MONITORING

Monitoring for compliance with ambient air quality standards shall be performed in accordance with currently approved U.S. Environmental Protection Agency methods.

AMENDATORY SECTION

REGULATION III SECTION 2.01 APPLICABILITY

- (a) Article 2 of this Regulation III shall apply to all sources of toxic air contaminants except the following:
 - (1) Asbestos Removal Operations (~~(see)~~) subject to Article 4 of Regulation III(~~+~~)
 - (2) Chromic Acid Plating and Anodizing Tanks (~~(see)~~) subject to Section 3.01 of Regulation III(~~+~~)
 - (3) Solvent Metal Cleaners (~~(see)~~) subject to Section 3.05 of Regulation III(~~+~~)
 - (4) Perchloroethylene Dry Cleaners (~~(see)~~) subject to Section 3.03 of Regulation III(~~+~~)
 - (5) Petroleum Solvent Dry Cleaning Systems (~~(see)~~) subject to Section 3.07 of Regulation II(~~+~~)
 - (6) Gasoline Storage and Dispensing Operations (~~(see)~~) subject to Article 2 of Regulation II(~~+~~)
 - (7) Graphic Arts Systems (~~(see)~~) subject to Section 3.05 of Regulation II(~~+~~)
 - (8) Can and Paper Coating Operations (~~(see)~~) subject to Section 3.03 of Regulation II(~~+~~)
 - (9) Motor Vehicle and Mobile Equipment Coating Operations (~~(see)~~) subject to Section 3.04 of Regulation II(~~+~~)
 - (10) Polyester/Vinylester/Gelcoat/Resin Operations (~~(see)~~) subject to Section 3.08 of Regulation II(~~+~~)
 - (11) Coatings and Ink Manufacturing (~~(see)~~) subject to Section 3.11 of Regulation II(~~+~~)

(12) Ethylene Oxide Sterilizers and Aerators ((see) subject to Section 3.07 of Regulation III((3)))

(b) Any demonstration required by this Article shall be conducted in accordance with the Agency "Guidelines For Evaluating Sources of Toxic Air Contaminants", which are hereby incorporated by reference.

REPEALER

REGULATION III SECTION 2.03 NEW OR ALTERED TOXIC AIR CONTAMINANT SOURCES

AMENDATORY SECTION

REGULATION III SECTION 2.05 REGISTERED SOURCES OF TOXIC AIR CONTAMINANTS

(a) This Section applies to all sources of toxic air contaminants required to be registered by Article 5 of Regulation I, unless covered by specific rules referenced in Section 2.01 above.

(b) The Control Officer shall have the authority to conduct a screening evaluation of any source in accordance with the Agency "Guidelines For Evaluating Sources of Toxic Air Contaminants" to determine if the toxic air contaminant emissions from the source would result in the exceedance of an ASIL contained in Appendix A of this Regulation III. The owner or operator of the source shall be informed of the results of any such screening evaluation.

(c) If, as a result of the screening evaluation conducted under (b) above, the Control Officer determines that the toxic air contaminant emissions from a source may result in the exceedance of an ASIL contained in Appendix A of this Regulation III, the Control Officer may issue an order requiring the owner or operator of the source to perform an analysis in accordance with the Agency "Guidelines For Evaluating Sources of Toxic Air Contaminants" and may establish a schedule for submission of the analysis.

(d) It shall be unlawful for any person required to perform an analysis under (c) above, to cause or allow the continued operation of the source after the submission date established by the Control Officer, unless one of the following conditions is met:

(1) A dispersion modeling analysis demonstrates to the Control Officer that the toxic air contaminant emissions from the source will not result in the exceedance of any ASIL contained in Appendix A of this Regulation III; or

(2) A dispersion modeling analysis demonstrates to the Control Officer that the toxic air contaminant emissions from the source will not result in the exceedance of any ASIL contained in Appendix A of this Regulation III after the installation of the Best Available Control Technology (BACT) and a compliance schedule for employing BACT is approved by the Control Officer; or

(3) BACT is employed on the source or a compliance schedule for employing BACT is approved by the Control Officer, and a risk analysis demonstrates to the Control Officer that the toxic air contaminant emissions from the source will not cause air pollution as defined in Section 1.07 of Regulation I.

~~((c) Nothing in this Article shall be construed to prevent the owner or operator of a source of toxic air~~

~~contaminants from applying for a variance under Article 4 of Regulation I.))~~

**WSR 94-06-064
PROPOSED RULES
DEPARTMENT OF PERSONNEL**

[Filed March 2, 1994, 10:38 a.m.]

Original Notice.

Title of Rule: Amending WAC 356-56-015 Phase-in agencies—Application of rules, 356-56-030 Equal opportunity and affirmative action, 356-56-115 Salary adjustments, and 356-56-230 Reversion.

Purpose: Revisions address and clarify Washington management service issues to decrease confusion and enhance the successful outcomes of this program.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.500.

Summary: Revisions address and clarify issues and help prevent circumstances which may otherwise negatively impact employees and/or agencies.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 356-56-015, proposing permanent adoption of previous emergency adoption of change in effective date of phase-in period for Department of Transportation to enhance successes of this program; WAC 356-56-030, in response to concern expressed by affected employees, religion is added to nondiscrimination; WAC 356-56-115 (1)(d), proposing revisions to add clarification and simplify administration. Deletion of (i) decreases confusion and redundancy; WAC 356-56-115(5), proposing revision for clarification and proposing permanent adoption of previous emergency adoption; and WAC 356-56-230 Reversion, proposing revision and reorganization for clarification, to make options more distinct for employees and to increase agencies' effectiveness in administration.

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: Department of Personnel, 2nd Floor, Board Room, 521 Capitol Way South, Olympia, WA, on April 11, 1994, at 2:30 p.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by April 7, 1994.

Date of Intended Adoption: April 12, 1994.

March 1, 1994
Dennis Karras
Director

AMENDATORY SECTION (Amending WSR 94-01-126, filed 12/17/93, effective 1/18/94)

WAC 356-56-015 Phase in agencies-Application of rules. Chapter 356-56 WAC adopted by the Director of Personnel and effective January, 1994 will apply only to the Department of Personnel, Department of Revenue, (~~Department of Transportation,~~) and Office of Minority and Women's Business Enterprises. Chapter 356-56 WAC will apply to the Department of Transportation effective March 15, 1994. After the phase-in period, the Director will adopt rules that apply to all agencies.

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 94-01-126, filed 12/17/93, effective 1/18/94)

WAC 356-56-030 Equal opportunity and affirmative action. (1) Washington management service policies and practices shall not discriminate on the basis of race, creed, color, religion, national origin, sex, age, marital status, veteran status, sexual orientation, or the presence of any sensory, mental, or physical disability.

(2) Each agency will include Washington management service positions in its affirmative action plans required by chapter 356-09 WAC. Each agency will be accountable for establishing procedures, goals, timetables, and record keeping and monitoring procedures for Washington management service positions as part of its affirmative action program.

AMENDATORY SECTION (Amending WSR 94-01-126, filed 12/17/93, effective 1/18/94)

WAC 356-56-115 Salary adjustments. (1) Adjustments to the compensation for a position with no change in point factor evaluation shall not exceed the maximum or fall below the minimum amount set by the Director of Personnel for the management band. Normally, salary adjustments initiated by the agency will not exceed ten percent for a single fiscal year. Requests for exception may be granted only by the Director of Personnel. Salary adjustments may be made under the following conditions:

(a) Legislatively directed general and/or special increase;
 (b) Documented recruitment and/or retention problems as approved by the agency director or designee;
 (c) Documented agency and/or state internal salary relationship problems, as approved by the agency director or designee; or

(d) Progression adjustments may be granted (~~during the first four years~~) following hire or promotion (~~in accordance with WAC 356-56-205(1)). An agency may adjust an employee's pay~~) by up to five percent annually, for a maximum total of twenty percent, in recognition of the employee's demonstrated growth and development.

~~((i) An employee who transitions into Washington management service shall continue to receive an annual increment until the employee's salary reaches the maximum of the range assigned to the former job classification.~~

~~((ii))~~ Progression adjustments must be within the forty-five thousand dollar salary limit established by the 1993

Legislature until such time as the limit is changed or removed.

(2) Voluntary movement to a position of a lesser point factor evaluation may result in a salary decrease which exceeds ten percent.

(3) A promotion is the assignment of additional responsibilities which results in a higher point factor evaluation in the same position, or movement to a different position that has a higher point factor evaluation. Increases in salary made to meet the new point factor evaluation may exceed ten percent.

(4) A disciplinary demotion is the assignment of responsibilities which results in a lower point factor evaluation in the same position, or movement to a different position that has a lower point factor evaluation. The resulting salary decrease may exceed ten percent and must be in conformance with the provisions of the Fair Labor Standards Act. A disciplinary reduction in salary in conformance with the Fair Labor Standards Act may also exceed ten percent.

(5) Involuntary downward movement based on a non-disciplinary reassignment of duties that results in a lower point factor evaluation of an employee's present position shall not cause a decrease in the employee's current salary. The employee's current salary will be retained until such time as it is exceeded by the (~~new salary level~~) Washington management service salary structure or the employee leaves the position.

(6) An agency may provide a lump sum recognition payment within guidelines established by the Department of Personnel in recognition of documented exceptional work and performance results. Such recognition compensation shall not become a permanent salary increase but is considered to be income for the documented exceptional work and performance results. A payment made as a lump sum for recognition purposes shall be included within the ten percent annual adjustment limitation in the fiscal year in which it is paid.

AMENDATORY SECTION (Amending WSR 94-01-126, filed 12/17/93, effective 1/18/94)

WAC 356-56-230 Reversion. (1) During the review period, the appointing authority may separate or revert the employee from the position with written notification of the effective date.

(2) If a Washington management service permanent employee is appointed to a Washington management service position in the same agency, and reverted during the review period, the agency will place the employee in a vacant funded position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last Washington management service appointment. If no vacant funded positions are available, the agency shall place the employee in a position in the Washington management service similar to the employee's previous position and salary. ((If a Washington management service permanent employee is appointed to a position within an agency or to another agency and reverted during the review period, the hiring agency will place the employee in a vacant funded position for which the employee is qualified, and that is

~~comparable to the employee's position and salary prior to the last Washington management service appointment.)~~

~~(3) If a Washington management service permanent employee is appointed to a Washington management service position in a different agency, and is reverted during the review period, the hiring agency will consider any similar vacant funded positions for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last Washington management service appointment. If no vacant funded positions are available, the hiring agency shall place the employee in a position in the Washington management service similar to the employee's previous position and salary.~~

~~(4) If a permanent Washington general service employee accepts a Washington management service position in the same agency and is reverted during the review period, the employee will retain reversion rights to and be placed in a position in the Washington general service class in which the employee held permanent status prior to the Washington management service appointment as provided in WAC 356-30-315.~~

~~(5) If a permanent Washington general service employee accepts a Washington management service position in a different agency and is reverted during the review period, the hiring agency will place the employee in a vacant funded position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last Washington management service appointment. If no funded vacancies are available, the employee is separated and may request to be placed on the reversion registers for the Washington general service class in which the employee held status prior to the Washington management service appointment as provided in WAC 356-30-315.~~

~~((3)) (6) Within the first six months of any review period, an employee may voluntarily revert to the position, if vacant and funded, held prior to the employee's first Washington management service appointment or to a similar funded vacant position at the same salary range. If no funded vacancies are available, the employee may request to be placed on the reversion registers for the Washington general service class in which the employee held status prior to the first Washington management service appointment.~~

~~((4)) (7) Nothing in this section shall preclude agencies and the reverted employee from reaching mutual agreement on placement of a reverted employee within the Washington management service or within the Washington general service if permitted by the respective rules.~~

~~((5)) (8) If reversion of a permanent employee appointed to or within the Washington management service results in fewer funded positions than employees entitled to the positions, and the agency consequently conducts a reduction in force, the provisions of WAC 356-56-550 will apply.~~

~~((6) Reversion of employees appointed from the Washington general service will be carried out as provided in WAC 356-30-320.~~

~~(a) A permanent employee who is appointed from the Washington general service to a Washington management service position with the same agency will retain reversion rights to the class in which the employee held permanent status prior to the appointment.~~

~~(b) A permanent employee who is appointed from the Washington general service to a Washington management service position in another agency and is reverted retains the right to return to a funded position in the class and agency in which the employee held permanent status prior to the appointment to the Washington management service. If no vacant funded position is available, the employee may request to be placed on the reversion register as per WAC 356-26-030 (3) and (5) and 356-30-320.)~~

~~((7)) (9) An appointee to a Washington management service position from outside state service who is separated prior to completion of the review period will not attain permanent status, nor have reversion rights to any position within the Washington management service or within the Washington general service.~~

~~((8)) (10) Employees may not appeal reversion or separation from the review period.~~

**WSR 94-06-065
PROPOSED RULES
PERSONNEL RESOURCES BOARD**

[Filed March 2, 1994, 10:41 a.m.]

Original Notice.

Title of Rule: New chapter 359-39 WAC, Human resources training and development.

Purpose: The purpose of this chapter is to establish rules and assign responsibilities for providing employee training and development to employees of state agencies, higher education institutions, and related boards.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: The existing rules in separate titles of WAC will be abolished and this proposal will establish a new chapter of rules for this purpose.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal will establish new rules for providing employee training and development for employees of state agencies, higher education institutions and related boards. This chapter will be a combination of rules previously found in Titles 356 and 251 WAC.

Proposal does not change existing rules.

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

Hearing Location: Department of Personnel, 2nd Floor, Board Room, 521 Capitol Way South, Olympia, WA, on April 14, 1994, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by April 12, 1994.

Date of Intended Adoption: April 14, 1994.

March 1, 1994
Dennis Karras
Secretary

NEW SECTION

WAC 359-39-010 Purpose. The purpose of this chapter is to establish rules and assign responsibilities for providing employee training and development to employees of state agencies, higher education institutions, and related boards. The objective of these rules is to provide opportunity for development of occupational or professional skills of employees to ensure the full utilization of the state's human resources.

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 359-39-020 Definitions. (1) Career development. The progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training courses and experiences that are both state sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies and higher education institutions and related boards.

(2) **Career planning.** A process designed to provide opportunities for employee career growth through job experience, training and/or continuing education.

(3) **Human resource training and development plan.** Each organization's written methods or design that specifies opportunities for training and development of occupational or professional skills of employees to ensure the full utilization of the state's human resources.

(4) **Training.** Activities designed to develop job-related knowledge and skills of employees.

NEW SECTION

WAC 359-39-030 Assignment of responsibilities. The responsibility for human resource development is shared by agencies, higher education institutions, related boards, and employees.

(1) Each agency, higher education institution, and related board is responsible for:

- (a) Developing a human resource development plan;
- (b) Submitting a summary of the human resource development plan, including estimated costs, to the Department of Personnel; and
- (c) Providing employee orientation, required job-related training, and assistance with career planning.

(2) Each employee is responsible for participating in training associated with maintenance of required licenses and certifications, required training, and, if desired, personal career planning.

(3) The department of personnel shall support human resource development and training by:

- (a) Providing training which is interagency and/or intrasystem in scope;

(b) Consulting with agencies and higher education institutions and related boards in their human resource development activities, upon request;

(c) Providing guidelines for human resource development planning and evaluation; and

(d) Review of human resource development plans to promote intrasystem sharing of resources for training and career development.

NEW SECTION

WAC 359-39-040 Job assignments for developmental purposes. (1) Agencies, higher education institutions, and related boards may make the following planned training assignments for employee development without incurring reallocation or compensation obligations:

(a) Performance of higher level responsibilities on a time-limited basis.

(b) Rotational or special project job assignments.

(c) Transfers or reassignments to different duties and responsibilities within the same job classification or comparable salary level.

(2) Job assignments for developmental purposes shall be mutually agreed upon by the employee and the employer(s).

NEW SECTION

WAC 359-39-050 Human resource training and development plan - Criteria - Availability - Reporting.

(1) Each agency, higher education institution, and related board shall prepare a human resource development plan, with revision as needed. The plan shall be based on an assessment of the human resource development needs within the agency, institution of higher education, or related board. The plan shall state the policies and objectives for human resource development and the policies shall address, at a minimum, the following:

(a) Identification of the position(s) responsible for employee training and development.

(b) Criteria for employee eligibility.

(c) Criteria for employee participation in human resource development activities during work hours.

(d) Educational leave in accordance with chapter 359-18 WAC.

(e) Tuition reimbursement or fee waiver policy.

(f) Mandated training in accordance with state and federal regulations.

(g) Provisions for the assessment of employee training and development needs.

(h) Provisions for the involvement of employees in the development of training policies and plans.

(i) Provisions for the evaluation of the training and development programs.

(2) Copies of the agency's and higher education institution's and related board's plan shall be made available to employees upon request.

NEW SECTION

WAC 359-39-090 Required entry-level management/supervisory training - Agency. (1) Each agency shall require employees appointed to a supervisory or management position to successfully complete an entry-level supervisory

or management training course as approved by the director of the department of personnel. Employees shall be enrolled in this training within nine months of the date of their appointment, or if training is not available, as soon thereafter as it becomes available.

(2) The department of personnel shall establish criteria by which such training is approved or considered equivalent.

(3) When training opportunities are available, an agency may suspend the entry-level training requirement, for up to a maximum of an additional six months. The director of the department of personnel may approve longer periods of time in cases where the ability of an agency to perform its responsibilities would be adversely affected by the absence of employee.

(4) An agency may waive the requirement for entry-level training in cases where an employee has occupied a designated supervisory or management position for at least one year, prior to the present appointment, and has demonstrated experience and competence as a substitute for training.

(a) The agency shall advise an affected employee in writing of waiver to this training.

(b) The record of such waiver shall be placed in the employee's personnel file and shall be reported administratively to the department of personnel, under procedures outlined by the department of personnel.

(5) Each agency shall designate individual positions, or groups of positions, as being supervisory or entry-level management positions. Criteria for such designations shall be published by the department of personnel.

NEW SECTION

WAC 359-39-140 Employee attendance at training.

(1) Agencies, higher education institutions, and related boards may require employees to attend training during and/or outside of working hours. However, such attendance at required training shall be considered time worked and compensated in accordance with these rules.

(2) Employee attendance, either on approved leave or outside of working hours, at training that is not required shall be voluntary and not considered time worked.

WSR 94-06-066

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed March 2, 1994, 10:45 a.m.]

Original Notice.

Title of Rule: Amending WAC 356-26-030 Register designation and 356-26-070 Certification—Registers—Order of rank—Exception.

Purpose: WAC 356-26-030 defines the composition, ranking, life, and special provisions of registers and WAC 356-26-070 defines the order in which eligibles will be certified.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: Proposed modifications will provide employees of higher education institutions and related boards who are separated due to reduction in force with access to general

agency positions by establishing a new reduction in force register.

Reasons Supporting Proposal: The amendments will reciprocate the accessibility currently afforded to general government rified employees under Title 251 WAC.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules will establish a higher education reduction in force register which would be available after agency promotional registers. This would be similar to what is currently available in the higher education system. This is an attempt to mirror benefits in both systems.

Proposal Changes the Following Existing Rules: WAC 356-26-030 is amended to designate a higher education reduction in force register and WAC 356-26-070 is amended to include the proposed higher education reduction in force register in the listing of the order in which eligibles are certified from the registers.

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

Hearing Location: Department of Personnel, 2nd Floor, Board Room, 521 Capitol Way South, Olympia, WA, on April 14, 1994, at 10:00 a.m.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, Olympia, WA 98504-7500, by April 12, 1994.

Date of Intended Adoption: April 14, 1994.

March 1, 1994

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 93-12-088, filed 5/28/93, effective 7/1/93)

WAC 356-26-030 Register designation. (1) Agency reduction in force.

(a) Composition.

(i) The agency reduction in force register will consist of classes and the names of all employees who hold or have held permanent status in those classes and: (A) Have been notified they are scheduled for reduction in force; or (B) held permanent status prior to separation due to a reduction in force; or (C) who have accepted a voluntary demotion in a class in lieu of a reduction in force; or (D) were in a trial service period with another department and separated due to reduction in force; or (E) employees requesting to be placed on this register for classes held immediately prior to the position being reallocated downward; or (F) who were separated due to disability within the last year as provided in WAC 356-35-010 and who have submitted to the director of personnel a current statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established.

(ii) The employee's name shall appear for all classifications for which he/she is not disabled in which he/she held permanent status since the employee's last separation other than a reduction in force, or in which he/she served more than six months on a position which would have meant permanent status had it been under the jurisdiction of the state personnel board at the time.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for three years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas in which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(ii) An employee's name shall not appear for classes at or below the range level of a class in which the employee is serving on a permanent full-time basis, except:

(A) When the employee has accepted an option beyond a reasonable commuting distance in lieu of separation due to reduction in force. The employee's name may appear for classes at the same or lower range levels when the availability would return the employee back to his/her previous work locations.

(B) When the employee has accepted a position in lieu of separation due to a reduction in force, in a different class series.

(C) Any other exceptions shall be approved by the director or designee.

(2) Service-wide reduction in force.

(a) Composition.

(i) This register will consist of the same names as the agency reduction in force register, except for those requesting to be on the agency reduction in force register following a reallocation downward.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas and departments for which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(3) Dual-agency reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or in a position under the jurisdiction of the higher education personnel board were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to the agency from which promoted and the agency from which reverted. Employees appointed from this register will assume the status they held prior to promotion. Persons on this register will indicate the geographic area in which they are available.

(4) Agency promotional.

(a) Composition.

(i) This register will be established by appropriate classes for each agency and shall include the names of those current permanent employees of each agency who have served six months of a probationary period, or past permanent employees who have been separated due to reduction in force within the last year and who have received a passing final grade in the total promotional examination and are eligible to be certified. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final grade as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months.

(5) Higher education reduction in force.

(a) Composition.

(i) This register shall contain the names of permanent employees ranked in order of seniority from higher education institutions or related boards laid off or scheduled for layoff and who have requested placement on this register. The employee's name shall appear for all classifications or equivalent classifications for which the employee held permanent status.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of the register.

(i) An eligible's name will normally remain on this register for two years from the date of placement on the register.

(d) Special provisions.

(i) The employee must request placement on this register within thirty calendar days of the effective date of layoff or previously have requested placement on the inter-system employment register due to layoff. The employee may request placement on lower classes in the same class series or equivalent classes and must demonstrate the ability to meet the minimum qualifications and pass the qualifying examination for classes in which the employee has held permanent status, or lower classes in the same class series.

or equivalent classes. Employees appointed from this register shall be required to complete a trial service period of six months.

(6) Service-wide reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or in a position under the jurisdiction of the higher education personnel board were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to all agencies, except the two which are involved with the dual-agency transaction. Persons on this register will indicate the geographic areas and agencies for which they are available.

~~((6))~~ (7) Transfer.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request to be considered for transfer.

(b) Method of ranking.

(i) This register will be unranked.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) To use this register, the employee must transfer either within the same class or the same pay range having the same salary range number.

~~((7))~~ (8) Voluntary demotion.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request for and are eligible under the rules to be considered for a voluntary demotion.

(b) Method of ranking.

(i) This register shall be unranked. However, employees subject to reduction in force shall have priority.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) Employees appointed from this register to a class not previously held will serve a trial service period. All examination ratings for the class from which demoted shall be nullified; however, the employee may be elevated to the class from which demoted with permanent status without benefit of certification provided permanent status was achieved at the higher level.

~~((8))~~ (9) Service-wide promotional.

(a) Composition.

(i) This register shall contain the names of those permanent employees who have served six months of a probationary period or past permanent employees who have been separated due to reduction in force within the last year who have obtained a passing final grade in the total promotional examination. The names of past permanent employees

who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final score as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score, from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months. Persons on this register will indicate the geographic areas and agencies for which they are available.

~~((9))~~ (10) Reemployment.

(a) Composition.

(i) This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within five years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction in force status and have been offered and declined employment. The director of personnel may extend the time during which an employee may apply for reemployment if the director of personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

(b) Method of ranking.

(i) This register shall be unranked.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Persons reemployed from this register will serve a probationary period. The former employee may limit or enlarge upon his/her area of availability either by department or geographic area.

~~((10))~~ (11) Inter-system employment.

(a) Composition. This register shall contain the names of permanent classified employees under the jurisdiction of the higher education personnel board who have submitted an application and who have passed the required examination.

(b) Method of ranking. This register shall be ranked according to final passing score from the highest to the lowest.

(c) Life of register. An eligible's name will normally remain on this register for one year.

(d) Special provisions. Employees appointed from this register will serve a six month trial service period.

~~((11))~~ (12) Open competitive.

(a) Composition.

(i) This register will contain the names of all persons who have passed the entrance examination.

(b) Method of ranking.

(i) This register shall be ranked by the final score.

(c) Life of register.

(i) An eligible's name will normally remain on this register for one year unless changed by the director of personnel.

(d) Special provisions.

(i) Persons on this register will indicate the geographic areas for which they are available.

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 84-11-091, filed 5/23/84, effective 9/1/84)

WAC 356-26-070 Certification—Registers—Order of rank—Exception. The director of personnel will normally certify names from the registers in the following order:

(1) Agency reduction in force register.

(2) Service-wide reduction in force register.

(3) Dual-agency reversion register.

(4) Agency promotional register.

(5) Higher education reduction in force register.

(6) Service-wide reversion register.

~~((6))~~ (7) Transfer register.

~~((7))~~ (8) Voluntary demotion register.

~~((8))~~ (9) Service-wide promotional register.

~~((9))~~ (10) Reemployment unranked register.

~~((10))~~ (11) Inter-system employment register.

~~((11))~~ (12) Open competitive register.

However, if the director of personnel and appointing authority establish that it is in the best interest of the state to broaden the competition, agencies may request the director of personnel to certify names combined from registers (4), ~~((8))~~ (9), ~~((10))~~ (11), and ~~((11))~~ (12) provided:

(a) That the written request to the director shall be evidence of assurance that:

(i) Such a request will not harmfully affect utilization of protected group members who are applicants for this class.

(ii) If the position is within a collective bargaining unit, the exclusive representative will be provided copy of the request.

(iii) That the request is in the best interest of the state and not solely intended to circumvent the policy of promotion from within the state as provided in WAC 356-30-150.

(b) Request for combined registers must be made on a position-by position or a class basis and prior to recruitment.

**WSR 94-06-012
PERMANENT RULES
WILDLIFE COMMISSION**

[Order 627—Filed February 18, 1994, 2:31 p.m.]

Date of Adoption: January 22, 1994.

Purpose: To provide additional recreational harvest of trout on all inlet streams that feed Lake Roosevelt with the exception of those tributaries as listed under regional regulations.

Summary: This regulation would establish a five fish limit with no size restrictions for trout on all inlet streams that feed Lake Roosevelt with the exceptions of those tributaries as listed under regional regulations.

Reasons Supporting Proposal: This was an amendment to the 1994-95 game fishing regulations as requested by Commissioner Kelly White.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will provide additional recreational harvest opportunities on some tributaries that feed Lake Roosevelt as discussed at the October 1, 1993, commission meeting.

Resource Impacts: None.

Financial Impacts: None.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-61941.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 93-24-084 on November 30, 1993.

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

February 16, 1994

John McGlenn
Chair

NEW SECTION

WAC 232-28-61941 1994-95 Washington game fish seasons and catch limits - Lake Roosevelt. Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to Lake Roosevelt.

ROOSEVELT LAKE (Columbia River): TROUT - no more than 2 over 20". TROUT - CLOSED Mar. 1 - May 31 in San Poil arm upstream from mouth of Manilla Creek. WALLEYE - catch limit - 8, no more than 1 over 20". Only walleye less than 16" or over 20" may be kept; CLOSED Apr. 1 - May 31 in Spokane arm upstream from SR25 Bridge; in Kettle arm upstream from Burlington Northern Railroad Bridge at Twin Bridges; in San Poil arm upstream from mouth of Manilla Creek.

With the exception of those tributaries listed under Regional Regulations; all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport: TROUT - catch limit - 5, no minimum size.

**WSR 94-06-013
PERMANENT RULES
WILDLIFE COMMISSION**

[Order 628—Filed February 18, 1994, 2:33 p.m.]

Date of Adoption: January 22, 1994.

Purpose: Extends the emergency closure adopted November 29, 1993, by the Washington Wildlife Commission through May 31, 1994, on Lake Washington and Lake Sammamish.

Summary: These areas must be closed to protect the Lake Washington winter steelhead run which is severely depressed.

Reasons Supporting Proposal: The Lake Washington wild steelhead stock has not met its escapement goal since 1986 due primarily to predation by sea lions at the Ballard Locks. Escapements averaged 48 percent of the escapement goal from 1987 to 1992 and dipped to only 11 percent in 1993. The stock status is rated as depressed in the 1992 SASSI report.

Explanation of Rule, its Purpose, and Anticipated Effects: Closes Lake Washington and Lake Sammamish March 1 through May 31 to fishing for steelhead to protect a severely depressed stock.

Resource Impacts: Increases steelhead spawning success.

Financial Impacts: Unknown.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-61942.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 93-24-085 on November 30, 1993.

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

February 16, 1994

John McGlenn
Chair

NEW SECTION

WAC 232-28-61942 1992-94 and 1994-95 Washington game fish seasons and catch limits — Lakes Washington and Sammamish Notwithstanding the provisions of WAC 232-28-619, the following waters are CLOSED to fishing for steelhead:

Effective 12:01 a.m., March 1, 1994 to 11:59 p.m., May 31, 1994:

Lake Washington and Lake Sammamish

This amends and supersedes certain provisions of the corresponding information shown in the 1993-94 and 1994-95 Washington Game Fish Regulation pamphlet editions for these waters. All other provisions of WAC 232-28-619 relating to the above waters remain in effect.

**WSR 94-06-014
PERMANENT RULES
WILDLIFE COMMISSION**

[Order 629—Filed February 18, 1994, 2:35 p.m.]

Date of Adoption: January 22, 1994.

Purpose: The rule change will improve enforceability of tournament rules; allow the flexibility requested by advocates of bass and walleye fishing contests and; establish tighter rules governing the care of fish caught in fishing contests to help assure their survival.

Purpose (of Proposed WAC Changes):

Allows: A limited number of walleye tournaments for unlimited prize value under at least 90 percent live release

requirements; and participants in bass contests to exceed catch and size limits under new and more restrictive rules.

Provides: Definition of fishing contest; improved format of the WAC; and grammatical corrections.

Requires: Contest anglers to release all nontarget fish species; the permittee and contest participants to both be responsible for compliance with WAC 232-12-168 and any special stipulations of the contest permit; bass or walleye contest anglers to release all live target fish alive at the end of the contest, and suspend the contest if the mortality of bass or walleye weighed in during any one day exceeds ten percent; contestants to not use live bait in bass fishing contests; contestants to have a minimum size of livewell during walleye contests; and contestants in bass fishing contests to all have boats clearly marked with a method described by the state.

Summary: Many members of constituent groups have asked for more flexibility during bass fishing contests. The state has found few problems with bass tournaments under present contest regulations, and analysis indicates there would probably be no additional problems under these proposed rules. In addition, walleye anglers around the state have asked for rules which would allow walleye tournaments for large prize values, similar to bass contests. The state has had less experience with walleye tournaments, but feels contests for walleye could take place without harm or public conflict, if conducted under these proposed regulations.

Reasons Supporting Proposal: Many members of constituent groups have asked for more flexibility during bass fishing contests. The state has found few problems with bass tournaments under present contest regulations, and analysis indicates there would probably be no additional problems under these proposed rules. In addition, walleye anglers around the state have asked for rules which would allow walleye tournaments for large prize values, similar to bass contests. The state has had less experience with walleye tournaments, but feels contests for walleye could take place without harm or public conflict, if conducted under these proposed regulations.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule change would help accomplish three things: Improve enforceability of tournament rules; allow the flexibility requested by advocates of bass and walleye fishing contests and; establish tighter rules governing the care of fish caught in fishing contests to help assure their survival.

Resource Impacts: There will probably be no resource impacts - positive or negative - as a result of changes affecting bass tournaments, because the records indicate virtually all fish caught in bass tournaments are released now. The changes do close one loophole which could **potentially** impact bass caught in tournaments, where live release is not required in bass tournaments now if prize value is less than \$400. However, there have been no tournaments in this category in Washington for many years to the state's knowledge. The potential resource impacts due to walleye tournaments are expected to be minor, due to safeguards built into the proposed law (requirement of total live release of walleye; suspension of the contest if mortality exceeds ten percent; and minimum size of walleye livewells during contests). Similar to bass tournaments, one potential loophole is closed, and that is that under present law, live

release of walleye is not required if prize value does not exceed \$400.

Financial Impacts: There will probably be no financial impacts as a result of this proposed WAC as it affects bass tournaments, because that category of tournament is well established in Washington now. The economic benefit from bass contests to communities throughout Washington is already substantial, and undoubtedly is a significant part of the estimated \$100 million that warmwater fisheries contribute annually to the economy of Washington now. The financial impacts of proposed WAC changes affecting walleye tournaments would be very positive, due to the fact that walleye tournaments for prizes more than \$400 are not presently allowed in Washington. There are in fact contests for large prizes now conducted partly on Washington walleye resources (Columbia River in that area adjacent to Oregon), but these contests must be based out of Oregon due to Washington's prohibition on large prize values for walleye tournaments. The Chambers of Commerce and business interests in Oregon eagerly propose tournaments due to economic benefits derived. Proposed changes to WAC 232-12-168 would likely benefit Washington "border" communities such as Plymouth, Goldendale, Wishram, Bingen, White Salmon, Stevenson, North Bonneville, Camas, Washougal, and/or Vancouver, if they want to propose and support walleye contests. In addition, other "nonborder" communities throughout Washington with significant walleye populations nearby are likely to benefit economically. The Kettle Falls Chamber of Commerce has already applied for a \$40,000 walleye tournament on Lake Roosevelt next summer, in hopes that the law will be changed to allow this tournament.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-168.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 93-24-086 on November 30, 1994 [1993].

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-12-168 Fishing contests, differs from the proposed version filed with the code reviser in the following specifics: Subsection (2)(a) first sentence, the month December was changed to November; subsection (2)(a) second sentence, the month December was changed to November; subsection (3)(c) phrase added to end of sentence, also, contests involving only juveniles may target any fish species except sea-run cutthroat trout, Dolly Varden or bull trout, under one permit; subsection (4), second sentence added, Contests involving only juveniles are not required to meet 90 percent live release requirements even if bass or walleye are included as a target species; subsection (5)(b) added words to last sentence, during bass or walleye contests where all contestants fish at the same time and place; subsection (5)(e) deleted words, a body of water; subsection (5)(e) added words, lakes or reservoirs; subsection (5)(f) added closing sentence, Failure of the permittee or any of the contestants to comply with all provisions of the contest permit or of other fishing regulations during a contest may lead to revocation of the permit; subsection (6)(a) added closing sentence, Contests involving only juveniles are not required to meet the 90 percent live release requirement for any approved species; subsection (6)(c) deleted phrase, only artificial lures may be used while

PERMANENT

fishing; subsection (6)(c) added phrase, contestants may not use live bait, except that contests involving only juveniles which include bass as a target species may use bait; subsection (6)(e) added word, current; subsection (6)(e) deleted phrase, listed in the fishing pamphlet; subsection (6)(g) deleted word, long; subsection (6)(g) added words, in length; and subsection (6)(h) added words, used for.

Effective Date of Rule: Thirty-one days after filing.
February 16, 1994
John McGlenn
Chair

AMENDATORY SECTION (Amending Order 577, filed 10/21/92)

WAC 232-12-168 Fishing contests. (1) Contest defined: By definition, a fishing contest exists when 6 or more persons fish competitively and determine winners, regardless of prize value.

(2) Application:

(a) ((+)) Fishing contest permit applications should be submitted to the Department by ~~((December))~~ November 1 of each year for contests that are to take place the following calendar year. After ~~((December))~~ November 1, applications must be submitted not less than 30 days prior to the date for which the contest is proposed.

(b) ((2)) Applications must include the permit fee required by RCW 77.32.211. The fee will be returned if the permit is denied. No more than seven permits will be issued to any one permittee during a calendar year. The fee is \$24 per permit.

(3) Approval:

(a) ((6)) Fishing contests which adversely affect fish or wildlife resources or other recreational opportunity may be denied.

(b) ((7)) Contests will not be allowed on sea-run cutthroat trout, ~~((d))Dolly~~ ~~((v))Varden~~ or bull trout.

(c) ((+)) Contests involving only juveniles or the handicapped may exceed the participation limits in contests per month, contests per year, or boats per contest day with permission from the director. Also, contests involving only juveniles may target any fish species except sea-run cutthroat trout, Dolly Varden or bull trout, under one permit.

(4) Prize value: ((8)) Total prize value per contest will not exceed \$400 when trout, steelhead, char, whitefish, grayling, or kokanee(~~-walleye or bass~~) are included as target species; provided that contests wherein other species not listed above are targeted, or where bass or walleye are the targeted species and at least 90 percent of bass or walleye are ~~((required to be))~~ released alive and in good condition after the contest, may qualify for no limitation on amount of prize. Contests involving only juveniles are not required to meet 90 percent live release requirements even if bass or walleye are included as a target species.

(5) Legal requirements, all contests:

(a) ((3)) Fishing contest permits must be in the possession of the contest sponsor or official at the contest site.

(b) ((4)) Contests are restricted to the species and water approved on the permit. Only those species listed as a target of the contest may be retained by contest participants during bass or walleye contests where all contestants fish at the same time and place.

(c) ((5)) Sponsors must report contest information requested by the Department within 10 days after the contest has ended. Subsequent contest permits will not be issued for one year after the date of the contest for which the report was not returned if this requirement is not fulfilled.

(d) ((+)) Contest participants may not restrict public access at boat launches.

(e) ((9)) Contests where all participants expect to fish at the same time from boats on ~~((a body of water))~~ lakes or reservoirs will not last longer than three consecutive days and have the following limits per water:

ACRES	CONTESTS PER DAY	CONTESTS PER MONTH*	CONTESTS PER YEAR		BOATS PER CONTEST DAY
			BASS	WALLEYE	
Less than 300	1	1	5	0	15
301 - 3,000	1	2	10	2	35
3,001 - 6,000	1	3	15	2	60
6,001 - 10,000	1	4	25	2	125
More than 10,000**	2	5	35	2	300

* No more than four weekend days per month nor more than two weekends per month may be scheduled on any water when contestants fish at the same time, and are allowed to fish from boats.

** Two separate contest permits may be issued with no more than 150 boats per contest.

(f) ((+2)) It is unlawful for the fishing contest permittee or any of the contest participants to fail to comply with the conditions of the fishing contest permit~~((:))~~, or of general fishing rules not specifically exempted by this permit. Failure of the permittee or any of the contestants to comply with all provisions of the contest permit or of other fishing regulations during a contest may lead to revocation of the permit.

(6) Special regulations, bass and walleye contests:

(a) ((+0)) In any contest targeting either bass or walleye, all live bass or walleye must be released alive into the water from which they were caught after being weighed and/or measured. At the end of each day's competition, if the mortality of target fish caught that day exceeds 10%, the contest will be suspended. Suspended contests may be continued (within assigned permit dates) only if the cause of the high mortality can be positively identified, and the cause of the mortality (high waves, equipment deficiency, etc.) ceases or is corrected by contest officials. Contests involving only juveniles are not required to meet the 90 percent live release requirement for any approved species.

(b) During bass contests only, participants may continue to fish while holding a daily catch limit of bass in possession for the particular water being fished, as long as one fish is released immediately upon catching a fish which would make the angler in excess of the daily catch limit if kept. The fish released may come either from the one just caught, or from the livewell, but at no time may the angler have more than a daily limit in the livewell.

(c) During bass contests, ~~((only artificial lures may be used while fishing-))~~ contestants may not use live bait, except that contests involving only juveniles which include bass as a target species may use bait.

(d) During bass contests held on waters managed under statewide "standard" regulations, participants may retain a daily catch limit of bass of any size to be weighed in. However, if the contest is on waters managed by "nonstan-

February 18, 1994

Bruce Miyahara
Secretary

andard" (exception) regulations, no deviations to size limits are allowed. Regardless of whether the contest is on a water managed by "standard" or "exception" regulations, tournament anglers may not be in possession of more than the daily catch limit for the water being fished, except as authorized under 6 "f" below.

(e) During walleye contests, all current bag and size ((limits listed in the fishing pamphlet)) remain in effect. No size or number limit exceptions are allowed for walleye contests except as authorized under 6 "f" below.

(f) ((13)) The contest director or director designee may exceed possession limits for bass or walleye for the purpose of transporting fish from a weigh-in site to an open-water area. During transportation, the transport boat must not leave the water the fish were caught from and a copy of the contest permit must be on board during actual fish transport.

(g) Livewell dimensions: During walleye tournaments, all livewells used to hold walleye must be at least 34 inches ((long)) in length and have a water capacity of at least 20 gallons. Not more than 6 walleye may be placed in a single livewell. All livewells must have both a functional freshwater pump and backup aeration capability.

(h) Boat identification: All boats used for fishing in bass contests must be clearly identified according to criteria established by the Department.

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

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

WSR 94-06-017
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed February 22, 1994, 9:14 a.m.]

Date of Adoption: October 29, 1993.

Purpose: The rules and regulations for radiation protection have been changed to remain compatible with the United States Nuclear Regulatory Commission and to update the radiation safety standards to meet good public health practices.

Citation of Existing Rules Affected by this Order: Amending chapters 246-239 and 246-240 WAC and WAC 246-225-020.

Statutory Authority for Adoption: RCW 70.98.050.

Pursuant to notice filed as WSR 93-19-048 on September 9, 1993.

Changes Other than Editing from Proposed to Adopted Version: Modifications to chapters 246-239 and 246-240 WAC included redefining the qualify management requirements for administering radioactive materials to patients, reduction of paperwork, and increasing the size of quality assurance sources allowed. In addition, WAC 246-225-020 (2)(m) was changed to delete the requirement to record the fluoroscopic on-time in the patient log. The proposed WAC 246-225-020 (2)(n) and (o) were deleted.

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

AMENDATORY SECTION (Amending Order 183, filed 7/23/91, effective 8/23/91)

WAC 246-225-020 General requirements—Administrative controls. (1) No person shall make, sell, lease, transfer, lend, or install x-ray equipment or the accessories used in connection with such equipment unless such accessories and equipment, when properly placed in operation and properly used, shall meet the requirements of this chapter.

(2) The registrant in control of the x-ray machines shall be responsible for directing the operation of the x-ray machines. The registrant or registrant's agent shall assure the following provisions are met in the operation of the x-ray machine or machines:

(a) The registrant shall not operate an x-ray machine for diagnostic or therapeutic purposes when the x-ray machine:

- (i) Does not meet the provisions of this chapter; or
- (ii) Is malfunctioning and threatens the health or safety of the patient, operator, or general public.

(b) X-ray machine operator requirements.

(i) Individuals operating the x-ray equipment shall be adequately instructed in safe operating procedures and shall be able to demonstrate competence, upon request from the department, in the correct use of the equipment. Required areas of competence are listed in Appendix II. The department may determine compliance with subsection (2)(b) of this section by observation, interview, or testing;

(ii) A medical x-ray machine operator shall be licensed, certified or registered by the department as either:

(A) A health care practitioner, licensed under Title 18 RCW; or

(B) A diagnostic or therapeutic radiologic technologist certified in accordance with chapter 18.84 RCW; or

(C) An x-ray technician registered in accordance with chapter 18.84 RCW.

(c) At each x-ray system's control panel, a chart shall be provided which specifies for the examinations performed by that system the following information:

- (i) Patient's anatomical size versus technique factors utilized;
- (ii) Source to image receptor distance used;
- (iii) Type and placement of patient shielding used, for example, gonad, thyroid, lap apron;
- (iv) If applicable, settings for automatic exposure devices; and
- (v) Type and size of film or screen-film combination to be used.

(d) When required by the department, a registrant shall create and provide to operators of the x-ray system, radiation safety procedures which address patient and occupationally-exposed personnel safety. These procedures shall define restrictions of the operating technique required for safe operation of the particular x-ray system;

(e) Except for patients who cannot be moved out of the room and the patient being examined, only the staff and ancillary personnel required for the medical procedure or training shall be present in the room during the radiographic exposure. Other than the patient being examined:

(i) All individuals shall be positioned such that no part of the body including the extremities not protected by 0.5 mm lead equivalent will be struck by the useful beam;

(ii) The x-ray operator, other staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent;

(iii) Patients who cannot be removed from the room shall be:

(A) Protected from the direct scatter radiation by whole body protective barriers of not less than 0.25 mm lead equivalent; or

(B) Positioned so the nearest portion of the body is at least 2 meters from both the tube head and the nearest edge of the image receptor.

(iv) The department may require additional protective devices when a portion of the body of staff or ancillary personnel is potentially subjected to stray radiation which may result in that individual receiving one quarter of the maximum permissible dose defined under WAC 246-221-010.

(f) Gonad shielding of not less than 0.5 mm lead equivalent shall be used for patients of reproductive age during radiographic procedures in which the gonads are in the direct (useful) beam, except for cases when gonad shielding may interfere with the diagnostic procedure;

(g) Persons shall not be exposed to the useful beam except for healing arts purposes. Only a licensed practitioner of the healing arts shall authorize an exposure to the useful beam. This requirement prohibits deliberate exposure for the following purposes:

(i) Exposure of an individual for training, demonstration, or other purposes unless there are also healing arts requirements and proper prescription is provided;

(ii) Except for mammography performed by registered facilities on self-referred patients, the exposure of an individual for the purpose of healing arts screening without prior written approval of the state health officer; and

(iii) Exposure of an individual for the sole purpose of satisfying a third party's prerequisite for reimbursement under any health care plan, except for exposure required under Medicare provisions.

(h) When a patient or film must be provided with auxiliary support during a radiation exposure:

(i) Mechanical holding devices shall be used when the technique permits. The safety rules, when required under subdivision (d) of this subsection, shall list individual projections where holding devices cannot be utilized;

(ii) Written safety procedures, when required under subdivision (d) of this subsection, shall indicate the requirements for selecting a human holder and the procedure the holder shall follow;

(iii) The human holder shall be protected as required under subdivision (e)(i) of this subsection(~~—The holder occupationally exposed to radiation shall be provided with a personnel monitoring device, worn at the collar outside the lead apron, and records of exposures shall be maintained~~);

(iv) No person shall be used routinely to hold film or patients;

(v) When the patient must hold the film, the portion of the body other than the area of clinical interest struck by the

useful beam shall be protected by not less than 0.5 mm lead equivalent material;

(vi) Holding the film or the patient shall be permitted only in very unusual and rare situations(~~—and~~

~~(vii) When a holder is occupationally exposed to radiation, a record shall be made of the examination and shall include:~~

~~(A) Patient identification;~~

~~(B) Name of the human holder;~~

~~(C) Date of the examination;~~

~~(D) Number of exposures; and~~

~~(E) Technique factors utilized for the exposures)).~~

(i) Personnel dosimetry. All persons associated with the operation of an x-ray system are subject to both the occupational exposure limits and the requirements for the determination of the doses stated under WAC 246-221-020. In addition, when protective clothing or devices are worn on portions of the body and a dosimeter is required, at least one such dosimeter shall be utilized as follows:

(i) When an apron is worn, the monitoring device shall be worn at the collar outside of the apron; and

(ii) The dose to the whole body based on the maximum dose attributed to the most critical organ shall be recorded on the reports required under WAC 246-221-230. If more than one device is used or a record is made of the data, each dose shall be identified with the area where the device was worn on the body.

(iii) Personnel monitoring of an operator shall be required where:

(A) Exposure switch cords are utilized that allow the operator to stand in an unprotected area during exposures; and

(B) (~~(Worst case)~~) Measurements by the department show (~~(twenty five)~~) ten percent of the exposure limits as specified under WAC 246-221-010 may be exceeded.

(iv) All persons involved in the operation of a fluoroscope and working within the fluoroscopy room during its operation shall wear a personnel dosimeter required under WAC 246-221-090 and subsection (2)(i)(i) of this section. If extremities are in or near the primary beam, extremity dosimeters are also required;

(j) Healing arts screening utilizing radiation. Any person proposing to conduct a healing arts screening program, with the exception of a mammography program, shall not initiate such a program without prior approval of the state health officer. When requesting such approval, that person shall submit the information outlined under Appendix III of this part. If information submitted becomes invalid or outdated, the state health officer shall be notified immediately;

(k) When using scatter suppressing grids, the grids shall be:

(i) Clearly labelled with the focal distance for which they are designed to be used; and

(ii) Of the proper focal distance for the source-to-image distances used.

(l) Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized.

(i) Film cassettes without intensifying screens shall not be used for any routine diagnostic radiological imaging.

(ii) Portable or mobile x-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary x-ray installation.

(m) Patient log. ~~((Each facility shall keep a patient log and indicate the following information as a minimum:~~

~~(i) Identification of the patient, including name, age, and sex;~~

~~(ii) Date of x-ray examination;~~

~~(iii) Examination or treatment given, technique factors used, and number of exposures. Where fluoroscopy is involved, the total fluoroscopic on-time shall also be recorded;~~

~~(iv) Any deviation from the standard procedure or technique (including repeat exposures) as denoted in the technique chart required under subdivision (e) of this subsection;~~

~~(v) When applicable, the x-ray system used; and~~

~~(vi) Name or cross index of individuals who performed the exam-))~~ A medical x-ray facility (chiropractors, allopathic and osteopathic physicians and hospitals only) shall record for each x-ray diagnosis or treatment the patient's name, type of x-ray procedures performed, and the date. A separate log is not necessary if the required information is retrievable by reference to other records.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-239-020 Radiation safety committee. (1) Where required by license condition or pursuant to WAC 246-235-080(1), the radiation safety committee, shall meet at least once every ~~((six months. Where required by license condition, the committee shall meet at the frequency stated in the license or application))~~ calendar quarter. Such meetings shall be documented by written minutes and those minutes shall be maintained for inspection by the department for at least two years.

(2) Evaluation of the adequacy of the licensee's radiation safety program for radiation safety, for adherence to the policy and procedures for radiopharmaceutical administration program, and adherence to the ALARA concept shall be conducted at least once each calendar year with an interval of no more than five calendar quarters between each evaluation. Such evaluations may be performed by the radiation safety officer, a competent outside agent, or by qualified personnel at the licensee's own facility. These evaluations shall be documented, maintained for inspection by the department, and presented in a timely manner to the radiation safety committee for review and approval and, where necessary, recommend timely corrective action to the licensee's management.

NEW SECTION

WAC 246-239-022 Policy and procedures for radiopharmaceutical administration. (1) Each licensee shall establish and maintain a written program to provide assurance that radioactive material or radiation from radioactive material will be administered as directed by the authorized user ordering the administration. The program must include written policies and procedures to meet the following specific objectives:

(a) That, prior to administration, a written directive is prepared for:

(i) Any administration of quantities greater than 30 microcuries of sodium iodide I-131; or

(ii) Any therapeutic administration of a radiopharmaceutical, other than sodium iodide I-131. A written revision to an existing written directive may be made for any diagnostic or therapeutic procedure provided the revision is dated and signed by the authorized user prior to the administration of the radiopharmaceutical or radiobiologic dosage. If a delay would jeopardize the patient's health, and the authorized user is not personally assaying and administering the dose, an oral directive or revision to an existing written directive will be acceptable, provided the oral revision is documented immediately in the patient's chart or record, and the revised written directive is signed by the authorized user within forty-eight hours of the oral revision;

Note: A written directive is not required when an authorized user personally assays and administers a dosage provided the pertinent facts are documented as otherwise required.

(b) That, prior to each administration, the patient's identity is verified by more than one method as the individual named in the written directive;

(c) That each administration is in accordance with the written directive; and

(d) That any unintended deviation from the written directive is identified and evaluated, and appropriate action is taken.

(2) The licensee shall evaluate and respond, within thirty days after discovery of the recordable event, to each recordable event by:

(a) Assembling the relevant facts including the cause;

(b) Identifying what, if any, corrective action is required to prevent recurrence; and

(c) Retaining a record, in an auditable form, for three years, of the relevant facts and what corrective action, if any, was taken.

(3) The licensee shall retain:

(a) Each written directive (provided, however, that such written directive is not required if the dose is both personally assayed and administered by the authorized user); and

(b) A record of each administered radiation dose or radiopharmaceutical dosage where a written directive is required in subsection (1)(a) of this section, in an auditable form, for three years after the date of administration.

(4) The licensee may make modifications to the program to increase the program's efficiency provided the program's effectiveness is not decreased.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-239-030 Personnel monitoring. In addition to the requirements of WAC 246-221-090 and the conditions of the license, extremity monitoring (such as TLD ring badges) shall be provided and used on a monthly exchange basis for those personnel who routinely inject radiopharmaceuticals and/or elute Tc 99m/Mo 99 generators.

NEW SECTION

WAC 246-239-035 Bioassay. Each licensee who uses Iodine 131 for diagnostic or therapeutic purposes shall conduct a radioiodine bioassay program in accordance with the criteria set forth in Washington State Regulatory Guide 8.20, "Bioassay Program Criteria for I-125 and I-131". When radioiodine capsules are used exclusively, bioassay is required only when capsules are opened, breached, or crushed.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-239-050 Radionuclide generators. (1) Any licensee who uses generators and reagent kits shall elute the generator or process radioactive material with the reagent kit in accordance with instructions which are approved by the department, the United States Nuclear Regulatory Commission, an agreement state, or a licensing state, and are furnished by the manufacturer on the label attached to, or in the leaflet or brochure, which accompanies the generator or reagent kit.

(2) Tc-99m separated from Molybdenum 99 either by elution of a Molybdenum 99/Tc-99m generator or by an extraction process shall be tested to detect, and quantify Molybdenum 99 activity prior to administration to patients. The licensee shall not administer to patients Tc-99m containing more than ~~((1.0 uCi))~~ 0.15 microcurie (5550 becquerels) of Molybdenum 99 per mCi (37 megabecquerels) of Tc-99m ~~((or more than 5.0 uCi of Molybdenum 99 per dose of Tc-99m at time of the administration))~~. The limits for Molybdenum 99 contamination represent maximum values and Molybdenum 99 contamination should be kept as low as reasonably achievable below these limits.

(a) In the absence of a certificate from the supplier of Tc-99m which specifies the quantity of Molybdenum 99, the licensee shall establish written procedures for personnel performing tests to detect and quantify Molybdenum 99 contamination. These procedures shall include all necessary calculations and steps to be taken if activities of Molybdenum 99 in excess of the limits specified in this part are detected.

(b) Personnel performing tests to detect and quantify Molybdenum 99 contamination shall be given specific training in performing these tests prior to conducting such tests.

(c) The licensee shall maintain for inspection by the department, records of the results of each test performed to detect and quantify Molybdenum 99 contamination and records of training given to personnel performing these tests. Records shall be maintained for two years following the performance of each test and the training of personnel.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-239-070 Surveys. In addition to applicable requirements found elsewhere in these regulations, and the license, each licensee shall:

(1) Monitor hands and clothing for contamination after each procedure, or before leaving the ~~((restricted))~~ work area;

(2) Survey the laboratory ~~((work))~~ preparation and injection areas for contamination after each procedure, or at the end of the day using instrumentation capable of measuring nanocurie or becquerel amounts of activity. Survey documentation ~~((should))~~ shall include an area diagram or a description of the area or article and the instrumentation used, the background levels in CPM, CPS, DPS, or DPM, the date of the survey, and the initials or name of the surveyor. Such documentation shall be maintained for inspection by the department for two years.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-239-080 Calibration and reference sources. (1) Any licensee who owns, receives, acquires, possesses, uses, or transfers calibration reference sources pursuant to the general license authorized in WAC 246-233-020(7) shall:

(a) Maintain a file or log identifying such sources, including ~~((isotope))~~ nuclide, ((amount)) activity, model and serial numbers, manufacturer, date of receipt, date of transfer, and to whom transferred (where applicable);

(b) Possess at any one time, and at any one location of storage or use, no more than five uCi (0.185 megabecquerels) of Am-241 and five uCi (0.185 megabecquerels) of Pu and five uCi (0.185 megabecquerels) of Ra-226 in such sources;

(c) Store such source(s), except when the source(s) is being used, in a closed container adequately designed and constructed to contain Americium-241, Plutonium, or Radium 226 which might otherwise escape during storage; and

(d) Not use such source(s) for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(2) Any licensee who receives, possesses, or uses calibration and reference standards pursuant to the group licensing provisions of WAC 246-235-080 (3)(c):

(a) Shall conduct leak tests in accordance with WAC 246-235-080 (3)(d);

(b) Shall follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, and agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain such instruction in a legible and conveniently available form; and

(c) Shall conduct a quarterly physical inventory to account for all sources received and possessed. Records of the inventory shall be maintained for inspection by the department, and shall include, but not be limited to, the quantities and kinds of radioactive material, the serial number of each source, location of sources, the initials or name of the person performing the inventory, and the date of inventory.

(3) Any licensee authorized for medical Group I, II, or III is also authorized to receive, use, possess, store, transfer and/or dispose of sealed sources containing Cobalt-57 in amounts not exceeding 22 millicuries (814 megabecquerels) per source which are designed, intended, and used solely for

required imaging system or dose calibrator quality assurance tests.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-239-090 Instrumentation. (1) Instrumentation used to conduct surveys shall be appropriate for the nuclide(s) and radiation levels present.

(2) Portable and stationary survey instruments shall be calibrated at least ~~((once each calendar year))~~ annually, with intervals not to exceed five calendar quarters, and after any repair. Calibrations shall be done using either ((approved)) the licensee's procedures approved by the department or by a facility specifically licensed to perform the appropriate dose rate or contamination instrument calibrations. Records shall be maintained for inspection by the department.

(3) An operational check utilizing an appropriate check source shall be conducted daily when instruments are used.

(4) Imaging systems shall have a flood performed daily when the system is used. In addition, mobile nuclear medicine services employing imaging systems which are moved from one facility to another shall perform a flood prior to use at each location. Bar phantoms shall be performed weekly. Records of such quality assurance for imaging systems, shall be maintained for inspection by the departments.

(5) Appropriate source(s) for calibration and ~~((reference))~~ standardization of dose calibrators shall be used. Dose calibrators shall receive:

(a) Daily constancy checks;

(b) Quarterly linearity tests;

(c) Annual tests for accuracy; accuracy test results which show a variation greater than ten percent from the expected or calculated value shall cause the instrument to be repaired and recalibrated prior to use for assay of patient doses; and

(d) Geometry tests upon installation and following major repair.

(6) ~~((Quality assurance procedures for dose calibrators found in subsection (5) of this section, excluding daily constancy checks, shall be conducted by individuals qualified to perform these tests, and shall be documented for future inspection by the department.))~~ The licensee is responsible for proper and timely performance of required quality assurance procedures and tests.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-239-100 Radioactive gases. (1) Licensees utilizing radioactive gases, such as Xenon-133 or Krypton-81m, shall have and use ~~((by January 1, 1984))~~ a ventilation system adequate for such use, including an approved trap. Radioactive gas shall be disposed only as specifically authorized by the license.

(2) Licensees utilizing radioactive gases shall maintain emissions in accordance with limits specified in chapters 246-221 and 246-247 WAC. Verification shall be documented. Such verification may be made by calculation, air samples, or the use of constant monitoring instrumentation.

(3) Licensees utilizing radioactive gas without benefit of negative air pressure in the use area shall utilize an approved

and shielded delivery system and trap. Such traps shall be tested for trapping efficiency at intervals not to exceed those recommended by the trap manufacturer and replaced as recommended by the manufacturer.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-240-020 Interstitial, intracavitary and superficial applications. (1) **Accountability, storage, and handling.**

(a) Except as otherwise specifically authorized by the department, each licensee shall provide accountability of sealed sources and shall keep a record of the issue and return of all sealed sources to their place of storage.

(b) Each licensee shall conduct a quarterly physical inventory to account for all sources and devices received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include the ~~((quantities and kinds))~~ activities, radionuclide(s), and serial numbers of radioactive ((material)) sources, location of sources and devices, ((and)) the date of the inventory, and the initials or name of the person performing the inventory.

(c) Each licensee shall follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, device or permanent container thereof, or in the leaflet or brochure which accompanies the source or device, and maintain such instruction in a legible and conveniently available form.

(d) Each licensee shall assure that ~~((needles or standard medical applicator cells containing Radium-226, or Cobalt-60 as wire))~~ sealed therapy sources are not opened/breached, or physically modified while in the licensee's possession unless specifically authorized by license condition.

(2) **Testing sealed sources for leakage and contamination.**

(a) All sealed sources containing more than 100 microcuries (3.7 megabecquerels) of radioactive material with a half-life greater than thirty days, except Iridium-192 seeds encased in nylon ribbon, shall be tested for contamination and/or leakage at intervals not to exceed six months or at such other intervals as are approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and described by the manufacturer on the label attached to the source, device, or permanent container thereof, or in the leaflet or brochure which accompanies the source or device. Each source or device shall be so tested prior to its first use unless the supplier furnishes a certificate that the source or device has been so tested within six months prior to the transfer.

(b) Leak tests shall be capable of detecting the presence of 0.005 microcurie (185 becquerels) of radioactive material on the test sample or in the case of radium, the escape of radon at the rate of 0.001 microcurie (37 becquerels) per twenty-four hours. The test sample shall be taken from the source or from the surfaces of the device in which the source is permanently or semipermanently mounted or stored on which one might expect contamination to accumulate. Records of leak test results shall be kept in units of

microcuries or becquerels and maintained for inspection by the department.

(c) Any leak test conducted pursuant to (a) of this subsection which reveals the presence of 0.005 microcurie (185 becquerels) or more of removable contamination or in the case of radium, the escape of radon at the rate of 0.001 microcurie (37 becquerels) per twenty-four hours, shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the source from use and cause it to be decontaminated and repaired or to be disposed of in accordance with department regulations. A report shall be filed within five days of the test with the department, describing the equipment involved, the test results, and the corrective action taken.

(3) Radiation surveys.

(a) The maximum exposure rate radiation level at a distance of one meter from the patient in whom brachytherapy sources have been inserted shall be determined by measurement or calculation. This radiation level shall be entered on the patient's chart and other signs as required under subsection (4) of this section.

(b) The exposure rate radiation levels in the patient's room and the surrounding area shall be determined, recorded, and maintained for inspection by the department.

(c) The licensee shall assure that patients treated with Cobalt-60, Cesium-137, Iridium-192, ~~((or))~~ Radium-226, or any other nonpermanent implants, including High Dose Rate (HDR), Medium Dose Rate (MDR), or Low Dose Rate (LDR) therapy systems used on an in-patient or out-patient basis, remain hospitalized until a source count and a radiation survey of the patient and the patient's room confirm that all implants have been removed and are accounted for.

(d) Patients administered any therapeutic radiopharmaceutical shall remain hospitalized until the residual activity is 30 millicuries (1110 megabecquerels) or less, OR the measured dose rate from the unshielded patient is less than 5.0 millirem (50 microsieverts) per hour at a distance of one meter.

(4) Signs and records.

(a) In addition to the requirements of WAC 246-221-120, the bed, cubicle, or room of the hospital brachytherapy patient shall be marked with a sign indicating the presence of brachytherapy sources. This sign shall incorporate the radiation symbol and specify the radionuclide, the activity, date, and the individual(s) to contact for radiation safety instructions. ~~((The sign is not required provided the exception in WAC 246-221-130(2) is met.))~~

(b) The following information shall be included for the duration of the patient's treatment in the patient's official hospital medical record/chart:

(i) The radionuclide administered, number of sources, activity in millicuries or becquerels and time and date of administration;

(ii) The exposure rate at one meter, the time the determination was made, and by whom;

(iii) The radiation symbol; and

(iv) The precautionary instructions necessary to assure that the exposure of individuals does not exceed that permitted under WAC 246-221-010.

~~((5))~~ (c) Information required by subsection (4)(b)(i) and (ii) of this section shall be retained for review by the department.

WSR 94-06-022
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed February 22, 1994, 1:01 p.m.]

Date of Adoption: February 9, 1994.

Purpose: Rules designed to regulate and offer guidance to private clubs in the general advertising of their club(s).

Citation of Existing Rules Affected by this Order: Amending WAC 314-52-115.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-02-014 on December 23, 1993.

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

February 16, 1994

Joseph L. McGavick

Chairman

AMENDATORY SECTION (Amending Order 108, Resolution No. 117, filed 8/11/82)

WAC 314-52-115 Advertising by clubs—Signs. (1) Clubs shall not engage in any form of soliciting or advertising which may be construed as implying that the club operates a public Class H premises, a tavern open to the public, or that social functions at which club liquor may be consumed, are open to the public: *Provided, however*, Circularizing membership shall not be considered advertising, and where clubs provide lunch or dinner to the public, this may be advertised: *Provided further*, Such advertising must specify no liquor service is available.

~~((2))~~ ~~((Outdoor signs as defined in WAC 314-52-070 shall make no direct or indirect reference to the sale or service of liquor.~~

~~((3))~~ Clubs and/or their auxiliary organizations may advertise social or other club events to their membership through the public media: *Provided*, Such advertising is clearly directed to their membership only and cannot be construed as implying that the general public is welcome to attend.

~~((4))~~ ~~((3))~~ Advertising of the club functions by means of placards placed for public viewing shall be governed by the provisions of ~~((WAC 314-52-115(3) above))~~ subsection (2) of this section.

~~((5))~~ ~~((4))~~ Advertising may be directed to the public generally in connection with events of special public interest such as Flag Day, Memorial Day, Veterans Day or such other occasions, under provisions set forth in WAC 314-40-080(3).

~~((6))~~ ~~((5))~~ Clubs desiring to have radio or television broadcasts originating from their licensed premises may do so: *Provided*, That such broadcasts consist only of entertainment or other matter which is in the public interest and may not contain any announcement of opening or closing hours, any invitation to visit the club, or any statement which may be construed as advertising or any implication that the club is operated as a public place. The only reference to the club during such broadcasts shall be limited to a statement at the opening and closing of the program as originating from the club quarters.

WSR 94-06-024
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3706—Filed February 23, 1994, 8:53 a.m.]

Date of Adoption: February 23, 1994.

Purpose: Clarifies intent of the self-employment resource exemptions. The department will only exempt those self-employment resources which can reasonably be expected to restore independence or create viable self-employment enterprises.

Citation of Existing Rules Affected by this Order: Amending WAC 388-28-439 Effect of resources on need—Property used in self-employment.

Statutory Authority for Adoption: RCW 74.04.005 (10)(f)(i).

Pursuant to notice filed as WSR 94-03-055 on January 13, 1994.

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

February 23, 1994

Dewey Brock, Chief

Office of Vendor Services

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

WAC 388-28-439 Effect of resources on need—Property used in self-employment. (1) "Goodwill" means the reputation and patronage of a company. Goodwill can generally be valued as the amount a company would sell for over the value of its physical property, money owed it, and other assets.

(2) ~~The ((CSO)) department~~ may declare real and personal property which will be used in a self-employment enterprise ~~((such as land, buildings, tools, farm machinery, livestock, business equipment, and inventory))~~ as an exempt resource:

(a) ~~On the basis of an agreed plan((—The CSO shall apply the following conditions:~~

(a) ~~The exempted property must either); and~~

(b) When the department determines that the real or personal property:

(i) ~~((Produce income reducing the applicant's or recipient's need for public assistance))~~ Is necessary to restore the client's independence; or

(ii) Will aid in rehabilitating the ((applicant or recipient)) client or ((their)) the client's dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

~~((b) If stock, raw materials, or inventory of a business is exempted, the department shall examine any increase in value to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.~~

~~(2))~~ (3) The department shall consider any increase in value to exempted stock, raw materials, or inventory of a business as:

(a) Exempt, when the increase is necessary to the health of the enterprise; or

(b) Income, when such increase might reasonably be used towards the client's self-support.

(4) In the absence of an agreed plan, the department shall consider the business assets of a self-employment enterprise ((shall be)) as nonexempt resources available to the owner in the amount of the sale value minus encumbrances, unless the resources are generally exempt under ((the provisions of)) WAC 388-28-420 and 388-28-435.

~~((a) Accounts receivable are exempt resources under an agreed plan as long as diligent effort is being made to collect. If efforts to collect are unsuccessful, then the department shall require the accounts be turned over to a collection agency. Failure to do so will cause the accounts to become a nonexempt resource. When payment is received, it is treated as income pursuant to WAC 388-28-520.~~

~~(b) Good will is an intangible asset. It has no value unless the business is sold, and therefore is not an available resource))~~

(5) Under an agreed plan, the department shall consider accounts receivable as:

(a) An exempt resource when:

(i) The client makes a diligent effort to collect; or

(ii) If efforts to collect are unsuccessful, the client turns the accounts over to a collection agency.

(b) A nonexempt resource when the client does not meet the requirements in subsection (a) of this section; and

(c) Income, under WAC 388-28-520, when payment is received.

(6) The department shall consider goodwill as an unavailable resource until the business is sold.

WSR 94-06-025
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 3709—Filed February 23, 1994, 8:55 a.m.]

Date of Adoption: February 23, 1994.

Purpose: Sets forth the procedure for the restoration of the right to possess firearms for former involuntarily committed persons. New WAC 275-55-221 and 275-59-072 are both named Restoration procedure for a former involuntarily committed person's right to firearm possession.

Statutory Authority for Adoption: RCW 9.41.040(6).

Pursuant to notice filed as WSR 94-03-005 on January 5, 1994.

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

February 23, 1994

Dewey Brock, Chief

Office of Vendor Services

NEW SECTION

WAC 275-55-221 Restoration procedure for a former involuntarily committed person's right to firearm possession. (1) The department and mental health professionals implementing Chapter 71.05 RCW shall recognize and affirm that a person is entitled to the immediate restoration of the right to firearm possession, as described under RCW 9.41.040 (6)(c), when the person no longer requires

treatment or medication for a condition related to the commitment.

(2) Mental health professionals implementing the provisions of Chapter 71.05 RCW shall provide to the court of competent jurisdiction such relevant information concerning the commitment and release from commitment as the court may request in the course of reaching a decision on the restoration of the person's right to firearm possession. (See RCW 9.41.097.)

(3) A person who has been barred from firearm possession under RCW 9.41.040(6) and 71.05.240 and who wishes to exercise this right, may petition the court which ordered involuntary treatment or, the superior court of the county in which the person resides for restoration of the right to possess firearms. At a minimum, such petition shall include:

- (a) The fact, date, and place of involuntary treatment;
- (b) The fact, date, and release from involuntary treatment;

(c) A certified copy of the most recent order of commitment with the findings of fact and conclusions of law.

(4) A petitioner shall show that the petitioner no longer requires treatment or medication for a condition related to the commitment.

NEW SECTION

WAC 275-59-072 Restoration procedure for a former involuntarily committed person's right to firearm possession. (1) The department and mental health professionals implementing Chapter 10.77 RCW shall recognize and affirm that a person is entitled to the immediate restoration of the right to firearm possession, as described under RCW 9.41.040 (6)(c), when the person no longer requires treatment or medication for a condition related to the commitment.

(2) Mental health professionals implementing the provisions of Chapter 71.05 RCW shall provide to the court of competent jurisdiction such relevant information concerning the commitment and release from commitment as the court may request in the course of reaching a decision on the restoration of the person's right to firearm possession. (See RCW 9.41.097.)

(3) A person who has been barred from firearm possession under RCW 9.41.040(6) and who wishes to exercise this right; may petition the court which ordered involuntary treatment or, the superior court of the county in which the person resides for restoration of the right to possess firearms. At a minimum, such petition shall include:

- (a) The fact, date, and place of involuntary treatment;
- (b) The fact, date, and release from involuntary treatment;

(c) A certified copy of the order of final discharge entered by the committing court.

(4) A petitioner shall show that the petitioner no longer requires treatment or medication for a condition related to the commitment.

WSR 94-06-026
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3707—Filed February 23, 1994, 8:58 a.m.]

Date of Adoption: February 23, 1994.

Purpose: New chapter 388-225 WAC, Consolidated emergency assistance program (CEAP), codifies consolidated emergency assistance program (CEAP) policies into chapter 388-225 WAC and repeals WAC 388-24-250 through 388-24-265 (seven sections repealed).

Citation of Existing Rules Affected by this Order: Repealing chapter 388-24 WAC, WAC 388-24-250, 388-24-252, 388-24-253, 388-24-254, 388-24-255, 388-24-260, and 388-24-265.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 94-03-051 on January 12, 1994.

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

February 23, 1994

Dewey Brock, Chief

Office of Vendor Services

Chapter 388-225 WAC
CONSOLIDATED EMERGENCY ASSISTANCE
PROGRAM - CEAP

NEW SECTION

WAC 388-225-0010 Purpose of program. The Consolidated Emergency Assistance Program (CEAP) is a federally-matched grant assistance program providing time-limited assistance to meet emergent needs.

NEW SECTION

WAC 388-225-0020 General provisions. The department shall authorize CEAP for the following persons who meet the eligibility conditions established in this chapter:

- (1) A family with dependent children; or
- (2) A pregnant woman with no other children; or
- (3) A dependent child who is or may be bound for foster care placement. Assistance provided for the child is specified under WAC 388-225-0300.

NEW SECTION

WAC 388-225-0050 Assistance units. (1) The department shall include the following persons living together in the CEAP assistance unit:

- (a) A pregnant woman in any stage of pregnancy who has no other child; or
- (b) A child seventeen years of age or younger and all full, half, or adopted brothers and sisters seventeen years of age or younger of such a child; and
- (c) The child's parent, adoptive parent, or stepparent with whom the child lives; and
- (d) A minor parent's parent who is a caretaker relative of:
 - (i) The minor parent; or
 - (ii) The minor parent's full or half brother or sister.

(e) Only the minor parent's child if the minor parent is not eligible due to the income and resources of the minor parent's parent.

(2) At the option of the family, the department may include the following persons in the assistance unit:

(a) One needy relative caretaker of specified degree, as defined for the aid to dependent children program, whose eligibility depends solely on caring for the child, if the child's parent does not reside in the family home; or

(b) A stepbrother or stepsister of the child included in the assistance unit, except as required in subsection (1) of this section.

(3) The department shall not include a person receiving Supplemental Security Income (SSI) in the CEAP assistance unit.

(4) The department shall exclude from the assistance unit a person ineligible due to factors not related to need. Exclusions include, but are not limited to:

(a) AFDC household member fails to cooperate with the office of support enforcement without good cause; or

(b) An alien not meeting the citizenship and alien status requirements as specified under WAC 388-225-0070.

NEW SECTION

WAC 388-225-0060 Eligibility conditions—Emergent needs. To be eligible for CEAP, an applicant shall have one or more of the following emergent needs:

(1) Food;

(2) Shelter;

(3) Clothing;

(4) Minor medical;

(5) Utilities;

(6) Household maintenance, which includes basic household supplies such as beds, blankets, pots, pans;

(7) Necessary clothing or transportation costs to accept or maintain a job; or

(8) Transportation for a minor, not in foster care, to a home where care will be provided by family members or approved caretakers.

NEW SECTION

WAC 388-225-0070 Eligibility conditions—Residency and alien status. (1) To be eligible for CEAP:

(a) An applicant shall be a resident of Washington state.

A resident means a person:

(i) Voluntarily living in the state with the intention of making and maintaining a home in the state; and

(ii) Not residing in the state for a temporary purpose.

(b) If not a resident of Washington state, an applicant shall be:

(i) Detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or

(ii) A migrant. A migrant is a person who moves from one region to another to perform some work or duty.

(2) An alien granted lawful temporary resident status under sections 210A and 245A of the Immigration and Nationality Act shall be ineligible. Disqualification due to this provision applies for a period of five years from the date the temporary resident status was granted.

NEW SECTION

WAC 388-225-0080 Eligibility conditions—Living with a relative of specified degree. To be eligible for CEAP, a dependent child seventeen years of age or younger shall:

(1) Be living with a parent or other relative of a specified degree as defined for the aid to families with dependent children program; or

(2) If not living with such relative, have done so within the six months before the month in which assistance is requested.

NEW SECTION

WAC 388-225-0090 Eligibility conditions—Job refusal. To be eligible for CEAP, an applicant shall not have refused a bona fide job offer of employment or training for employment, without good cause, within thirty days before application or after application:

(1) A household refusing a bona fide offer of employment or training for employment without good cause within thirty days before application or after application shall:

(a) Be ineligible for thirty days or until the persons accepts employment, whichever is less, if the need for emergency assistance was due to the refusal; and

(b) Begin the household's period of ineligibility on the date of refusal of employment or training for employment.

(2) The following conditions shall constitute good cause for refusal of employment:

(a) Physical, mental, or emotional inability of the person to satisfactorily perform the work required;

(b) Inability of a person to get to and from the job without undue cost or hardship to the person, e.g., travel time in excess of one hour, one way;

(c) The nature of the work is hazardous to the person;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of a labor dispute; or

(f) Child care is not available to the household.

NEW SECTION

WAC 388-225-0100 Eligibility conditions—Other possible resources. To be eligible for CEAP, an applicant shall:

(1) Take all steps necessary to make the applicant eligible for:

(a) AFDC, SSI, or refugee assistance;

(b) Medical assistance for CEAP applicants requesting emergent medical care; and

(c) Food stamps for those CEAP applicants requesting emergent food assistance.

(2) Have applied for unemployment compensation if potentially eligible.

(3) Not be under sanction for failure to comply with the eligibility requirements for AFDC, SSI, general assistance, or refugee assistance, if compliance could have prevented the need for emergency assistance.

NEW SECTION

WAC 388-225-0120 Eligibility conditions—Income and resource eligibility. To be eligible for CEAP, an applicant shall:

(1) Have net monthly income less than ninety percent of the payment standard for an AFDC household with shelter costs; or,

(2) Demonstrate that the applicant could not have planned to avoid the emergency, if income is above the ninety percent cutoff. The household shall demonstrate an inability to plan if funds ordinarily available were expended for:

- (a) Medical bills;
- (b) Emergent child care to avoid abuse;
- (c) Dental care to alleviate pain; or
- (d) Costs incurred in obtaining employment.

(3) Be in financial need. The department shall consider a household to be in financial need if the household qualifies for a grant according to WAC 388-225-0180.

NEW SECTION

WAC 388-225-0150 Exempt income and resources. The department shall exempt:

(1) A home. The department shall apply aid to families with dependent children resource rules in determining whether real property is used as a home;

(2) A used and useful vehicle with an equity value not to exceed one thousand five hundred dollars;

(3) Used and useful household furnishings;

(4) Used and useful personal effects;

(5) Tools and equipment used and useful in the person's occupation;

(6) Livestock, the products of which are consumed by the applicant and the applicant's dependents;

(7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646;

(8) The value of the coupon allotment under the Food Stamp Act of 1977, as amended;

(9) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III to P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(10) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(11) The income and resources of a Supplemental Security Income recipient;

(12) Energy assistance payments;

(13) Grants, loans, or work study to a student under Title IV of the Higher Education Amendments or Bureau of Indian Affairs for attendance costs as identified by the institution;

(14) Indian tribal judgment funds distributed per capita under P.L. 93-134, P.L. 94-114, P.L. 97-408, P.L. 97-458, P.L. 98-64;

(15) Two thousand dollars per person per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 92-203 and P.L. 100-241;

(16) Payments 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;

(17) Payments made from the Agent Orange Settlement Fund established to settle agent orange liability claims under P.L. 101-201.

NEW SECTION

WAC 388-225-0160 Income deductions. The department shall allow the following deductions from the household's income:

(1) Ninety dollars from earned income for work expenses;

(2) The actual amount paid for child care from earned income up to the maximums allowed for the aid to families with dependent children program; and

(3) The current month's verified expenditures for:

(a) Medical bills;

(b) Emergent child care to avoid abuse;

(c) Dental care to alleviate pain; or

(d) Costs incurred in obtaining employment.

NEW SECTION

WAC 388-225-0170 Determining income and resources. (1) The department shall estimate the expected income, resources, and circumstances for the calendar month in which eligibility is established for all:

(a) Assistance unit members as described under WAC 388-225-0050(1); and

(b) If included at the option of the family, assistance unit members as described under WAC 388-225-0050(2); and

(c) Spouses and minor siblings of persons included in the assistance unit, if living with the family.

(2) The department shall base the income estimate on reasonable expectation and knowledge of anticipated total nonexempt income for the family members described under subsection (1) of this section, including all public assistance payments plus authorized additional requirements.

(3) The department shall consider all nonexempt income, resources, cash, marketable securities, personal property, and real property of all family members described under subsection (1) of this section.

(4) The department shall place a value on all nonexempt resources available to the applicant at the time of grant authorization in accordance with aid to families with dependent children program policy regarding nonexempt resources.

NEW SECTION

WAC 388-225-0180 Financial need and CEAP grant amount. (1) The department shall deduct the following from the amount required to meet the emergent need subject to CEAP payment standard maximums and limitations:

(a) Nonexempt income (including public assistance grants and authorized additional requirements) less income deductions; and

(b) Cash on hand if not already counted as income; and

(c) The value of other nonexempt resources at the time of grant authorization.

(2) If the total value of the items listed under subsection (1) of this section is equal to or in excess of the amount required to meet the emergent need, subject to CEAP payment standard maximums and limitations, the applicant shall be ineligible.

(3) If the total value of the items listed under subsection (1) of this section is less than the amount required to meet the emergent need, subject to CEAP payment standard maximums and limitations, the department shall grant assistance in the amount of the difference.

(4) The department shall not deny CEAP to an eligible child based on the income and resources of a relative caretaker who is not:

- (a) The child's parent; and
- (b) Legally obligated to support the child; and
- (c) Required to be included in the assistance unit as specified under WAC 388-225-0050.

NEW SECTION

WAC 388-225-0190 Payment limitations. (1) The department shall authorize CEAP for not more than thirty consecutive days in any period of twelve consecutive calendar months.

(2) The department shall pay CEAP by warrant directly to the household or by vendor payment.

NEW SECTION

WAC 388-225-0300 Crisis intervention social services for families and children. (1) The department may authorize social services under CEAP for a child in emergent need who, subject to department determination and approval:

(a) Has been, or is in danger of becoming, abandoned, abused or neglected; or

(b) Is a risk of an out of home placement.

(2) The services provided under this provision are contracted services that do not grant direct cash assistance to the family or child and consist of:

- (a) Short-term substitute care,
- (b) Family preservation services,
- (c) Family reconciliation services,
- (d) Home-based services,
- (e) Crisis Nurseries,
- (f) Psychiatric/psychological evaluations,
- (g) Sexual deviancy and abuse evaluations,
- (h) Therapeutic child care.

(3) Except for the emergent need criteria, eligibility conditions for the services offered under this section are the same as those listed in this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-24-250 Consolidated emergency assistance program—Conditions of eligibility.

WAC 388-24-252 Consolidated emergency assistance program—Persons included in payment of grant.

WAC 388-24-253 Exempt income and resources for CEAP.

WAC 388-24-254 Determining income for CEAP.

WAC 388-24-255 Consolidated emergency assistance program (CEAP)—Financial need and benefit amounts.

WAC 388-24-260 Consolidated emergency assistance program—Payments.

WAC 388-24-265 Consolidated emergency assistance program (CEAP)—Assistance units.

**WSR 94-06-034
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES**

[Order 617—Filed February 25, 1994, 2:17 p.m.]

Date of Adoption: February 25, 1994.

Purpose: To amend WAC 332-120-010, 332-120-020, 332-120-030, 332-120-040, and 332-120-050 and to create WAC 332-120-060 and 332-120-070. These changes will better define the applicability of the rules, improve the efficiency of the permitting process and simplify the form.

Citation of Existing Rules Affected by this Order: Amending chapter 332-120 WAC.

Statutory Authority for Adoption: RCW 58.24.040(8).

Pursuant to notice filed as WSR 94-01-022 on December 3, 1993.

Changes Other than Editing from Proposed to Adopted Version: Modified the layout of items on the permit form to improve efficiency of processing.

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

February 25, 1994
Kaleen Cottingham
Supervisor

AMENDATORY SECTION (Amending Order 131, filed 3/1/72, effective 4/7/72)

WAC 332-120-010 ((Definition.)) Authority. ((Monument: Any physical object or structure of record which marks or accurately references a corner or other survey point established by or under the supervision of a qualified party, including any corner or natural monument established by the general land office and its successor, the bureau of land management; section subdivision corners down to and including one sixteenth corners and any permanently monumented boundary, rights of way alignment, horizontal and vertical control points established by any governmental agency or private surveyor including street intersections but excluding dependent interior lot corner points.)) The department of natural resources, in accordance with RCW 58.24.030 and 58.24.040 (1) and (8), prescribes the following regulations concerning the removal or destruction of survey monuments and the perpetuation of survey points.

PERMANENT

PERMANENT

AMENDATORY SECTION (Amending Order 131, filed 3/1/72, effective 4/7/72)

WAC 332-120-020 ((Application-)) Definitions. ((All persons desiring to temporarily remove or destroy a section corner or any other land boundary mark or monument shall submit an application in substantially the following form to the commissioner of public lands, giving all pertinent information regarding existing conditions at the monument, necessity for its temporary removal or destruction, and methods proposed for refereneing or witnessing the monument to preserve its position. The application form shall be signed by a registered professional engineer or land surveyor and shall bear his seal and license number.

State of Washington
Department of Natural Resources

APPLICATION FOR PERMIT TO TEMPORARILY REMOVE OR DESTROY SECTION CORNER, OR OTHER LAND BOUNDARY MARK OR MONUMENT

To the Commissioner of Public Lands:
Pursuant to the provisions of Paragraph 6, section 25, chapter 271, Laws of 1969 ex. sess., the undersigned (name) acting in and for (person, firm, corporation, or association) hereby applies for permit to

(temporarily remove) (destroy)
(strike out one)

the following described survey monument in Section Township North, Range in County.

EXISTING CONDITIONS AT MONUMENT

Type of Monument: Sect. Cor. (), Triangulation Sta. (), Bench Mark (), Other
Established By: GLO (), Federal (), State (), Other
Marked By: Pipe (), Rock (), Tree (), Cone, Mon. (), Brass Cap (), Other
Original and/or Supporting Evidence Found:
Coordinates: State (Lambert) (), Zone, Other (specify)
Y (N) X (E)
Source of Coordinates:
Accuracy of Coordinates:

SKETCH (Indicate Meridian)

necessity for temporary removal or destruction of monument

PROPOSED METHOD OF REFERENCING and/or REESTABLISHING MONUMENT

SEAL Date

Signature of Registered Engineer or Land Surveyor
Lic. No. Address

Mail completed form to:
Department of Natural Resources
Bureau of Surveys and Maps
P.O. Box 168 Tel. No. 753-5337
Olympia, WA 98504)) The following definitions shall apply to this chapter:

Department: The department of natural resources.
Engineer: Any person authorized to practice the profession of engineering under the provisions of chapter 18.43 RCW who also has authority to do land boundary surveying pursuant to RCW 36.75.110, 36.86.050, 47.36.010 or 58.09.090.

Geodetic control point: Points established to mark horizontal or vertical control positions that are part of the National Geodetic Survey Network.

Land boundary survey corner: A point on the boundary of any easement, right of way, lot, tract, or parcel of real property; a controlling point for a plat; or a point which is a General Land Office or Bureau of Land Management survey corner.

Land corner record: The record of corner information form as prescribed by the department of natural resources pursuant to chapter 58.09 RCW.

Land surveyor: Any person authorized to practice the profession of land surveying under the provisions of chapter 18.43 RCW.

Local control point: Points established to mark horizontal or vertical control positions that are part of a permanent government control network other than the National Geodetic Survey network.

Parcel: A part or portion of real property including but not limited to GLO segregations, easements, rights of way, aliquot parts of sections or tracts.

Removal or destruction: The physical disturbance or covering of a monument such that the survey point is no longer visible or readily accessible.

Survey monument: The physical structure, along with any references or accessories thereto, used to mark the location of a land boundary survey corner, geodetic control point, or local control point.

Survey Recording Act: The law as established and designated in chapter 58.09 RCW.

AMENDATORY SECTION (Amending Order 131, filed 3/1/72, effective 4/7/72)

WAC 332-120-030 ((Permit-)) Applicability. ((When satisfied that the application complies with all laws and regulations, the officer in charge of the bureau of surveys and maps, designated as the issuing officer for such permit, acting for the commissioner of public lands, shall issue a permit in substantially the following form for the temporary removal or destruction of the mark or monument. He shall maintain on file a public record of such permits issued, and provide copies of said permits on request and within 5 working days to the respective county or local governmental agencies where required.

Permit No.

To the Commissioner of Public Lands:

State of Washington
Department of Natural Resources
Olympia, Washington

In accordance with your Permit No. dated
..... 19.., I have (temporarily removed) (destroyed)
monument named therein. There follows a description of
monuments and accessories I established to perpetuate the
original location of this point.

~~PERMIT TO TEMPORARILY REMOVE OR DESTROY SECTION
CORNER, OR OTHER LAND BOUNDARY MARK OR
MONUMENT~~

(Sketch attach sheet if necessary)

To:
(applicant)
.....
(street) (city) (state) (zip)

.....
(signature)
.....
(address)

Pursuant to the authority vested in me by chapter 271,
Laws of 1969 ex. sess., and in conformity with your applica-
tion dated 19.. you are hereby authorized to
(temporarily remove) (destroy) the following described
survey monument:

(Seal)
License No.

.....
.....

This permit is granted subject to the provisions of law
and the regulations promulgated by me, as given on the
reverse side of the application form. The work performed
by you under this permit is to be reported to the issuing
officer on the Report form below, and is subject to field
inspection at his discretion.

~~Except, applications concerning any monument of the
federal horizontal or vertical geodetic networks will be
referred for appropriate action to the National Ocean Survey
and as applicable and if so identified, the establishing party
or agency of any monument will be immediately notified of
the pending action.~~

The requirement for reference to the Washington
Coordinate System is hereby waived.
Yes () No ()

~~Except, under extraordinary circumstances, to prevent
hardship and delay, the issuing officer upon assurance by an
authorized party that proper precautions are being taken to
perpetuate a point, may verbally grant permission to proceed
pending the processing and issuance of a written permit:))
(1) No survey monument shall be removed or destroyed
before a permit is obtained as required by this chapter.~~

BERT L. COLE
Commissioner of Public Lands

~~(2) Any person, corporation, association, department, or
subdivision of the state, county or municipality responsible
for an activity that may cause a survey monument to be
removed or destroyed shall be responsible for ensuring that
the original survey point is perpetuated. It shall be the
responsibility of the governmental agency or others perform-
ing construction work or other activity (including road or
street resurfacing projects) to adequately search the records
and the physical area of the proposed construction work or
other activity for the purpose of locating and referencing any
known or existing survey monuments.~~

Date of Issue by
..... (Authorized Issuing
Officer)

~~A government agency, when removing a local control
point that it has established, shall be exempted from the
requirements of this chapter.~~

(Detach at perforations)

State of Washington
Department of Natural Resources
Olympia, Washington

~~(3) Survey monuments subject to this chapter are those
monuments marking local control points, geodetic control
points, and land boundary survey corners.~~

~~REPORT ON TEMPORARY REMOVAL OR DESTRUC-
TION OF SECTION CORNER OR OTHER LAND BOUND-
ARY MARK OR MONUMENT~~

.....
(date)

~~In regard to local or geodetic control points the depart-
ment will defer authorization for the removal or destruction
of the survey monument to the agency responsible for the
establishment or maintenance of the control point. Such
agency may, at their discretion, exempt the applicant from
the remonumentation requirements of this chapter. Such
exemption shall be noted by the agency on the application
form.~~

PERMANENT

AMENDATORY SECTION (Amending Order 131, filed 3/1/72, effective 4/7/72)

WAC 332-120-040 ((Standards.)) Monument removal or destruction. ~~((The issuing officer may waive the requirement for referencing to the Washington state coordinate system where such referencing is deemed to be impractical. Replacement and/or reference monuments to be of a permanent nature suitable for local conditions, and identified as to the responsible party or agency and the month and year when set. Replacement monuments or reference monuments established in lieu thereof shall be of a kind or a higher standard than the monument being replaced. Said issuing officer shall be guided by the following recommended standards for remonumentation as published by the department of natural resources pursuant to section 27, chapter 271, Laws of 1969 ex. sess.:~~

~~(1) All concrete monuments used must contain reinforcing steel or other magnetic material, except those enclosed in monument cases.~~

~~(2) A minimum of 2" diameter iron pipe should be used for monuments in unpaved streets.~~

~~(3) Monument cases shall be used in paved streets. Minimum monument in cases shall be 2" diameter concrete filled iron pipe-))~~ (1) All land boundary survey monuments that are removed or destroyed shall be replaced or witness monuments shall be set to perpetuate the survey point.

(2) A land boundary survey corner shall be referenced to the Washington Coordinate System of 1983, adjusted in 1991, prior to removal or destruction. See WAC 332-130-060, Geodetic control, survey standards.

An applicant may request a variance from this referencing requirement by so noting in the applicant information section on the permit and providing the justification on the back of the form. The department shall note whether the variance is approved or not approved and shall provide the reason for not approving the request.

AMENDATORY SECTION (Amending Order 131, filed 3/1/72, effective 4/7/72)

WAC 332-120-050 ((Report.)) Application process. ~~((Upon completion of the temporary removal and replacement or the destruction of a mark or monument and the proper establishment of reference monuments, the applicant shall within 10 days complete the report form which is attached to his permit (see permit form under WAC 332-120-030) showing all pertinent information as to work accomplished, marks, reference marks, reference points, and any accessories or features by which the point can be located if inaccessible or otherwise difficult to ascertain. When completed, this form shall be detached from the permit and be returned to the issuing officer for his permanent file. The issuing officer shall furnish copies of this form upon request and within 5 working days to the county and local governing agencies as applicable.))~~ (1) Whenever a survey monument needs to be removed or destroyed the application required by this chapter shall be submitted to the department.

It shall be completed, signed and sealed by a land surveyor or engineer as defined in this chapter.

(2) Upon receipt of a properly completed application, the department shall promptly issue a permit authorizing the removal or destruction of the monument; provided that:

(a) In extraordinary circumstances, to prevent hardship or delay, a verbal authorization may be granted, pending the processing and issuance of a written permit. A properly completed application shall be submitted by the applicant within fifteen days of the verbal authorization.

(b) Applications received by the department concerning local or geodetic control points will be referred to the appropriate agency for action. The applicant will be notified when such action is taken.

(3) One application may be submitted for multiple monuments to be removed or destroyed as part of a single project; however, there shall be separate attachments to the application form detailing the required information for each monument removed or destroyed.

NEW SECTION

WAC 332-120-060 Project completion—Perpetuation of the original position. (1) After completion of the activity that caused the removal or destruction of the monument, a land surveyor or engineer shall, unless specifically authorized otherwise:

(a) Reset a suitable monument at the original survey point or, if that is no longer feasible;

(b) Establish permanent witness monuments easily accessible from the original monument to perpetuate the position of the preexisting monument.

(2) Land boundary survey monumentation required by this chapter shall meet the requirements of the RCW 58.09.120 and 58.09.130.

(3) After completion of the remonumentation, the land surveyor or engineer shall complete the report form required by this chapter and forward it to the department.

(4) Additionally, after remonumenting any corner originally monumented by the GLO or BLM, a land corner record form shall also be filed with the county auditor as required by the Survey Recording Act.

NEW SECTION

WAC 332-120-070 Application/permit form. The following form shall be used when making application to remove or destroy a survey monument:

APPLICATION FOR PERMIT TO REMOVE OR DESTROY A SURVEY MONUMENT

PERMIT NO.

You are hereby authorized to remove or destroy
the described survey monument(s):

AUTHORIZING SIGNATURE/DATE
(DNR or Other Authorizing Agency)

APPLICANT INFORMATION:

NAME: _____ TELEPHONE NO: _____ DATE: _____
COMPANY OR AGENCY NAME AND ADDRESS: _____

I estimate that this work will be finished by (date) _____.

_____ I request a variance from the requirement to reference to the Washington Coordinate System. (Please provide your justification in the space below.)

The variance request is _____ approved; _____ not approved. (FOR DNR USE ONLY) Reason for not approving:

MULTIPLE MONUMENTS:

_____ Check here if this form is being used for more than one monument. You must attach separate sheets showing the information required below for each monument affected. You must seal, sign and date each sheet.

INDEXING INFORMATION FOR AN INDIVIDUAL MONUMENT:

- 1) THE MONUMENT IS LOCATED IN: SEC _____ TWP _____ RGE _____ 1/4-1/4 _____
2) ADDITIONAL IDENTIFIER: (e.g., BLM designation for the corner, street intersection, plat name, block, lot, etc.)

MONUMENT INFORMATION:

Describe: 3) the monument/accessories found marking the position,
4) the temporary references set to remonument the position (include coordinates when applicable), and
5) the permanent monument(s) to be placed on completion (if a permanent witness monument(s) is set include the references to the original position).

SEAL/SIGNATURE/DATE SIGNED

(Form prescribed 2/94 by the Public Land Survey Office, Dept. of Natural Resources, pursuant to RCW 58.24.040 (8).)

PERMANENT

COMPLETION REPORT FOR MONUMENT REMOVAL OR DESTRUCTION

(TO BE COMPLETED AND SENT TO THE DNR AFTER THE WORK IS DONE.)

_____ I have perpetuated the position(s) as per the detail shown on the application form.

SEAL/SIGNATURE/DATE SIGNED

OR

_____ I was unable to fulfill the plan as shown on the application form. Below is the detail of what I did do to perpetuate the original position(s). (If the application covered multiple monuments attach sheets providing the required information. Seal, sign and date each sheet.)

SEAL/SIGNATURE/DATE SIGNED

PERMANENT

February 25, 1994
Bruce Miyahara
Secretary

WSR 94-06-047
PERMANENT RULES
DEPARTMENT OF HEALTH
(Dispensing Optician)
[Filed March 1, 1994, 8:42 a.m.]

Date of Adoption: February 9, 1994.

Purpose: Requires the [that] certain records be maintained and sets forth minimum equipment requirements.

Statutory Authority for Adoption: RCW 18.130.070, 43.17.060, and 43.70.040.

Pursuant to notice filed as WSR 94-02-057 on January 3, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-824-220(11) was omitted because there is no supporting rule or statute.

Effective Date of Rule: Thirty-one days after filing.
February 28, 1994
Bruce Miyahara
Secretary

NEW SECTION

WAC 246-824-220 Retention of contact lens records.

Dispensing opticians shall maintain contact lens records for a minimum of five years. Such records shall include:

- (1) The written prescription;
- (2) Base curve (posterior radius of curvature);
- (3) Thickness when applicable;
- (4) Secondary/peripheral curve, when applicable;
- (5) Power of lens dispensed;
- (6) Lens material, brand name and/or manufacturer;
- (7) Diameter, when applicable;
- (8) Suggested wearing schedule and care regimen;
- (10) Color, when applicable;

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.

NEW SECTION

WAC 246-824-230 Minimum fitting equipment.

Dispensing opticians shall have direct access to the following equipment while fitting contact lenses: Slitlamp or biomicroscope (for evaluation of the fit only), radioscope, diameter gauge, thickness gauge, lensometer, and keratometer.

WSR 94-06-048
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed March 1, 1994, 8:47 a.m.]

Date of Adoption: February 9, 1994.

Purpose: To replace chapter 246-132 WAC.

Citation of Existing Rules Affected by this Order:
Repealing chapter 246-132 WAC.

Statutory Authority for Adoption: RCW 70.24.130 and 70.24.440.

Pursuant to notice filed as WSR 94-01-057 on December 8, 1993.

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

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- | | |
|-----------------|--|
| WAC 246-132-020 | Class IV human immunodeficiency virus (HIV) insurance program. |
| WAC 246-132-030 | Eligibility. |

WSR 94-06-063
PERMANENT RULES
PERSONNEL RESOURCES BOARD

[Filed March 2, 1994, 10:34 a.m., effective January 1, 1995]

Date of Adoption: February 10, 1994.

Purpose: The purpose of chapter 359-09 WAC is to provide guidance to state agencies, higher education institutions, and related boards to comply with the provisions of chapters 41.06, 49.60 and 49.74 RCW, and executive orders, which provide for affirmative action and equal employment opportunity.

Citation of Existing Rules Affected by this Order: New WAC 359-09-010, 359-09-012, 359-09-015, 359-09-020, 359-09-030, 359-09-040, and 359-09-050.

Statutory Authority for Adoption: Chapter 41.06 RCW and RCW 41.06.150.

Pursuant to notice filed as WSR 94-04-086 on January 31, 1994.

Changes Other than Editing from Proposed to Adopted Version: The sections were rewritten and unnecessary detail was removed from the content of the rules. The adopted version of the rules is streamlined and more precise.

Effective Date of Rule: January 1, 1995.

March 1, 1994
Dennis Karras
Secretary

NEW SECTION

WAC 359-09-010 Purpose. The purpose of this chapter is to provide guidance to state agencies, higher education institutions, and related boards to comply with the provisions of chapters 41.06, 49.60, and 49.74 RCW, and executive orders, which provide for affirmative action and equal employment opportunity. Equal employment opportunity is equal opportunity for all in employment matters; affirmative action is good faith efforts designed to correct the effects of past discrimination. Agencies, higher education institutions, and related boards will take measures to remove barriers to equal employment opportunity, to provide for affirmative action where underutilization exists, and to monitor progress toward achieving affirmative action goals through internal affirmative action programs.

NEW SECTION

WAC 359-09-012 Guidelines. State agencies, higher education institutions, and related boards shall use the applicable guidelines in the development, implementation, and monitoring of affirmative action programs. References to affirmative action guidelines in this chapter, unless noted differently, shall mean state guidelines for state agencies, state guidelines for higher education institutions, or the regional standard affirmative action format.

NEW SECTION

WAC 359-09-015 Governor's affirmative action policy committee. The governor's affirmative action policy committee shall have jurisdiction for the development and oversight of affirmative action plans, including approving affirmative action plans for state agencies, higher education institutions, and related boards for implementation strategies and goal progress.

NEW SECTION

WAC 359-09-020 Required submissions. State agencies, higher education institutions, and related boards shall submit to the department of personnel policy statements, workforce profiles, and/or affirmative action plans and updates. The content and submission requirements shall be in accordance with the applicable guidelines. Policy statements will include statements on equal employment opportunity, affirmative action, sexual harassment, and reasonable accommodation.

NEW SECTION

WAC 359-09-030 Reasonable accommodation. State agencies, higher education institutions, and related boards will provide reasonable accommodation for persons with disabilities as required by state and federal law. Reasonable accommodation may include, but is not limited to, accommodation in application procedures, testing, and modifications or adjustments to a job, work method, or work environment that make it possible for a qualified person with a disability to perform the essential functions of a position.

NEW SECTION

WAC 359-09-040 Department of personnel. The department of personnel is responsible for administering the state's affirmative action program. It provides technical assistance in the development and implementation of affirmative action plans and programs to state agencies, higher education institutions, and related boards. In keeping with these responsibilities, and per applicable guidelines and state and federal laws, the department of personnel shall:

- (1) Establish guidelines to assist in developing and implementing affirmative action plans.
- (2) Provide the data essential in conducting required availability analysis.
- (3) Provide technical review and approval of policy statements and affirmative action plans and updates. Submit technically approved plans and updates to the governor's affirmative action policy committee.

(4) Monitor the department's recruitment, testing, and training and career development programs for adverse impact, as necessary.

(5) Upon request of state agencies, higher education institutions, and related boards, assist in the recruitment of protected group members, including target recruitment when the representation of protected group members is less than their availability.

(6) Review the progress of state agencies, higher education institutions, and related boards, in meeting goals and addressing problems identified in affirmative action plans and programs.

(7) Review state-wide employment trends such as appointment, promotion, transfer, terminations, and formal disciplinary actions for adverse impact, as necessary.

NEW SECTION

WAC 359-09-050 Testing—Supplemental certification. (1) The department of personnel will make reasonable accommodations for persons with disabilities during test procedures.

(2) When a state agency, higher education institution, or related board has established affirmative action goals for classified employees in accordance with the applicable guidelines:

(a) Members of underutilized groups may be added anytime to registers and eligible lists as provided in chapter 359-26 WAC.

(b) When available, additional names of eligibles who meet applicable affirmative action criteria shall be certified in accordance with chapter 359-26 WAC.

**WSR 94-06-068
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Order 93-17—Filed March 2, 1994, 12:00 p.m.]

Date of Adoption: March 2, 1994.

Purpose: Chapter 296-24 WAC, General safety and health standards, state-initiated amendments to six sections of the general standard will add a note that these sections will apply to the agriculture industry effective March 1, 1995, to ensure agriculture workers are provided protection equal to that provided for workers in general industry. Chapter 296-306 WAC, Safety standards for agriculture will continue to augment the general standards, specifically addressing hazards which are unique to augment the general standards specifically addressing hazards which are unique to agriculture. In the event of a conflict between the two standards, chapter 296-306 WAC shall apply; and chapter 296-306 WAC, Safety standards for agriculture, state-initiated amendments to chapter 296-306 WAC reconcile the chapter requirements with those of chapter 296-24 WAC. In addition, amendments to several sections in this chapter are to correct references, correct specific references to gender, and correct typographical errors.

Details of Specific Proposed Amendments: WAC 296-306-010, amendment to subsection (2) incorporates the requirements of chapter 296-24 WAC by reference, effective

March 1, 1995; WAC 296-306-012, amendment corrects references to specific genders; WAC 296-306-015, amendments are housekeeping changes to correct references to gender and an address correction; WAC 296-306-020, amendment corrects references to specific genders; WAC 296-306-057, amendment is a housekeeping change to correct references to gender; WAC 296-306-110, amendment is a housekeeping change to correct references to gender; WAC 296-306-115, amendment is a housekeeping change to correct an illustration; WAC 296-306-120, amendment is a housekeeping change to correct references to gender; WAC 296-306-160, amendment is a housekeeping change to correct references to gender; WAC 296-306-200, amendments relating to rollover protective structures (ROPS). Amendment requires all agriculture tractors manufactured after October 25, 1976, and tractors manufactured on or before October 26, 1976, sold with ROPS or designed to accommodate the addition of ROPS shall meet the requirements of the section. This requirement is effective March 1, 1995. A reference to WAC 296-306-165 (1)(j) is added to subsection (6)(a); WAC 296-306-25007, amendments are housekeeping changes to correct typographical errors; WAC 296-306-260, amendment is a housekeeping change to correct subsection numbering; WAC 296-306-265, amendment is a housekeeping change to correct the reference from "part" to "chapter"; and WAC 296-306-400, amendment adds a note to subsection (1) referencing the United States Environmental Protection Agency requirements for posting after April 15, 1994. The note is added to provide stakeholders with federally mandated information.

Citation of Existing Rules Affected by this Order: Amending chapter 296-24 WAC, General safety and health standards: WAC 296-24-11001 Scope, application, and purpose, 296-24-12001 Scope, 296-24-14011 Accident prevention tags, 296-24-33003 Scope, 296-24-58503 Scope, application and definitions applicable, and 296-24-73501 General requirements; and amending chapter 296-306 WAC, Safety standards for agriculture, WAC 296-306-010 Purpose and scope, 296-306-012 Definitions applicable to all sections of this chapter, 296-306-015 Variance procedures, 296-306-020 Serious injury reporting, 296-30-6057 Hand tools, 296-306-110 Job-made ladders, 296-306-115 Bins, bunkers, hoppers, tanks, pits, and trenches, 296-306-120 Agricultural aerial manlift equipment, 296-306-160 Vehicles, 296-306-200 Rollover protective structures (ROPS) for tractors used in agricultural operations, 296-306-25007 Test procedures, 296-306-260 Rollover protective structures (ROPS) for material handling equipment, 296-306-265 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in agriculture, and 296-306-400 Posting requirements. As a result of written and oral comments received, the following sections are being withdrawn: Chapter 296-306 WAC: WAC 296-30-6003 Subsections, subdivisions, items, sub-items, and segments, 296-306-025 Management's responsibility, 296-306-030 Employee's responsibility, 296-306-045 First-aid training and certification, 296-306-050 First-aid kit, 296-306-055 Safe place standards, 296-306-060 Personal protective equipment, 296-306-061 Machinery and machine guarding, 296-306-065 Materials handling and storage, 296-306-070 Reserved, 296-306-075 Bench grinders, 296-306-080 Guarding of hand-held portable power tools, 296-306-

084 Portable abrasive wheels, 296-306-085 Fire protection and ignition sources, 296-306-090 Storage and handling of anhydrous ammonia, 296-306-095 Elevated walkways and platforms, 296-306-100 Handrails, 296-306-125 Gas welding and cutting, 296-306-130 Welding, 296-306-135 Arc welding and cutting, 296-306-140 Welding areas protected, 296-306-145 Electrical, 296-306-165 General requirements for all agricultural equipment, 296-306-175 Farm field equipment guarding, and 296-306-300 Field sanitation—Scope.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Pursuant to notice filed as WSR 93-21-071 on October 20, 1993.

Changes Other than Editing from Proposed to Adopted Version: As a result of written and oral comments received, the following proposed amendments and new sections are adopted with the following changes: WAC 296-24-11001, the proposed removal of the exemption to the agriculture industry is deleted. A note is added to this section that will make the section applicable to agriculture, effective March 1, 1995; WAC 296-24-12001, the proposed removal of the exemption to the agriculture industry is deleted. A note is added to this section that will make the section applicable to agriculture, effective March 1, 1995; WAC 296-24-14011, the proposed removal of the exemption to the agriculture industry is deleted. A note is added to this section that will make the section applicable to agriculture, effective March 1, 1995; WAC 296-24-33003, the proposed removal of the exemption to the agriculture industry is deleted. A note is added to this section that will make the section applicable to agriculture, effective March 1, 1995; WAC 296-24-58503, the proposed removal of the exemption to the agriculture industry is deleted. A note is added to this section that will make the section applicable to agriculture, effective March 1, 1995; WAC 296-24-73501, the proposed removal of the exemption to the agriculture industry is deleted. A note is added to this section that will make the section applicable to agriculture, effective March 1, 1995; WAC 296-306-010, subsection (2) is adopted with an added effective date of March 1, 1995; WAC 296-306-012, proposed text referencing definitions in chapter 296-24 WAC is removed. Housekeeping changes were added to correct a gender reference in subsection (1); WAC 296-306-020, proposed new text is deleted. Housekeeping changes only; WAC 296-306-115, subsection (2) is adopted to reflect a housekeeping change to delete reference to "angle of repose." Amendment corrects language to be consistent with federal and other WISHA standards; WAC 296-306-120, proposed title change and reference to chapter 296-24 WAC is removed. Housekeeping changes only; WAC 296-306-160, proposed reference to chapter 296-24 WAC is removed. Housekeeping changes only; WAC 296-306-200, subsection (1) is adopted with a March 1, 1995, implementation date for pre-1976 tractors capable of being retrofitted with rollover protection and meeting the requirements of this section. A reference to WAC 296-306-165 (1)(j) is added to subsection (6)(a); and WAC 296-306-400, note in subsection (1) is amended to be consistent with the United States Environmental Protection Agency's posting requirements.

Effective Date of Rule: WAC 296-24-1001, 296-24-12001, 296-24-14011, 296-24-33003, 296-24-58503, 296-24-73501, 296-306-010, and 296-306-200 effective March 1, 1995. WAC 296-306-012, 296-306-015, 296-306-020, 296-

306-057, 296-306-110, 296-306-115, 296-306-120, 296-306-160, 296-306-25007, 296-306-260, 296-306-265, and 296-306-400 effective April 15, 1994.

February 28, 1994
 Mark O. Brown
 Director

**INDEX OF SECTIONS
 ADMINISTRATIVE ORDER OF ADOPTION 93-17
 Amended Sections**

Chapter 296-24-WAC, General Safety and Health Standards

WAC 296-24-11001 Scope, application, and purpose.
 WAC 296-24-12001 Scope.
 WAC 296-24-14011 Accident prevention tags.
 WAC 296-24-33003 Scope.
 WAC 296-24-58503 Scope, application and definitions applicable.
 WAC 296-24-73501 General requirements.

Chapter 296-306 WAC, Safety Standards for Agriculture

WAC 296-306-010 Purpose and Scope
 WAC 296-306-012 Definitions applicable to all sections of this chapter.
 WAC 296-306-015 Variance procedures.
 WAC 296-306-020 Serious injury reporting.
 WAC 296-306-057 Hand tools.
 WAC 296-306-110 Job-made ladders.
 WAC 296-306-115 Bins, bunkers, hoppers, tanks, pits and trenches.
 WAC 296-306-120 Agricultural aerial manlift equipment.
 WAC 296-306-160 Vehicles.
 WAC 296-306-200 Rollover protective structures (ROPS) for tractors used in agricultural operations.
 WAC 296-306-25007 Test procedures.
 WAC 296-306-260 Rollover protective structures (ROPS) for material handling equipment.
 WAC 296-306-265 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in agriculture.
 WAC 296-306-400 Posting requirements.

AMENDATORY SECTION (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

WAC 296-24-11001 Scope, application, and purpose.

- (1) Scope.
- (a) This standard covers the servicing and maintenance of machines and equipment in which the unexpected energization or start up of the machine or equipment or release of stored energy could cause injury to employees. This standard establishes minimum performance requirements for the control of such hazardous energy. This section shall apply to agriculture March 1, 1995.
- (b) This standard does not cover the following:
- (i) Construction(~~(-agriculture,))~~ and maritime employment;
- (ii) Installations under the exclusive control of electric utilities for the purpose of power generation, transmission,

and distribution, including related equipment for communications or metering; and

- (iii) Exposure to electrical hazards from work on, near, or with conductors or equipment in electric utilization installations, which is covered by Part L of chapter 296-24 WAC; and
- (iv) Oil and gas well drilling and servicing.
- (2) Application.
- (a) This standard applies to the control of energy during servicing and/or maintenance of machines and equipment.
- (b) Normal production operations are not covered by this standard (see Part C of chapter 296-24 WAC). Servicing and/or maintenance which takes place during normal production operations is covered by this standard only if:
- (i) An employee is required to remove or bypass a guard or other safety device; or
- (ii) An employee is required to place any part of his or her body into an area on a machine or piece of equipment where work is actually performed upon the material being processed (point of operation) or where an associated danger zone exists during a machine operating cycle.

Note: Exception to subdivision (b) of this subsection. Minor tool changes and adjustments, and other minor servicing activities, which take place during normal production operations, are not covered by this standard if they are routine, repetitive, and integral to the use of the equipment for production, provided that the work is performed using alternative measures which provide effective protection (see Part C of chapter 296-24 WAC).

- (c) This standard does not apply to the following:
- (i) Work on cord and plug connected electric equipment for which exposure to the hazards of unexpected energization or start up of the equipment is controlled by the unplugging of the equipment from the energy source and by the plug being under the exclusive control of the employee performing the servicing or maintenance.
- (ii) Hot tap operations involving transmission and distribution systems for substances such as gas, steam, water, or petroleum products when they are performed on pressurized pipelines, provided that the employer demonstrates that:
- (A) Continuity of service is essential;
- (B) Shutdown of the system is impractical; and
- (C) Documented procedures are followed, and special equipment is used which will provide proven effective protection for employees.
- (3) Purpose.

(a) This section requires employers to establish a written program and utilize procedures for affixing appropriate lockout devices or tagout devices to energy isolating devices, and to otherwise disable machines or equipment to prevent unexpected energization, start-up, or release of stored energy in order to prevent injury to employees.

(b) When other Title 296 WAC vertical standards require the use of lockout or tagout, they shall be used and supplemented by the procedural and training requirements of this part.

AMENDATORY SECTION (Amending Order 74-27, filed 5/7/74)

WAC 296-24-12001 Scope. This scope includes all sections of WAC 296-24-120 in the numbering and applies to all permanent places of employment except where

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domestic, ~~or mining~~ (~~or agricultural~~) work only is performed. This section shall apply to agriculture March 1, 1995. Measures for the control of toxic materials are considered to be outside the scope of this section.

AMENDATORY SECTION (Amending Order 87-01, filed 3/12/87)

WAC 296-24-14011 Accident prevention tags. (1) Scope and purpose.

(a) This section applies to all accident prevention tags used to identify hazardous conditions and provide a message to employees with respect to hazardous conditions as set forth in subsection (3) of this section, or to meet the specific requirements of other WAC requirements.

(b) Tags are a temporary means of warning all concerned of a hazardous condition, defective equipment, radiation hazards, etc. The tags are not to be considered as a complete warning method, but should be used until a positive means can be employed to eliminate the hazard; for example, a "do not start" tag on power equipment shall be used for a few moments or a very short time until the switch in the system can be locked out; a "defective equipment" tag shall be placed on a damaged ladder and immediate arrangements made for the ladder to be taken out of service and sent to the repair shop.

(c) This section does not apply to construction (~~or agriculture~~). This section shall apply to agriculture March 1, 1995.

(2) Definitions.

(a) "Biological hazard" or "**Biohazard**" means those infectious agents presenting a risk of death, injury or illness to employees.

(b) "Major message" means that portion of a tag's inscription that is more specific than the signal word and that indicates the specific hazardous condition or the instruction to be communicated to the employee. Examples include: "High Voltage," "Close Clearance," "Do Not Start," or "Do Not Use" or a corresponding pictograph used with a written text or alone.

(c) "Pictograph" means a pictorial representation used to identify a hazardous condition or to convey a safety instruction.

(d) "Signal word" means that portion of a tag's inscription that contains the word or words that are intended to capture the employee's immediate attention.

(e) "Tag" means a device usually made of card, paper, pasteboard, plastic or other material used to identify a hazardous condition.

(3) Use.

(a) Tags shall be used as a means to prevent accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent.

(b) Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is completed. Tags need not be used where signs, guarding or other positive means of protection are being used.

(c) Do not start tags shall be placed in a conspicuous location or shall be placed in such a manner that they effectively block the starting mechanism which would cause

hazardous conditions should the equipment be energized. See Fig. J-11.

(4) General tag criteria.

(a) All required tags shall meet the following criteria:

(i) Tags shall contain a signal word and a major message.

(ii) The signal word shall be either "Danger," "Caution," or "Biological Hazard," "biohazard," or the biological hazard symbol.

(iii) The major message shall indicate the specific hazardous condition or the instruction to be communicated to the employee.

(b) The signal word shall be readable at a minimum distance of five feet (1.52 m) or such greater distance as warranted by the hazard.

(c) The tag's major message shall be presented in either pictographs, written text or both.

(d) The signal word and the major message shall be understandable to all employees who may be exposed to the identified hazard.

(e) All employees shall be informed as to the meaning of the various tags used throughout the workplace and what special precautions are necessary.

(f) Tags shall be affixed as close as safely possible to their respective hazards by a positive means such as string, wire, or adhesive that prevents their loss or unintentional removal.

(g) The tag and attachment method or device used shall be constructed of such material that they will not be likely to deteriorate in the environment in which the tag is used during the time period of intended use.

(5) Danger tags.

(a) Danger tags shall be used in major hazard situations where an immediate hazard presents a threat of death or serious injury to employees. Danger tags shall be used only in these situations. See Fig. J-11.

(b) All employees should be instructed that danger tags indicate immediate danger and that special precautions are necessary.

(6) Caution tags.

(a) Caution tags shall be used in minor hazard situations where a nonimmediate or potential hazard or unsafe practice presents a lesser threat of employee injury. Caution tags shall be used only in these situations. See Fig. J-12.

(b) All employees should be instructed that caution tags indicate a possible hazard against which proper precautions should be taken.

(7) Warning tags. Warning tags may be used to represent a hazard level between "Caution" and "Danger," instead of the required "Caution" tag, provided that they have a signal word of "Warning," an appropriate major message, and otherwise meet the general tag criteria of subsection (4) of this section.

(8) Out of order tags. Out of order tags should be used only for the specific purpose of indicating that a piece of equipment, machinery, etc., is out of order and to attempt to use it might present a hazard. (See Fig. J-13.)

(9) Radiation tags.

(a) The standard background for radiation tags shall be yellow; the panel shall be reddish purple. Any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table

1, Fundamental Specification of Safety Colors for CIE Standard Source "C" American National Standard Safety Color Code for Marking Physical Hazards and the Identification of Certain Equipment, Z53.1-1971.

(b) The method of dimension, design, and orientation of the standard symbol (one blade pointed downward and centered on the vertical axis) shall be executed as illustrated in Figure J-14. The symbol shall be prominently displayed and of a size consistent with the size of the equipment or area in which it is to be used.

(10) Biological hazard tags:

(a) Biological hazard tags shall be used to identify the actual or potential presence of a biological hazard and to identify equipment, containers, rooms, experimental animals, or combinations thereof, that contain or are contaminated with hazardous biological agents.

(b) The symbol design for biological hazard tags shall conform to the design shown in Fig. J-15.

(11) Other tags. Other tags may be used in addition to those required by this section or in other situations where this section does not require tags, provided that they do not detract from the impact or visibility of the signal word and major message of any required tag.

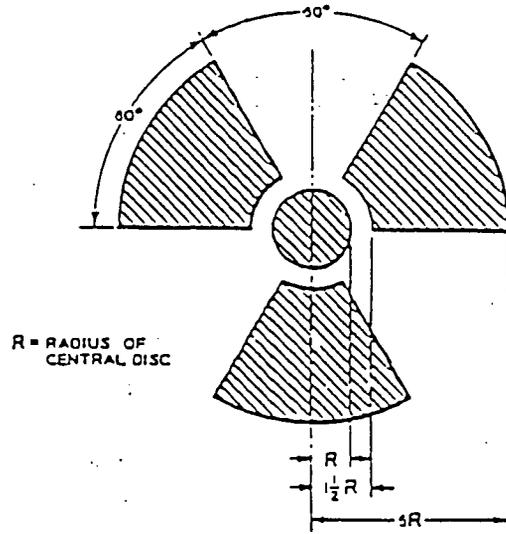


Fig. J-3

Standard Radiation Symbol



Fig. J-1

Danger Sign



Fig. J-4

Caution Sign

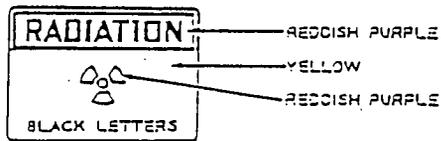


Fig. J-2

Radiation Warning Sign



Fig. J-5

Safety Instruction Signs

(Note: The words "think" and "be careful," given here, are only illustrations. Other wordings may be used.)

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Fig. J-6

Directional Signs

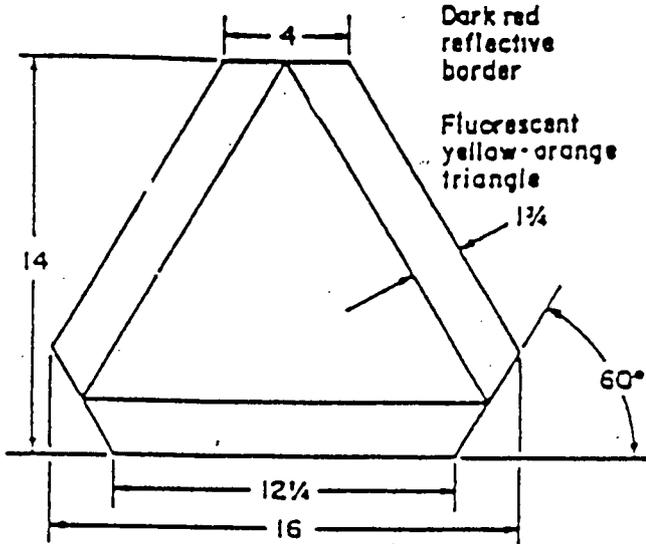
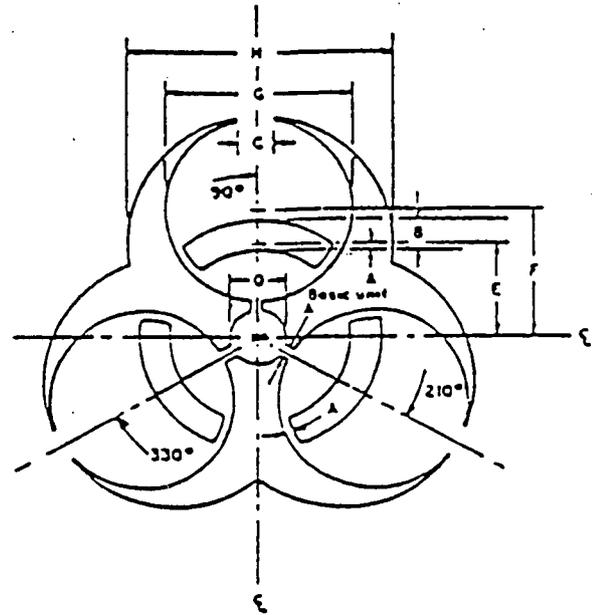


Fig. J-7

Slow-Moving Vehicle Emblem

Note: All dimensions are in inches.



Dimension	A	B	C	D	E	F	G	H
Units	1	3 1/2	4	6	11	15	21	30

Fig. J-9

Symbol for Biological Hazard

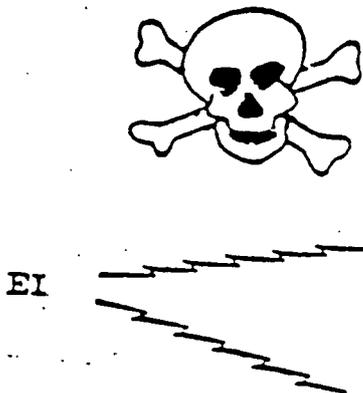
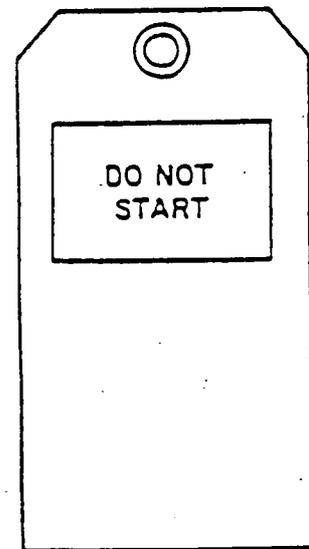


Fig. J-8

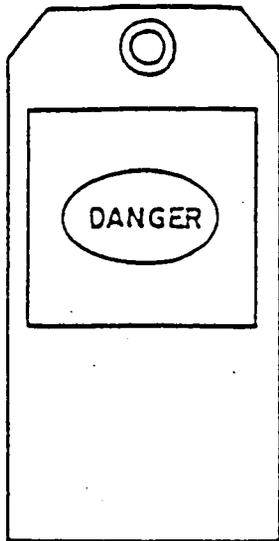
Symbols Used on Signs



White tag
white letters on
red square

Fig. J-10

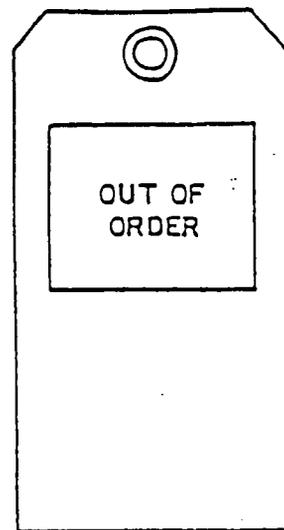
Do Not Start Tag



White tag
white letters on
red oval with a
black square

Fig. J-11

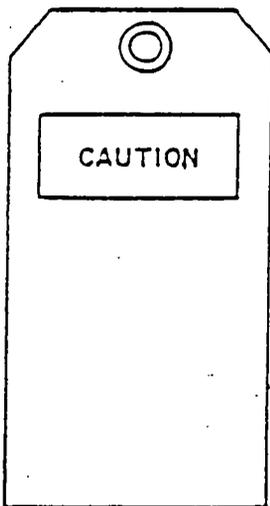
Danger Tag



White tag
white letters on
black background

Fig. J-13

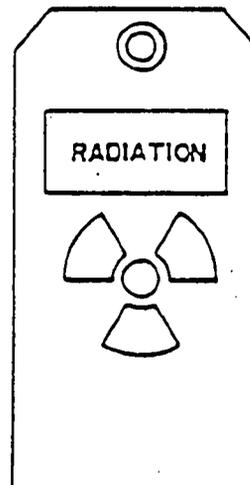
Out of Order Tag



Yellow tag
yellow letters on a
black background

Fig. J-12

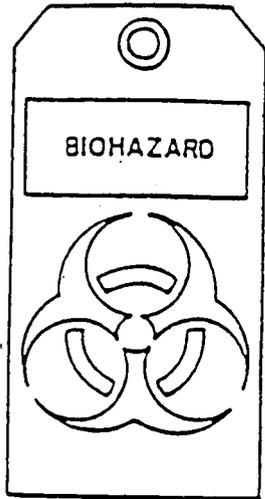
Caution Tag



Yellow tag
yellow letters in
reddish-purple panel
(Added wording in black
on yellow background)

Fig. J-14

Radiation Tag



White tag
black letters on
fluorescent-orange
background and
symbol

Fig. J-15

Biological Hazard Tag

TABLE J-1

STANDARD PROPORTIONS FOR DANGER SIGNS

Sign size, inches Height Width	Black rectangular panel, inches Height Width	Red oval, inches Height Width	Word "danger", height inches width	Maximum space available for sign wording, inches height width
7x10	3 1/4 x 9 3/8	2 7/8 x 8 1/2	1 7/16	2 3/4 x 9 3/8
10x14	4 5/8 x 13 3/8	4 1/8 x 11 7/8	2 1/16	4 1/4 x 13 3/8
14x20	6 1/2 x 19 3/8	5 3/4 x 17	2 7/8	6 1/4 x 19 3/8
20x28	9 1/4 x 27 3/8	8 1/4 x 23 7/8	4 1/8	9 1/2 x 27 3/8

HORIZONTAL PATTERN

UPRIGHT PATTERN

10x 7	2 3/8 x 6 3/8	2 1/8 x 5 7/8	1 1/16	6 3/8 x 6 3/8
14x10	3 1/4 x 9 3/8	2 7/8 x 8 1/2	1 7/16	9 1/2 x 9 3/8
20x14	4 5/8 x 13 3/8	4 1/8 x 11 7/8	2 1/16	14 x 13 3/8
28x20	6 1/2 x 19 3/8	5 3/4 x 17	2 7/8	20 1/4 x 19 3/8

TABLE J-2

STANDARD PROPORTIONS FOR CAUTION SIGNS

Sign size, inches height width	Black rectangular panel, inches height width	Word "Caution" height of letter, inches	Maximum space available for sign wording below panel inches height width
7 x 10	2 1/4 x 9 3/8	1 5/8	3 1/4 x 9 3/8
10 x 14	3 1/4 x 13 3/8	2 1/4	5 1/2 x 13 3/8
14 x 20	3 3/4 x 19 3/8	2 3/4	9 x 19 3/8
20 x 28	4 1/4 x 27 3/8	3 1/4	14 1/2 x 27 3/8

HORIZONTAL PATTERN

UPRIGHT PATTERN

10 x 7	1 5/8 x 6 3/8	1 1/8	7 x 6 3/8
14 x 10	2 1/4 x 9 3/8	1 5/8	10 1/2 x 9 3/8
20 x 14	3 1/4 x 13 3/8	2 1/4	15 1/2 x 13 3/8
28 x 20	3 3/4 x 19 3/8	2 3/4	24 x 19 3/8

TABLE J-3

STANDARD PROPORTIONS FOR SAFETY INSTRUCTION SIGNS

[TABLE J-3: PART 1—"Think" Safety Sign]

Sign size, inches, height, width	Maximum		
	Green rectangular panel, inches, height, width	Word "Think" height letters, inches	Space available for sign wording below panel, inches height, width
7x10	2 3/4 x 9 3/8	1 5/8	3 1/2 x 9 3/8
10x14	3 1/4 x 13 3/8	2 1/4	5 1/2 x 13 3/8
14x20	3 3/4 x 19 3/8	2 3/4	9 x 19 3/8
20x28	4 1/4 x 27 3/8	3 1/4	14 1/2 x 27 3/8

[TABLE J-3:PART 2—"Be Careful" Safety Sign]

Sign size, inches, height, width	Maximum			
	Green panel, inches, height, width	Word "Be" height of letters, inches	Word "Careful" height of letters, inches	Space available for sign wording below panel, inches, height, width
7x10	3 3/8 x 9 3/8	1 1/4	1 3/16	2 1/2 x 9 3/8
10x14	4 1/4 x 13 3/8	1 3/4	2 3/16	4 x 13 3/8
14x20	6 1/4 x 19 3/8	2 1/2	3 1/8	6 x 19 3/8
20x28	9 1/2 x 27 3/8	3 1/2	4 3/8	9 1/4 x 27 3/8

TABLE J-4

STANDARD PROPORTIONS FOR DIRECTIONAL SIGNS

Sign size inches height	Black rectangular panel, inches height width	White arrow, inches			Maximum space for sign wording below panel height	
		Overall length	Arrow head height width	Arrow shaft height		
6 1/2x14	3 1/4 x 13 3/8	12 5/8	2 3/4 x 3	1 1/8	2 3/8 x 3 1/4	2 1/4 x 13 3/8
9x20	4 1/2 x 19 3/8	18 5/8	3 3/4 x 4 1/8	1 5/8	3 1/4 x 4 1/2	3 3/8 x 19 3/8
12x28	6 x 27 3/8	26 5/8	5 1/8 x 5 5/8	2 1/8	4 3/8 x 6	4 3/4 x 27 3/8
15x36	7 1/2 x 35 3/8	34 5/8	6 3/8 x 6 7/8	2 5/8	5 1/2 x 7 1/2	6 1/4 x 35 3/8

Appendix A—Recommended color coding.

While the standard does not specifically mandate color to be used on accident prevention tags, the following color

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scheme is recommended by OSHA for meeting the requirements of this section:

"DANGER"—Red, or predominantly red, with lettering or symbols in a contrasting color.

"CAUTION"—Yellow, or predominantly yellow, with lettering or symbols in a contrasting color.

"WARNING"—Orange, or predominantly orange, with lettering or symbols in a contrasting color.

"BIOLOGICAL HAZARD"—Fluorescent orange or orange-red, or predominantly so, with lettering or symbols in a contrasting color.

Appendix B—References for further information.

The following references provide information which can be helpful in understanding the requirements contained in various sections of the standard:

1. *Bresnahan, Thomas F., and Bryk, Joseph. "The Hazard Association Values of Accident Prevention Signs", Journal of American Society of Safety Engineers: January 1975.*

2. *Dreyfuss, H., Symbol Sourcebook, McGraw Hill: New York, NY, 1972.*

3. *Glass, R. A. and others, Some Criteria for Colors and Signs in Workplaces, National Bureau of Standards, Washington D.C., 1983.*

4. *Graphic Symbols for Public Areas and Occupational Environments, Treasury Board of Canada, Ottawa, Canada, July 1980.*

5. *Howett, G. L., Size of Letters Required for Visibility as a Function of Viewing Distance and Observer Acuity, National Bureau of Standards, Washington D.C., July 1983.*

6. *Lerner, N. D., and Collins, B. L., The Assessment of Safety Symbol Understandability by Different Testing Methods, National Bureau of Standards, Washington D.C., 1980.*

7. *Lerner, N. D. and Collins, B. L., Workplace Safety Symbols, National Bureau of Standards, Washington D.C., 1980.*

8. *Modley, R. and Meyers, W. R., Handbook of Pictorial Symbols, Dover Publication, New York, NY, 1976.*

9. *Product Safety Signs and Labels, FMC Corporation, Santa Clara, CA, 1978.*

10. *Safety Color Coding for Marking Physical Hazards, Z53.1, American National Standards Institute, New York, NY, 1979.*

11. *Signs and Symbols for the Occupational Environment, Can. 3-Z-321-77, Canadian Standards Association, Ottawa, September 1977.*

12. *Symbols for Industrial Safety, National Bureau of Standards, Washington D.C., April 1982.*

13. *Symbol Signs, U.S. Department of Transportation, Washington D.C., November 1974.*

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

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-33003 Scope. This section applies to the handling, storage, and use of flammable and combustible

liquids with a flash point below 200°F. This section does not apply to:

(1) Bulk transportation of flammable and combustible liquids;

(2) Storage, handling, and use of fuel oil tanks and containers connected with oil burning equipment;

(3) ~~((Storage of flammable and combustible liquids on farms;~~

~~(4))~~ (4)) This section shall apply to agriculture March 1, 1995. Liquids without flashpoints that may be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons;

~~((5))~~ (4) Mists, sprays, or foams, except flammable aerosols covered in WAC 296-24-33009; or

~~((6))~~ (5) Installations made in accordance with requirements of the following standards:

(a) National Fire Protection Association Standard for Drycleaning Plants, NFPA No. 32-1970;

(b) National Fire Protection Association Standard for the Manufacture of Organic Coatings, NFPA No. 35-1970;

(c) National Fire Protection Association Standard for Solvent Extraction Plants, NFPA No. 36-1967; or

(d) National Fire Protection Association Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, NFPA No. 37-1970.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-24-58503 Scope, application and definitions applicable. (1) Scope. This section contains requirements for fire brigades, and all portable and fixed fire suppression equipment, fire detection systems, and fire or employee alarm systems installed to meet the fire protection requirements of this chapter.

(2) Application. This section applies to all employments except for maritime, and construction~~(-and agriculture)~~. This section shall apply to agriculture March 1, 1995.

(3) Definitions applicable to this section.

(a) "After-flame," means the time a test specimen continues to flame after the flame source has been removed.

(b) "Aqueous film forming foam (AFFF)," means a fluorinated surfactant with a foam stabilizer which is diluted with water to act as a temporary barrier to exclude air from mixing with the fuel vapor by developing an aqueous film on the fuel surface of some hydrocarbons which is capable of suppressing the generation of fuel vapors.

(c) "Approved," means acceptable to the director under the following criteria:

(i) If it is accepted, or certified, or listed, or labeled or otherwise determined to be safe by a nationally recognized testing laboratory; or

(ii) With respect to an installation or equipment of a kind which no nationally recognized testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another federal agency and found in compliance with the provisions of the applicable National Fire Protection Association Fire Code; or

(iii) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by its manufacturer on the basis of test data which

the employer keeps and makes available for inspection to the director; and

(iv) For the purposes of (c) of this subsection:

(A) Equipment is listed if it is of a kind mentioned in a list which is published by a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and which states that such equipment meets nationally recognized standards or has been tested and found safe for use in a specified manner;

(B) Equipment is labeled if there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner;

(C) Equipment is accepted if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes;

(D) Equipment is certified if it has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner or is of a kind whose production is periodically inspected by a nationally recognized testing laboratory, and if it bears a label, tag, or other record of certification; and

(E) Refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

(d) "Automatic fire detection device," means a device designed to automatically detect the presence of fire by heat, flame, light, smoke or other products of combustion.

(e) "Buddy-breathing device," means an accessory to self-contained breathing apparatus which permits a second person to share the same air supply as that of the wearer of the apparatus.

(f) "Carbon dioxide," means a colorless, odorless, electrically nonconductive inert gas (chemical formula CO_2) that is a medium for extinguishing fires by reducing the concentration of oxygen or fuel vapor in the air to the point where combustion is impossible.

(g) "Class A fire," means a fire involving ordinary combustible materials such as paper, wood, cloth, and some rubber and plastic materials.

(h) "Class B fire," means a fire involving flammable or combustible liquids, flammable gases, greases and similar materials, and some rubber and plastic materials.

(i) "Class C fire," means a fire involving energized electrical equipment where safety to the employee requires the use of electrically nonconductive extinguishing media.

(j) "Class D fire," means a fire involving combustible metals such as magnesium, titanium, zirconium, sodium, lithium and potassium.

(k) "Dry chemical," means an extinguishing agent composed of very small particles of chemicals such as, but not limited to, sodium bicarbonate, potassium bicarbonate, urea-based potassium bicarbonate, potassium chloride, or monoammonium phosphate supplemented by special treatment to provide resistance to packing and moisture absorption (caking) as well as to provide proper flow capabilities. Dry chemical does not include dry powders.

(l) "Dry powder," means a compound used to extinguish or control Class D fires.

(m) "Education," means the process of imparting knowledge or skill through systematic instruction. It does not require formal classroom instruction.

(n) "Enclosed structure," means a structure with a roof or ceiling and at least two walls which may present fire hazards to employees, such as accumulations of smoke, toxic gases and heat similar to those found in buildings.

(o) "Extinguisher classification," means the letter classification given an extinguisher to designate the class or classes of fire on which an extinguisher will be effective.

(p) "Extinguisher rating," means the numerical rating given to an extinguisher which indicates the extinguishing potential of the unit based on standardized tests developed by Underwriters' Laboratories, Inc.

(q) "Fire brigade," (private fire department, industrial fire department) means an organized group of employees who are knowledgeable, trained, and skilled in at least basic fire fighting operations.

(r) "Fixed extinguishing system," means a permanently installed system that either extinguishes or controls a fire at the location of the system.

(s) "Flame resistance," is the property of materials, or combinations of component materials, to retard ignition and restrict the spread of flame.

(t) "Foam," means a stable aggregation of small bubbles which flow freely over a burning liquid surface and form a coherent blanket which seals combustible vapors and thereby extinguishes the fire.

(u) "Gaseous agent," is a fire extinguishing agent which is in the gaseous state at normal room temperature and pressure. It has low viscosity, can expand or contract with changes in pressure and temperature, and has the ability to diffuse readily and to distribute itself uniformly throughout an enclosure.

(v) "Halon 1211," means a colorless, faintly sweet smelling, electrically nonconductive liquefied gas (chemical formula CBrClF_2) which is a medium for extinguishing fires by inhibiting the chemical chain reaction of fuel and oxygen. It is also known as bromochlorodifluoromethane.

(w) "Halon 1301," means a colorless, odorless, electrically nonconductive gas (chemical formula CBrF_3) which is a medium for extinguishing fires by inhibiting the chemical chain reaction of fuel and oxygen. It is also known as bromotrifluoromethane.

(x) "Helmet," is a head protective device consisting of a rigid shell, energy absorption system and chin strap intended to be worn to provide protection for the head or portions thereof, against impact, flying or falling objects, electric shock, penetration, heat and flame.

(y) "Incipient stage fire," means a fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II stand-pipe or small hose systems without the need for protective clothing or breathing apparatus.

(z) "Inspection," means a visual check of fire protection systems and equipment to ensure that they are in place, charged, and ready for use in the event of a fire.

(aa) "Interior structural fire fighting," means the physical activity of fire suppression, rescue or both, inside of build-

ings or enclosed structures which are involved in a fire situation beyond the incipient stage.

(bb) "Lining," means a material permanently attached to the inside of the outer shell of a garment for the purpose of thermal protection and padding.

(cc) "Local application system," means a fixed fire suppression system which has a supply of extinguishing agent, with nozzles arranged to automatically discharge extinguishing agent directly on the burning material to extinguish or control a fire.

(dd) "Maintenance," means the performance of services on fire protection equipment and systems to assure that they will perform as expected in the event of a fire. Maintenance differs from inspection in that maintenance requires the checking of internal fitting, devices and agent supplies.

(ee) "Multipurpose dry chemical," means a dry chemical which is approved for use on Class A, Class B and Class C fires.

(ff) "Outer shell," is the exterior layer of material on the fire coat and protective trousers which forms the outermost barrier between the fire fighter and the environment. It is attached to the vapor barrier and liner and is usually constructed with a storm flap, suitable closures, and pockets.

(gg) "Positive-pressure breathing apparatus," means self-contained breathing apparatus in which the pressure in the breathing zone is positive in relation to the immediate environment during inhalation and exhalation.

(hh) "Predischarge employee alarm," means an alarm which will sound at a set time prior to actual discharge of an extinguishing system so that employees may evacuate the discharge area prior to system discharge.

(ii) "Quick disconnect valve," means a device which starts the flow of air by inserting of the hose (which leads from the facepiece) into the regulator of self-contained breathing apparatus, and stops the flow of air by disconnection of the hose from the regulator.

(jj) "Sprinkler alarm," means an approved device installed so that any waterflow from a sprinkler system equal to or greater than that from single automatic sprinkler will result in an audible alarm signal on the premises.

(kk) "Sprinkler system," means a system of piping designed in accordance with fire protection engineering standards and installed to control or extinguish fires. The system includes an adequate and reliable water supply, and a network of specially sized piping and sprinklers which are interconnected. The system also includes a control valve and a device for actuating an alarm when the system is in operation.

(ll) "Standpipe systems:"

(i) "Class I standpipe system," means a two and one-half-inch (6.3 cm) hose connection for use by fire departments and those trained in handling heavy fire streams.

(ii) "Class II standpipe system," means a one and one-half-inch (3.8 cm) hose system which provides a means for the control or extinguishment of incipient stage fires.

(iii) "Class III standpipe system," means a combined system of hose which is for the use of employees trained in the use of hose operations and which is capable of furnishing effective water discharge during the more advanced stages of fire (beyond the incipient stage) in the interior of workplaces. Hose outlets are available for both one and

one-half-inch (3.8 cm) and two and one-half-inch (6.3 cm) hose.

(iv) "Small hose system," means a system of hose ranging in diameter from five-eighths-inch (1.6 cm) up to one and one-half-inch (3.8 cm) which is for the use of employees and which provides a means for the control and extinguishment of incipient stage fires.

(mm) "Total flooding system," means a fixed suppression system which is arranged to automatically discharge a predetermined concentration of agent into an enclosed space for the purpose of fire extinguishment or control.

(nn) "Training," means the process of making proficient through instruction and hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used in the performance of assigned duties.

(oo) "Vapor barrier," means that material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

AMENDATORY SECTION (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

WAC 296-24-73501 General requirements. This section applies to all permanent places of employment, except where domestic(+) or mining((- or agricultural)) work only is performed. This section shall apply to agriculture March 1, 1995. Construction work is not to be deemed as a permanent place of employment. Measures for the control of toxic materials are considered to be outside the scope of this section.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-010 Purpose and scope. (1) The standards in this chapter apply to all agricultural operations with one or more employees, when such employees are covered by the Washington Industrial Safety and Health Act (WISHA). Agriculture operations are defined as all operations necessary to farming and ranching, including maintenance of equipment and machinery, and planting, cultivating, growing or raising, keeping for sale, harvesting, or transporting on the farm or to the first place of processing any tree, plant, fruit, vegetable, animal, fowl, fish, or insects or products thereof. Agricultural operations include all employers in one or more of the following Standard Industrial Classification (SIC) Codes:

0111	Wheat
0115	Corn
0119	Cash Grains NEC, Barley, Peas, Lentils, Oats, etc.
0133	Sugar Cane and Sugar Beets
0134	Irish Potatoes - All Potatoes except Yams
0139	Field Crops - Hay, Hops, Mint, etc.
0161	Vegetables and Melons, All Inclusive
0171	All Berry Crops
0172	Grapes
0173	Tree Nuts
0175	Deciduous Tree Fruits
0179	Tree Fruits or Tree Nuts Not Elsewhere Classified

0181	Ornamental Floriculture and Nursery Products
0182	Food Crops Grown Under Cover
0191	General Farms, Primarily Crops
0211	Beef Cattle Feedlots
0212	Beef Cattle Except Feedlots - Cattle Ranches
0213	Hogs
0214	Sheep and Goats
0219	General Livestock Except Dairy and Poultry
0241	Dairy Farms
0251	Broiler, Fryer, and Roaster Chickens
0252	Chicken Eggs
0253	Turkeys and Turkey Eggs
0254	Poultry Hatcheries
0259	Poultry and Eggs Not Elsewhere Classified
0271	Fur Bearing Animals and Rabbits
0272	Horses
0273	Animal Aquaculture
0279	Animal Specialties Not Elsewhere Classified
0291	General Farms, Primarily Livestock and Animal Specialties
0711	Soil Preparation Services
0721	Crop Planting, Cultivating, and Protecting
0722	Crop Harvesting, Primarily by Machine
0751	Livestock Services, Except Veterinary
0761	Farm Labor Contractors
0811	Timber Tracts, Christmas Tree Growing, Tree Farms
0831	Forest Nurseries
0851	Forestry Services - Reforestation

(2) In the event that the provisions of this chapter conflict with the provisions contained in any other chapter of Title 296 WAC, this chapter shall prevail. Sections of other chapters 296-24 WAC apply only when specifically referenced in this chapter until March 1, 1995. Effective March 1, 1995, this standard shall augment the Washington state general safety and health standards, chapter 296-24 WAC and any other standards which are applicable to all industries governed by chapter 80, Laws of 1973, Washington Industrial Safety and Health Act. In the event of any conflict between any portion of this chapter and any portion of any of the general application standards, the provisions of this chapter (chapter 296-306 WAC) shall apply.

(3) When employees are assigned to perform tasks other than those directly related to agricultural operations, the proper chapter of Title 296 WAC shall apply.

Note: ~~((Such))~~ Assignments may involve, but are not limited to activities, such as fruit and vegetable packing, logging, mining, sawmills, etc., when the products of such activities are removed from the farm site for commercial distribution.

(4) The requirement that the employer shall develop and maintain a hazard communication program as required by WAC 296-62-054 through 296-62-05427 which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed or may become exposed in the course of their employment, shall apply to chapter 296-306 WAC.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-012 Definitions applicable to all sections of this chapter.

Note: Meaning of words. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

(1) "Approved" means approved by the director of the department of labor and industries or his/her authorized representative: *Provided, however,* That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of WAC 296-24-006 shall apply.

(2) "Authorized person" means a person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

(3) "Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective action to eliminate them.

(4) "Department" means the department of labor and industries.

(5) "Director" means the director of the department of labor and industries, or designated representative.

(6) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations: *Provided,* That any person, partnership, or business entity not having employees, and who is covered by the industrial insurance act shall be considered both an employer and an employee.

(7) "Handling pesticides" means:

(a) Mixing, loading, transferring, or applying pesticides.

(b) Disposing of pesticides or pesticide containers.

(c) Handling opened containers of pesticides.

(d) Acting as a flagger.

(e) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.

(f) Assisting with the application of pesticides.

(g) Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.

(h) The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions or, in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.

(8) "Hazard" means that condition, potential or inherent, which can cause injury, death, or occupational disease.

(9) "Safety factor" means the ratio of the ultimate breaking strength of a member or piece of material or

equipment to the actual working stress or safe load when in use.

- (10) "Shall" or "must" means mandatory.
- (11) "Should" or "may" means recommended.
- (12) "Standard safeguard" means a device designed and constructed with the object of removing the hazard of accident incidental to the machine, appliance, tool, building, or equipment to which it is attached.

Standard safeguards shall be constructed of either metal or wood or other suitable material or a combination of these. The final determination of the sufficiency of any safeguard rests with the director of the department of labor and industries through the division of safety.

(13) "Suitable" means that which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

(14) "Working day," for the purpose of appeals and accident reporting, means a calendar day, except Saturdays, Sundays, and legal holidays, as set forth in RCW 1.16.050, as now or hereafter amended, and for the purposes of the computation of time within which an act is to be done under the provisions of this chapter, shall be computed by excluding the first working day and including the last working day.

(15) "Workmen," "personnel," "man," "person," "employee," and other terms of like meaning, unless the context of the provision containing such term indicates otherwise, mean an employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his/her personal labor for an employer whether by manual labor or otherwise.

AMENDATORY SECTION (Amending Order 75-2, filed 1/24/75)

WAC 296-306-015 Variance procedures. (1) In the event some requirements of this agricultural safety standard become impractical under certain conditions, the director of the department of labor and industries may permit a variation from the requirements if the employer provides *equal protection* by other means and complies with the other requirements of chapter 296-350 WAC, variances.

(2) The written application must certify that the employer has properly notified his/her employees of his/her application for a variance. Proper notice to employees shall mean that a copy of the written application has been posted in a place or places reasonably accessible to all employees. In addition, a copy of the application shall be mailed to the authorized representative of such employees, if any. The notice shall advise employees and their representatives of their right to request the director to conduct a hearing on the variance application. All the above notices to employees must be made prior to the date the employer makes written application to the director.

Note: An employer who wishes to apply for a permanent or temporary variance shall make a request in writing to the (~~Engineering~~) Standards Section, Department of Labor and Industries, Division of Industrial Safety and Health, P.O. Box ((207)) 44620, Olympia, Washington, ((98504)) 98507-4620. The engineering section will respond by furnishing application forms along with the instructions necessary to meet the intent of the law. A copy

of chapter 296-350 WAC, variances will be included if specifically requested.

AMENDATORY SECTION (Amending Order 75-2, filed 1/24/75)

WAC 296-306-020 Serious injury reporting. (1) The employer or someone in his/her behalf shall notify the nearest office of the department of labor and industries within 24 hours of the date of an accident (~~which~~) that causes a fatal or possibly fatal injury, an accident (~~which~~) that involves acute exposure(s) to any pesticides or herbicides or an accident (~~which~~) that causes injury requiring hospitalization of any employees.

(2) When any investigator from the department's division of safety and health arrives, the farm employer shall assign to assist in the investigation any persons the investigator deems necessary.

(3) When a fatality occurs, equipment involved in the accident shall not be moved until after a representative from the division of industrial safety and health has completed an investigation unless the equipment must be moved to prevent additional accidents, or to remove the victim.

AMENDATORY SECTION (Amending Order 86-46, filed 4/22/87)

WAC 296-306-057 Hand tools. (1) Hoes with handles less than four feet in length or any hand tool used for weeding or thinning crops, when used in a stooped position, are prohibited.

(2) Hand tools shall be kept in good condition.

(3) Hand tools shall be safely stored when not in use.

(4) Hand tools which are unsafe or defective shall not be used.

Note: When there is no other practical or adequate alternative, the director of the department of labor and industries, or his/her authorized representative may permit a variance pursuant to procedures prescribed by chapter 80, Laws of 1973, RCW 49.17.080 and 49.17.090 and chapter 296-350 WAC.

AMENDATORY SECTION (Amending Order 75-2, filed 1/24/75)

WAC 296-306-110 Job-made ladders. (1) A job-made ladder is one built by the employer or his/her employees.

(2) One-by-four-inch nominal lumber, or stronger, shall be used for cleats.

(3) Cleats shall be inset into the edges of side rails to a depth of one-half inch, or filler blocks shall be used on the rails between the cleats.

(4) Each cleat shall be fastened to each rail with three 8d common wire nails or other fasteners of equal strength.

(5) Cleats shall be uniformly spaced at a distance of approximately 12 inches from the top of one cleat to the top of the next.

(6) Side rails shall be continuous, unless splices used develop the full strength of a continuous rail of equal length.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-115 Bins, bunkers, hoppers, tanks, pits and trenches. (1) No employee shall enter any bin, bunker, hopper or similar area when there is a danger that loose materials (such as chips, sand, grain, gravel, sawdust, etc.) may collapse around the worker, unless the worker wears a safety belt with a lifeline attached and is attended by a helper.

Note: Silage pits are exempt from this section.

(2) When employees are required to work in a trench or a pit 4 feet or more in depth, the trench or the pit shall be shored or shall be sloped (~~(to the angle of repose)~~) as shown in the following table:

TABLE 3-1
MAXIMUM ALLOWABLE SLOPES

SOIL OR ROCK TYPE	MAXIMUM ALLOWABLE SLOPES (H:V) ⁽¹⁾ FOR EXCAVATIONS LESS THAN 20 FEET DEEP ⁽²⁾
STABLE ROCK	VERTICAL (90°)
TYPE A ⁽²⁾	3/4:1 (53°)
TYPE B	1:1 (45°)
TYPE C	1 1/2:1 (34°)

NOTES:

- Numbers shown in parentheses next to maximum allowable slopes are angles expressed in degrees from the horizontal. Angles have been rounded off.
- A short-term maximum allowable slope of 1/2R:1V (63°) is allowed in excavations in Type A soil that are 12 feet (3.67 m) or less in depth. Short-term maximum allowable slopes for excavations greater than 12 feet (3.67 m) in depth shall be 3/4R:1V (53°).
- Sloping or benching for excavations greater than 20 feet deep shall be designed by a registered professional engineer.

TABLE 1
MAXIMUM ALLOWABLE SLOPES

SOIL OR ROCK TYPE	MAXIMUM ALLOWABLE SLOPES (H:V) ⁽¹⁾ FOR EXCAVATIONS LESS THAN 20 FEET DEEP ⁽²⁾
STABLE ROCK	VERTICAL (90°)
TYPE A	3/4:1 (53°)
TYPE B	1:1 (45°)
TYPE C	1 1/2:1 (34°)

- NOTES: ⁽¹⁾ Numbers shown in parentheses next to maximum allowable slopes are angles expressed in degrees from the horizontal. Angles have been rounded off.
- ⁽²⁾ Sloping or benching for excavations greater than 20 feet deep shall be designed by a registered professional engineer.

(3) Requirements—Classification of soil and rock deposits.

(a) Each soil and rock deposit shall be classified by a competent person as Stable Rock, Type A, B, or C according to the definitions set forth in WAC 296-155-66401.

(b) Basis of classification. The classification of the deposits shall be made based on the results of at least one visual and at least one manual analysis. Such analyses shall be conducted by a competent person using tests in recognized methods of soil classification and testing such as those adopted by the American Society for Testing Materials, or the U.S. Department of Agriculture textural classification system.

AMENDATORY SECTION (Amending Order 75-2, filed 1/24/75)

WAC 296-306-120 Aerial manlift equipment. (1) Safety factor test data on working or structural components submitted by the manufacturer, by a competent testing laboratory, by a registered engineering firm or a registered engineer shall be acceptable evidence that the manlift meets minimum safety requirements. If, however, through use, a reasonable doubt arises as to whether or not this equipment will meet the above requirements, the division of industrial safety and health may require that appropriate tests be conducted and may order any corrections indicated.

(2) Working brake systems shall be on all aerial manlifts.

(3) Automatic restrictive orifices shall be installed in the hydraulic systems of aerial manlifts to the boom in position in case any part of the hydraulic pressure system should fail.

(4) Controls shall be guarded by partial enclosures in order to minimize the chances of accidental contact.

(5) The manufacturer's recommended maximum load limit shall be posted at a conspicuous place near the controls and shall be kept in a legible condition.

(6) The manufacturer's instructional manual, if any, shall be used to establish the proper operational sequences and maintenance procedures. If such a manual does not exist, the employer shall develop the necessary instructions. The instructions shall be available for reference by operators.

(7) A daily visual inspection and the tests in accordance with the manufacturer's recommendations shall be made by the assigned operator.

(8) Only workers qualified by reason of training or experience shall be permitted to operate aerial manlifts.

(9) Defective aerial manlift equipment shall be reported to the employer or his/her designated representative as soon as identified. The use of defective equipment is prohibited when the defect may cause an accident.

(10) When moving to and from the job site, the basket of the manlift shall be in the low position.

(11) Unsafe practices, including but not limited to, sitting or standing on the basket edge, standing on material placed across the basket, or working from a ladder set inside the basket, are prohibited.

(a) The basket shall not be rested on a fixed object in such a way that the weight of the boom is supported by the basket.

(b) The employee or any part of agricultural aerial manlift equipment shall not come within a radius of ten feet from energized high voltage conductors, or into any part of the zone any distance above such a radius.

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AMENDATORY SECTION (Amending Order 75-2, filed 1/24/75)

WAC 296-306-160 Vehicles. Motor vehicles shall be maintained in good mechanical condition at all times.

(1) Under no circumstances shall workers ride on fenders or running boards of vehicles.

(2) No worker shall ride in or on any vehicle with his/her legs hanging over the end or sides. A safety bar shall be placed across the rear opening of all crew trucks which are not equipped with tail gates.

(3) Vehicles used to transport workers shall be equipped with a means of preventing tools or materials from striking employees in the event of sudden starts, stops or turns.

(4) Explosives or highly inflammable and/or toxic materials shall not be carried in or on any vehicle while it is used to transport workers.

(5) Exhaust systems shall be installed and maintained in proper condition, and shall be designed to eliminate the exposure of the workers to exhaust gases and fumes.

(6) All vehicles which are specifically used for transporting agricultural workers shall be equipped with first-aid equipment as specified in WAC 296-306-050, including two blankets and an approved fire extinguisher.

Note: When more than one vehicle is located at a station, one equipped vehicle shall meet the intent of this section.

(7) No heating units in which there are open flames or catalytic action shall be used in vehicles transporting crews.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-200 Rollover protective structures (ROPS) for tractors used in agricultural operations. (1)

Scope. All agricultural tractors manufactured after October 25, 1976, shall meet the requirements in this section. Effective March 1, 1995, agricultural tractors manufactured on or before October 25, 1976, shall meet the requirements of this section if they were sold with rollover protective structures (ROPS) or were designed to accommodate the addition of ROPS.

Note: The promulgation of specific standards for rollover protective structures for rubber-tired skid-steer equipment is reserved pending promulgation of specific standards to cover such equipment. ROPS requirements contained in this section do not apply to rubber-tired skid-steer equipment used in agricultural operations.

(2) Rollover protective structure. A rollover protective structure (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in subsection (6) of this section, ROPS used on wheel-type tractors shall meet the test and performance requirements of WAC 296-306-250 through 296-306-25023 and ROPS used on track-type tractors shall meet the test and performance requirements of WAC 296-306-260 through 296-306-270. (See ROPS Design and Testing Criteria Addendum.)

(3) Seatbelts.

(a) Where ROPS are required by this section, the employer shall:

(i) Provide each tractor with a seatbelt which meets the requirements of this subsection;

(ii) Require that each employee uses such seatbelt while the tractor is moving; and

(iii) Require that each employee tightens the seatbelt sufficiently to confine the employee to the protected area provided by the ROPS.

(b) Each seatbelt shall meet the requirements set forth in ANSI/SAE J800 April 1986 Motor Vehicle Seat Belt Assemblies,* except as noted hereafter:

(i) Where a suspended seat is used, the seatbelt shall be fastened to the movable portion of the seat to accommodate a ride motion of the operator.

(ii) The seatbelt anchorage shall be capable of withstanding tensile loading as required by WAC 296-306-275 (1) and (2).

(iii) The seatbelt webbing material shall have a resistance to acids, alkalis, mildew, aging, moisture and sunlight equal to or better than that of untreated polyester fiber.

(4) Protection from spillage. Batteries, fuel tanks, oil reservoirs and coolant systems shall be constructed and located or sealed to assure that spillage will not occur which may come in contact with the operator in the event of an upset.

(5) Protection from sharp surfaces. All sharp edges and corners at the operator's station shall be designed to minimize operator injury in the event of an upset.

(6) Exempted uses. Subsections (2) and (3) of this section do not apply to the following uses:

(a) "Low profile" tractors meeting requirements of WAC 296-306-165 (1)(i) and while they are used in orchards, vineyards or hop yards where the vertical clearance requirements would substantially interfere with normal operations, and while their use is incidental to the work performed therein.

(b) "Low profile" tractors while used inside a farm building or greenhouse in which the vertical clearance is insufficient to allow a ROPS equipped tractor to operate, and while their use is incidental to the work performed therein.

(c) Tractors while used with mounted equipment which is incompatible with ROPS (e.g., cornpickers, cotton strippers, vegetable pickers and fruit harvesters.)

(d) Track-type agricultural tractors whose overall width (as measured between the outside edges of the tracks) is at least three times the height of their rated center of gravity, and whose rated maximum speed in either forward or reverse is not greater than seven miles per hour, when used only for tillage or harvesting operations and while their use is incidental thereto, and which:

(i) Does not involve operating on slopes in excess of forty percent from horizontal; and

(ii) Does not involve operating on piled crop products or residue, as for example, silage in stacks or pits, and

(iii) Does not involve operating in close proximity to irrigation ditches, streams or other excavations more than two feet deep which contain slopes of more than forty percent from horizontal; and

(iv) Does not involve construction-type operation, such as bulldozing, grading or land clearing.

(7) Remounting. Where ROPS are removed for any reason, they shall be remounted so as to meet the requirements of this subsection.

(8) Labeling. Each ROPS shall have a label, permanently affixed to the structure, which states:

- (a) Manufacturer's or fabricator's name and address;
- (b) ROPS model number, if any;
- (c) Tractor makes, models, or series numbers that the structure is designed to fit; and
- (d) That the ROPS model was tested in accordance with the requirements of this section.

(9) Operating instructions. Every employee who operates an agricultural tractor shall be informed of the operating practices contained in Exhibit A of this section and of any other practices dictated by the work environment. Such information shall be provided at the time of initial assignment and at least annually thereafter.

* Copies may be obtained from the American National Standards Institute, 11 West 42nd Street, New York, N.Y. 10036.

EXHIBIT A

EMPLOYEE OPERATING INSTRUCTIONS

1. Securely fasten your seat belt if the tractor has a ROPS.
2. Where possible, avoid operating the tractor near ditches, embankments and holes.
3. Reduce speed when turning, crossing slopes and on rough, slick or muddy surfaces.
4. Stay off slopes too steep for safe operation.
5. Watch where you are going, especially at row ends, on roads and around trees.
6. Passengers, other than persons required for instruction or machine operation, shall not be permitted to ride on equipment unless a passenger seat or other protective device is provided.
7. Operate the tractor smoothly—no jerky turns, starts, or stops.
8. Hitch only to the drawbar and hitch points recommended by tractor manufacturers.
9. When tractor is stopped, set brakes securely and use park lock if available.

(10) Training.

(a) Every employee who operates an agriculture tractor shall be trained specifically in the operation of the tractor to be used. Such training shall include an orientation of the operator to the topographical features of the land where the tractor will be operated. Training shall emphasize safe operating practices to avoid roll-over.

(b) The tractor training program shall be described in the written accident prevention programs required by WAC 296-306-035(7).

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-25007 Test procedures. (1) General.

(a) The tractor weight used shall be that of the heaviest tractor model on which the protective frame is to be used.

(b) Each test required under this section shall be performed on a new protective frame. Mounting connections of the same design shall be used during each such test.

(c) Instantaneous deflection shall be measured and recorded for each segment of the test. See WAC 296-306-25009 (1)(a) for permissible deflection.

(d) Seat reference point (SRP) in Fig. C-3((+)) is that point where the vertical line that is tangent to the most forward point at the longitudinal seat centerline of the seat

back, and the horizontal line that is tangent to the highest point of the seat cushion intersect in the longitudinal seat section. The seat reference point shall be determined with the seat unloaded and adjusted to the highest and most rearward position provided for seated operation of the tractor.

(e) Where the centerline of the seat is off the longitudinal center, the frame loading shall be on the side with the least space between the centerline of seat and the protective frame.

(f) Low temperature characteristics of the protective frame or its material shall be demonstrated as specified in WAC 296-306-25009 (1)(b).

(g) Rear input energy tests (static, dynamic, or field upset) need not be performed on frames mounted to tractors having 4 driven wheels and more than one-half their unballasted weight on the front wheels.

(h) Accuracy table:

Measurements	Accuracy
Deflection of frame, inches (millimeters)	± 5 percent of deflection measured.
Vehicle weight, pounds (kilograms)	± 5 percent of the weight measured.
Force applied to frame, pounds force (newtons)	± 5 percent of force measured.
Dimensions of critical zone, inches (millimeters)	± 0.5 inch (12.5 millimeters).

(2) Static test procedure.

(a) The following test conditions shall be met:

(i) The laboratory mounting base shall be the tractor chassis for which the protective frame is designed, or its equivalent.

(ii) The protective frame shall be instrumented with the necessary equipment to obtain the required load deflection data at the locations and directions specified in Fig. C-2 and C-3.

(iii) If the protective frame is of a one or two upright design, mounting connections shall be instrumented with the necessary equipment to record the required force to be used in subsection (2)(c)(v) and (x) of this section. Instrumentation shall be placed on mounting connections before installation load is applied.

(b) The following definitions shall apply:

W = Tractor weight includes the protective frame or enclosure, all fuels, and other components required for normal use of the tractor. Ballast shall be added as necessary to achieve a minimum total weight of 110 pounds (50.0 kg.) per maximum power takeoff horsepower at the rated engine speed or the maximum gross vehicle weight specified by the manufacturer, whichever is the greatest. Front end weight shall be at least 25 percent of the tractor test weight. In case power takeoff horsepower is not available, 95 percent of net engine fly-wheel horsepower shall be used.

Eis = Energy input to be absorbed during side loading in ft-lb (E'is in m-kg.).

Eis = 723 + 0.4 W (E'is = 100 + 0.12 W')

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- Eir = Energy input to be absorbed during rear loading in ft-lb (E'ir in m-kg.).
- $Eir = 0.47 W (E'ir = 0.14 W')$
- L = Static load, lbf [pounds force], (N) [newtons].
- D = Deflection under L, in. (mm).
- L-D = Static load-deflection diagram.
- Lmax = Maximum observed static load.
- Load
- Limit = Point on a continuous L-D curve where observed static load in 0.8 Lmax on down slope of curve (refer to Fig. C-5).
- Eu = Strain energy absorbed by the frame, ft-lb (m-kg). Area under L-D curve.
- FER = Factor of energy ratio.
- $FER = \frac{Eu}{Eis}$
- FERis = $\frac{Eu}{Eis}$
- $FERir = \frac{Eu}{Eir}$
- Pb = Maximum observed force in mounting connection under static load, L lbf(N).
- Pu = Ultimate force capacity of mounting connection, lbf(N).
- FSB = Design margin for mounting connection.
- $FSB = \frac{Pu}{Pb}$

- (c) The test procedures shall be as follows:
 - (i) Apply the rear load in accordance with Fig. C-3 and record L and D simultaneously. Rear load application shall be uniformly distributed on the frame over an area perpendicular to the direction of load application, no greater than 160 square inches (1032 sq. cm.) in size, with the largest dimension no greater than 27 inches (686 mm). The load shall be applied to the upper extremity of the frame at the point which is midway between the center of the frame and the inside of the frame upright. If no structural cross member exists at the rear of the frame, a substitute test beam which does not add strength to the frame may be utilized to complete this test procedure. The test shall be stopped when:
 - (A) The strain energy absorbed by the frame is equal to or greater than the required input energy Eir or;
 - (B) Deflection of the frame exceeds the allowable deflection (see WAC 296-306-25009 (1)(a)), or
 - (C) Frame load limit (see Figure C-5) occurs before the allowable deflection is reached in rear load.
 - (ii) Using data obtained in subsection (2)(c)(i) of this section, construct the L-D diagram as shown typically in Fig. C-5.
 - (iii) Calculate Eir.
 - (iv) Calculate FERir.
 - (v) Calculate FSB where required by subsection (2)(a)(iii) of this section.
 - (vi) Apply the side load tests on the same frame and record L and D simultaneously. Side load application shall be at the upper extremity of the frame at a 90 degree angle to the center line of the vehicle. The side load shall be applied to the longitudinal side farthest from the point of

- rear load application. Apply side load L as shown in Fig. C-2. The test shall be stopped when:
 - (A) The strain energy absorbed by the frame is equal to or greater than the required input energy Eis or;
 - (B) Deflection of the frame exceeds the allowable deflection (see WAC 296-306-25009 (1)(a)) or;
 - (C) Frame load limit (see Figure C-5) occurs before the allowable deflection is reached in side load.
- (vii) Using data obtained in subsection (2)(c)(vi) of this section, construct the L-D diagram as shown typically in Fig. C-5.
- (viii) Calculate Eis.
- (ix) Calculate FERis.
- (x) Calculate FSB where required by subsection (2)(a)(iii) of this section.
- (3) Dynamic test procedure.
 - (a) The following test conditions shall be met:
 - (i) The protective frame and tractor shall be tested at the weight as defined in WAC 296-306-25007 (2)(b).
 - (ii) The dynamic loading shall be accomplished by use of a 4410 lb. (2000 ((~~KG~~) kg) weight acting as a pendulum. The impact face of the weight shall be 27 ± 1 inch by 27 ± 1 inch (686 ± 25 mm by 686 ± 25 mm) and shall be constructed so that its center of gravity is within 1 inch (25.4 mm) of its geometric center. The weight shall be suspended from a pivot point 18 to 22 feet (5.5-6.7 m) above the point of impact on the frame and shall be conveniently and safely adjustable for height (see Fig. C-6).
 - (iii) For each phase of testing, the tractor shall be restrained from moving when the dynamic load is applied. The restraining members shall have strength no less than, and elasticity no greater than, that of 0.50 inches (12.7 mm) steel cable. Points of attachment of restraining members shall be located an appropriate distance behind the rear axle and in front of the front axle to provide a 15 to 30 degree angle between a restraining cable and the horizontal. For the impact from the rear, the restraining cable shall be located in the plane in which the center of gravity of the pendulum will swing, or alternatively, two sets of symmetrically located cables may be used at lateral locations on the tractor. For impact from the side, restraining cables shall be used as shown in Figures C-8 and C-9.
 - (iv) The front and rear wheel tread settings, where adjustable, shall be at the position nearest to halfway between the minimum and maximum settings obtainable on the vehicle. Where only two settings are obtainable, the minimum setting shall be used. The tires shall have no liquid ballast and shall be inflated to the maximum operating pressure recommended by the manufacturer. With specified tire inflation, the restraining cable shall be tightened to provide tire deflection of 6 to 8 percent of nominal tire section width. After the vehicle is properly restrained, a wooden beam no less than 6 x 6 inches (150 x 150 mm) cross section shall be driven tightly against the appropriate wheels and clamped. For the test to the side, an additional wooden beam shall be placed as a prop against the wheel nearest the operator's station and shall be secured to the base so that it is held tightly against the wheel rim during impact. The length of this beam shall be chosen so that it is at an angle of 25 to 40 degrees to the horizontal when it is positioned against the wheel rim. It shall have a length 20

to 25 times its depth and a width 2 to 3 times its depth. (See Figs. C-8 and C-9.)

(v) Means shall be provided for indicating the maximum instantaneous deflection along the line of impact. A simple friction device is illustrated in Fig. C-4.

(vi) No repairs or adjustments shall be made during the test.

(vii) If any cables, props, or blocking shift or break during the test, the test shall be repeated.

(b) H = Vertical height of center of gravity of 4410 pounds (2000 kg) weight in inches (H' in mm). The weight shall be pulled back so that the height of its center of gravity above the point of impact is:

$$H = 4.92 + 0.00190 W \text{ or } H' = 125 + 0.170 W'$$

(Fig. C-7).

(c) The test procedures shall be as follows:

(i) The frame shall be evaluated by imposing dynamic loading from the rear followed by a load to the side on the same frame. The pendulum swinging from the height determined by subsection (3)(b) of this section shall be used to impose the dynamic load. The position of the pendulum shall be so selected that the initial point of impact on the frame is in line with the arc of travel of the center of gravity of the pendulum. Where a quick release mechanism is used, it shall not influence the attitude of the block.

(ii) Impact at rear: The tractor shall be properly restrained in accordance with subsection (3)(a)(iii) and (3)(a)(iv) of this section. The tractor shall be positioned with respect to the pivot point of the pendulum so that the pendulum is 20 degrees from the vertical prior to impact as shown in Fig. C-8. The impact shall be applied to the upper extremity of the frame at the point which is midway between the center line of the frame and the inside of the frame upright. If no structural cross member exists at the rear of the frame, a substitute test beam which does not add to the strength of the frame may be utilized to complete the procedure.

(iii) Impact at side: The blocking and restraining shall conform to subsection (3)(a)(iii) and (3)(a)(iv) of this section. The point of impact shall be at the upper extremity of the frame at a point most likely to hit the ground first and at a 90 degree angle to the center line of the vehicle as shown in Fig. C-9. The side impact shall be applied to the longitudinal side farthest from the point of rear impact.

(4) Field upset test procedure.

(a) The following test conditions shall be met:

(i) The tractor shall be tested at the weight as defined in WAC 296-306-25007 (2)(b).

(ii) The test shall be conducted on a dry, firm soil bank. The soil in the impact area shall have an average cone index in the 0 to 6 inch (0 to 152 mm) layer of not less than 150. Cone index shall be determined in accordance with American Society of Agricultural Engineers Recommendation ASAE R313.1, Soil Cone Penetrometer (1971).* The path of vehicle travel shall be 12 ± 2 degrees to the top edge of the bank.

(iii) An 18 inch (457 mm) high ramp as described in Fig. C-10 shall be used to assist in upsetting the vehicle to the side.

(iv) The front and rear wheel tread settings, where adjustable, shall be at the position nearest to halfway between the minimum and maximum settings obtainable on the vehicle. Where only two settings are obtainable, the minimum setting shall be used.

(b) Field upsets shall be induced to the rear and side.

(i) Rear upset shall be induced by engine power with the tractor operating in a gear to obtain 3 to 5 miles per hour (4.8 to 8.0 km per hour) at maximum governed engine rpm by driving forward directly up a minimum slope of $60^\circ \pm 5^\circ$ as shown in Fig. C-11 or by an alternative equivalent means. The engine clutch may be used to aid in inducing the upset.

(ii) To induce side upset, the tractor shall be driven under its own power along the specified path of travel at a minimum speed of 10 miles per hour (16 km per hour), or at maximum vehicle speed if under 10 miles per hour (16 km per hour), and over the ramp as described in subsection (4)(a)(iii) of this section.

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

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

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

WAC 296-306-260 Rollover protective structures (ROPS) for material handling equipment. (1) Coverage. ((a)) This section applies to the following types of material handling equipment: To all rubber-tired, self-propelled scrapers, rubber-tired front-end loaders, rubber-tired dozers, wheel-type agricultural and industrial tractors, crawler tractors, crawler-type loaders, and motor graders, with or without attachments, that are used in agricultural work. This requirement does not apply to side-boom pipelaying tractors.

(2) Material handling machinery described in subsection (1) of this section and manufactured on or after October 25, 1976, shall be equipped with rollover protective structures which meet the minimum performance standards prescribed in WAC 296-306-260 and 296-306-265, as applicable.

(3) Rollover protective structures and supporting attachment shall meet the minimum performance criteria detailed in WAC 296-303-26001 and 296-306-265, as applicable, or shall be designed, fabricated, and installed in a manner which will support, based on the ultimate strength of the metal, at least two times the weight of the prime mover applied at the point of impact.

(a) The design objective shall be to minimize the likelihood of a complete overturn and thereby minimize the possibility of the operator being crushed as a result of a rollover or upset.

(b) The design shall provide a vertical clearance of at least 52 inches from the work deck to the ROPS at the point of ingress or egress.

(4) Remounting. ROPS removed for any reason, shall be remounted with equal quality, or better, bolts or welding as required for the original mounting.

(5) Labeling. Each ROPS shall have the following information permanently affixed to the structure:

- (a) Manufacturer or fabricator's name and address;
- (b) ROPS model number, if any;
- (c) Machine make, model, or series number that the structure is designed to fit.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-265 Protective frame (ROPS) test procedures and performance requirements for wheel-type agricultural and industrial tractors used in agriculture.

(1) Definitions applicable to this section.

(a) SAE J333a, Operator Protection for Wheel-Type Agricultural and Industrial Tractors (July 1970) defines "agricultural tractor" as a "wheel-type vehicle of more than 20 engine horsepower designed to furnish the power to pull, carry, propel, or drive implements that are designed for agricultural usage." Since this chapter applies only to agriculture work, the following definition of "agricultural tractor" is adopted for purposes of this ~~(part)~~ chapter: "Agricultural tractor" means a wheel-type vehicle of more than 20 engine horsepower, which is designed to furnish the power to pull, propel, or drive implements.

(b) "Industrial tractor" means that class of wheeled type tractor of more than 20 engine horsepower (other than rubber-tired loaders and dozers described in WAC 296-306-26001), used in operations such as landscaping, construction services, loading, digging, grounds keeping, and highway maintenance.

(c) The following symbols, terms, and explanations apply to this section:

Eis = Energy input to be absorbed during side loading.
 $E_{is} = 723 + 0.4 W \text{ ft.-lb.}$ ($E'_{is} = 100 + 0.12 W', \text{m.-kg.}$)

Eir = Energy input to be absorbed during rear loading.
 $E_{ir} = 0.47 W \text{ ft. - lb.}$ ($E'_{ir} = 0.14 W', \text{m. - kg.}$)

W = Tractor weight as prescribed in WAC 296-306-265 (5)(a) and (5)(c) in lb. (W' , kg).

L = Static load, lb. (kg.).

D = Deflection under L, in. (mm.).

L-D = Static load-deflection diagram.

Lm-Dm = Modified static load-deflection diagram (Figure C-30). To account for increase in strength due to increase in strain rate, raise L in plastic range to $L \times K$.

K = Increase in yield strength induced by higher rate of loading (1.3 for hot rolled low carbon steel 1010-1030). Low carbon is preferable; however, if higher carbon or other material is used, K must be determined in the laboratory. Refer to Charles H. Norris, et al., Structural Design for Dynamic Loads (1959), p. 3.

Lmax = Maximum observed static load.
 Load

Limit = Point on L-D curve where observed static load is 0.8 Lmax (refer to Figure C-5).

Eu = Strain energy absorbed by the frame, ft.-lb. (m. - kg) area under Lm-Dm curve.

FER = Factor of energy ratio, $FER = Eu/E_{is}$; also = Eu/E_{ir} .

Pb = Maximum observed force in mounting connection under static load, L, lb. (kg.).

FSB = Design margin for mounting connection $FSB = (P_u/P_b) - 1$.

H = Vertical height of lift of 4,410 lb. (2,000 kg.) weight, in. (H' , mm.). The weight shall be pulled back so that the height of its center of gravity above the point of impact is defined as follows: $H = 4.92 + 0.00190 W$ or ($H' = 125 + 0.107 W'$) (Figure C-7).

(d) Source of standard. The standard in this section is derived from, and restates, Society of Automotive Engineers Standard J334a (July 1970), Protective Frame Test Procedures and Performance Requirements. This standard shall be resorted to in the event that questions of interpretation arise. The standard appears in the 1971 SAE handbook.

(2) General.

(a) The purpose of this section is to set forth requirements for frames for the protection of operators of wheel-type agricultural and industrial tractors to minimize the possibility of operator injury resulting from accidental upsets during normal operation. With respect to agricultural and industrial tractors, the provisions of WAC 296-306-260 and 296-306-270 for rubber-tired dozers and rubber-tired loaders may be utilized in lieu of the requirements of this section.

(b) The protective frame which is the subject of this standard is a structure mounted to the tractor that extends above the operator's seat and conforms generally to Figure C-10.

(c) If an overhead weather shield is attached to the protective frame, it may be in place during tests: *Provided*, That it does not contribute to the strength of the protective frame. If such an overhead weather shield is attached, it must meet the requirements of subsection (10) of this section.

(d) For overhead protection requirements, see WAC 296-306-270.

(e) If protective enclosures are used on wheel-type agricultural and industrial tractors, they shall meet the requirements of Society of Automotive Engineers Standard J168 (July 1970), Protective Enclosures, Test Procedures, and Performance Requirements.

(3) Applicability. The requirements of this section apply to wheel-type agricultural tractors used in agriculture work and to wheel-type industrial tractors used in construction type work. See subsection (1) of this section for definitions of agricultural tractors and industrial tractors.

(4) Performance requirements.

(a) Either a laboratory test or a field test is required in order to determine the performance requirements set forth in subsection (10) of this section.

(b) A laboratory test may be either static or dynamic. The laboratory test must be under conditions of repeatable and controlled loading in order to permit analysis of the protective frame.

(c) A field upset test, if used, shall be conducted under reasonably controlled conditions, both rearward and sideways, to verify the effectiveness of the protective frame under actual dynamic conditions.

(5) Test procedure—General.

(a) The tractor used shall be the tractor with the greatest weight on which the protective frame is to be used.

PERMANENT

(b) A new protective frame and mounting connections of the same design shall be used for each test procedure.

(c) Instantaneous and permanent frame deformation shall be measured and recorded for each segment of the test.

(d) Dimensions relative to the seat shall be determined with the seat unloaded and adjusted to its highest and most rearward latched position provided for a seated operator.

(e) If the seat is offset, the frame loading shall be on the side with the least space between the centerline of the seat and the upright.

(f) The low temperature impact strength of the material used in the protective structure shall be verified by suitable material tests or material certifications in accordance with WAC 296-306-26001 (7)(b)(iv).

(6) Test procedure for vehicle overturn.

(a) Vehicle weight. The weight of the tractor, for purposes of this section, includes the protective frame, all fuels, and other components required for normal use of the tractor. Ballast must be added if necessary to achieve a minimum total weight of 130 lb. (59 kg.) per maximum power takeoff horsepower at rated engine speed. The weight of the front end must be at least 33 lb. (15 kg.) per maximum power takeoff horsepower. In case power takeoff horsepower is unavailable, 95 percent of net engine flywheel horsepower shall be used.

(b) Agricultural tractors shall be tested at the weight set forth in subdivision (a) of this subsection.

(c) Industrial tractors shall be tested with items of integral or mounted equipment and ballast that are sold as standard equipment or approved by the vehicle manufacturer for use with the vehicle where the protective frame is expected to provide protection for the operator with such equipment installed. The total vehicle weight and front end weight as tested shall not be less than the weights established in subdivision (a) of this subsection.

(d) The test shall be conducted on a dry, firm soil bank as illustrated in Figure C-2. The soil in the impact area shall have an average cone index in the 0.6 in. (153 mm.) layer not less than 150 according to American Society of Agricultural Engineers Recommendations ASAE R313, Soil Cone Penetrometer. The path of travel of the vehicle shall be $12^{\circ} \pm 2^{\circ}$ to the top edge of the bank.

(e) The upper edge of the bank shall be equipped with an 18 in. (457 mm.) high ramp as described in Figure C-2 to assist in tipping the vehicle.

(f) The front and rear wheel tread settings, where adjustable, shall be at the position nearest to halfway between the minimum and maximum settings obtainable on the vehicle. Where only two settings are obtainable, the minimum setting shall be used.

(g) Vehicle overturn test—Sideways and rearward.

(i) The tractor shall be driven under its own power along the specified path of travel at a minimum speed of 10 m.p.h. (16 km./hr.) or maximum vehicle speed if under 10 m.p.h. (16 km./hr.) up the ramp as described in subdivision (e) of this subsection to induce sideways overturn.

(ii) Rear upset shall be induced by engine power with the tractor operating in gear to obtain 3-5 m.p.h. (4.8-8 km./hr.) at maximum governed engine r.p.m. preferably by driving forward directly up a minimum slope of two vertical to one horizontal. The engine clutch may be used to aid in inducing the upset.

(7) Other test procedures. When the field upset test is not used to determine ROPS performance, either the static test or the dynamic test, contained in subsection (8) or (9) of this section, shall be made.

(8) Static test.

(a) Test conditions.

(i) The laboratory mounting base shall include that part of the tractor chassis to which the protective frame is attached including the mounting parts.

(ii) The protective frame shall be instrumented with the necessary equipment to obtain the required load deflection data at the locations and directions specified in Figure C-3, C-4, and C-5.

(iii) The protective frame and mounting connections shall be instrumented with the necessary recording equipment to obtain the required load-deflection data to be used in calculating FSB (see subsection (1)(c) of this section). The gauges shall be placed on mounting connections before the installation load is applied.

(b) Test procedure.

(i) The side load application shall be at the upper extremity of the frame upright at a 90° angle to the centerline of the vehicle. The side load "L" shall be applied according to Figure C-3. "L" and "D" shall be recorded simultaneously. The test shall be stopped when:

(A) The strain energy absorbed by the frame is equal to the required input energy (Eis) or

(B) Deflection of the frame exceeds the allowable deflection, or

(C) The frame load limit occurs before the allowable deflection is reached in the side load.

(ii) The L-D diagram, as shown by means of a typical example in Figure C-6, shall be constructed, using the data obtained in accordance with item (i) of this subdivision.

(iii) The modified Lm-Dm diagram shall be constructed according to item (ii) of this subdivision and according to Figure C-6. The strain energy absorbed by the frame (Eu) shall than [then] be determined.

(iv) Eis, FER, and FSB shall be calculated.

(v) The test procedure shall be repeated on the same frame utilizing L (rear input; see Figure C-5) and Eir. Rear load application shall be uniformly distributed along a maximum projected dimension of 27 in. (686 mm.) and a maximum area of 160 sq. in. (1,032 sq. cm.) normal to the direction of load application. The load shall be applied to the upper extremity of the frame at the point which is midway between the centerline of the seat and the inside of the frame upright.

(9) Dynamic test.

(a) Test conditions.

(i) The protective frame and tractor shall meet the requirements of subsection (6)(b) or (c) of this section, as appropriate.

(ii) The dynamic loading shall be produced by use of a 4,410 lb. (2,000 kg.) weight acting as a pendulum. The impact face of the weight shall be 27 plus or minus 1 in. by 27 plus or minus 1 in. (686 + or - 25 mm.) and shall be constructed so that its center of gravity is within 1 in. (25.4 mm.) of its geometric center. The weight shall be suspended from a pivot point 18-22 ft. (5.5-6.7 m.) above the point of impact on the frame and shall be conveniently and safely adjustable for height. (See Figure C-6.)

(iii) For each phase of testing, the tractor shall be restrained from moving when the dynamic load is applied. The restraining members shall be of 0.5-0.63 in. (12.5-16 mm.) steel cable and points of attaching restraining members shall be located an appropriate distance behind the rear axle and in front of the front axle to provide a 15°-30° angle between a restraining cable and the horizontal. The restraining member shall either be in the plane in which the center gravity of the pendulum will swing or more than one restraining cable shall give a resultant force in this plane. (See Figure C-8.)

(iv) The wheel tread setting shall comply with the requirements of subsection (6)(f) of this section. The tires shall have no liquid ballast and shall be inflated to the maximum operating pressure recommended by the tire manufacturer. With specified tire inflation, the restraining cables shall be tightened to provide tire deflection of 6-8 percent of nominal tire section width. After the vehicle is properly restrained, a wooden beam 6 x 6 in. (15 x 15 cm.) shall be driven tightly against the appropriate wheels and clamped. For the test to the side, an additional wooden beam shall be placed as a prop against the wheel nearest the operator's station and shall be secured to the floor so that it is held tightly against the wheel rim during impact. The length of this beam shall be chosen so that when it is positioned against the wheel rim it is at an angle of 25°-40° to the horizontal. It shall have a length 20-25 times its depth and a width two to three times its depth. (See Figures C-8 and C-9.)

(v) Means shall be provided indicating the maximum instantaneous deflection along the line of impact. A simple friction device is illustrated in Figure C-9.

(vi) No repair or adjustments may be carried out during the test.

(vii) If any cables, props, or blocking shift or break during the test, the test shall be repeated.

(b) Test procedure.

(i) General. The frame shall be evaluated by imposing dynamic loading to rear followed by a load to the side on the same frame. The pendulum dropped from the height (see definition "H" in subsection (1)(c) of this section) imposes the dynamic load. The position of the pendulum shall be so selected that the initial point of impact on the frame shall be in line with the arc of travel of the center of gravity of the pendulum. A quick release mechanism should be used but, if used, shall not influence the attitude of the block.

(ii) Impact at rear. The tractor shall be properly restrained according to subdivisions (a)(iii) and (iv) of this section. The tractor shall be positioned with respect to the pivot point of the pendulum such that the pendulum is 20° from the vertical prior to impact, as shown in Figure C-8. The impact shall be applied to the upper extremity of the frame at the point which is midway between the centerline of the seat and the inside of the frame upright of a new frame.

(iii) Impact at side. The block and restraining shall conform to subdivisions (a)(iii) and (iv) of this subsection. The point of impact shall be that structural member of the protective frame likely to hit the ground first in a sideways accidental upset. The side impact shall be applied to the side opposite that used for rear impact.

(10) Performance requirements.

(a) General.

(i) The frame, overhead weather shield, fenders, or other parts in the operator area may be deformed but shall not shatter or leave sharp edges exposed to the operator, or violate dimensions as shown in Figures C-2 and C-3 as follows:

D = 2 in. (51 mm.) inside of frame upright to vertical centerline of seat.

E = 30 in. (762 mm.).

F = Not less than 0 in. and not more than 12 in. (305 mm.), measured at centerline front of seat backrest to crossbar along the line of load application as shown in Figure C-3.

G = 24 in. (610 mm.).

(ii) The material and design combination used in the protective structure must be such that the structure can meet all prescribed performance tests at zero degrees Fahrenheit in accordance with WAC 296-306-26001 (7)(b)(iv).

(b) Vehicle overturn performance requirements. The requirements of this subsection (10) must be met in both side and rear overturns.

(c) Static test performance requirements. Design factors shall be incorporated in each design to withstand an overturn test as prescribed in this subsection (10). The structural requirements will be generally met if FER is greater than 1 and FSB is greater than K-1 in both side and rear loadings.

(d) Dynamic test performance requirements. Design factors shall be incorporated in each design to withstand the overturn test prescribed in this subsection (10). The structural requirements will be generally met if the dimensions in this subsection (10) are adhered to in both side and rear loads.

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

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-400 Posting requirements. (1) When a pesticide having a reentry interval greater than twenty-four hours is applied to a labor-intensive agricultural crop, the pesticide-treated area shall be posted with warning signs in accordance with the requirements of this section. Sign design may be either the state design as illustrated by figure 1 or the officially adopted sign of the Environmental Protection Agency. (Reference federal regulation 40 CFR 170.120.)

Note: After April 15, 1994, the United States Environmental Protection Agency will require that their sign design must be posted when you use an agricultural pesticide product that has a label requirement for posting as required by the worker/protection standard 40 CFR 170.

(2) Definitions for the purposes of this section are:

(a) "Labor-intensive agricultural crop" means crops requiring substantial hand-labor for planting, thinning, cultivating, pruning, harvesting, or other agricultural activities. Labor-intensive agricultural crops include but are not limited to apples, cherries, peaches, berries, hops, grapes, asparagus, pears, plums, nectarines, onions, cucumbers,

cauliflower, and squash. By virtue of mechanization, crops such as, but not limited to, wheat, oat, and barley are excluded unless substantial hand-labor is utilized.

(b) "Reentry interval" means the length of time after an application until personnel will be allowed to reenter a treated area for work purposes without personal protective equipment.

(3) Pesticide warning signs required under this section shall be posted in such a manner as to be clearly visible from all usual points of entry to the pesticide-treated area. If there are no usual points of entry or the area is adjacent to an unfenced public right of way, signs shall be posted:

- (a) At each corner of the pesticide-treated area; and
- (b) At intervals not exceeding six hundred feet; and/or
- (c) At other locations approved by the department that provide maximum visibility.

(4) The signs shall be posted within twenty-four hours before scheduled application of the pesticide, and remain posted during application and throughout the applicable reentry interval. Signs shall be removed within two days after the expiration of the applicable reentry interval and before employee reentry is permitted. Employees working in an area scheduled for a pesticide application shall be informed of the application and shall vacate the area to be sprayed prior to the application of the pesticide.

(5) Signs shall be legible for the duration of use and wording shall be in English and Spanish.

(6) Signs shall meet the following criteria: (Unless EPA signs are used).

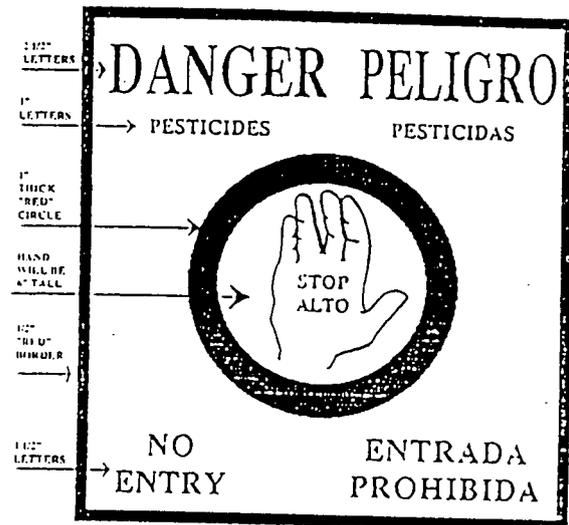
- (a) The background color shall be white.
- (b) The border at least one-half inch in width shall be red.
- (c) The words "DANGER" and "PELIGRO" shall be at the top. Letters for these words shall be black and at least two and one-half inches in height.
- (d) The words "pesticides" and "pesticidas" shall be at the top but below the words "DANGER" and "PELIGRO," respectively. Letters for these words shall be black and at least one inch in height.

(e) The center of the sign shall contain a circle comprised of a one-inch thick red line and contain an upraised hand in black with the white words "STOP" and "ALTO," respectively shown on the palm in the center of the circle. The hand shall be at least six inches in length.

(f) The words "NO ENTRY" and "ENTRADA PROHIBIDA" shall be at the bottom. Letters for these words shall be black and at least one and one-half inches in height.

(g) Sizes of letters and symbols listed are minimum acceptable size posters. Larger posters may be used provided the proportionate size of letters and symbols are maintained.

(7) A small black and white facsimile of the warning sign meeting these requirements is shown in Figure 1.



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

AMENDATORY SECTION (Amending Order 263 [WSR 93-12-001], filed 6/16/76 [5/19/93])

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce and may be associated with open water.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"**Cultural resources**" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"**Cumulative effects**" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"**Debris**" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"**Department**" means the department of natural resources.

"**Eastern Washington**" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"**End hauling**" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"**Erodible soils**" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"**Even-aged harvest methods**" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Fen**" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"**Fill**" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"**Flood level - 50 year.**" For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the

ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location documented by the department of wildlife for status 1, 2 or 3 northern spotted owls. The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status

cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

"**Notice to comply**" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"**Operator**" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"**Ordinary high-water mark**" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"**Other forest chemicals**" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"**Park**" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"**Partial cutting**" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"**Pesticide**" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"**Plantable area**" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"**Power equipment**" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"**Public resources**" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"**Rehabilitation**" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"**Relief culvert**" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"**Resource characteristics**" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"**Riparian management zone**" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"**Rodenticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"**Salvage**" means the removal of snags, down logs, windthrow, or dead and dying material.

"**Scarification**" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"**Shorelines of the state**" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"**Side casting**" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"**Spoil**" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"**Stop work order**" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"**Threatened or endangered species**" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"**Timber**" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"**Weed**" is any plant which tends to overgrow or choke out more desirable vegetation.

"**Western Washington**" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"**Wetland**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"**Wetland functions**" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"**Wetland management zone**" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the

landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

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

AMENDATORY SECTION (Amending WSR 92-15-011 [93-12-001], filed 7/2/92 [5/19/93], effective 8/2/92 [6/19/93])

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of wildlife.

~~((This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date))~~The forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

The department shall rely upon the department of wildlife for the determination of status based on the following definitions:

- Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.
- Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.
- Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats

(state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-23-056], filed 6/16/76 [11/17/92])

WAC 222-24-030 Road construction. (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

***(2) Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

***(4) Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

***(5) Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

***(6) Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

***(7) Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

***(8) End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

***(9) Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

***(10) Disturbance avoidance.** Road construction, operation of heavy equipment and blasting shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-050 Felling and bucking. ***(1) Falling along water.**

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

***(2) Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

*** (3) Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) Falling in selective and partial cuts. Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

(5) Disturbance avoidance. Felling and bucking shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-060 Cable yarding. * (1) Type 1, 2 and 3 Waters. No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

*** (2) Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

*** (3) Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

*** (4) Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

(5) Direction of yarding.

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

(c) When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) Disturbance avoidance. The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

NEW SECTION

WAC 222-30-065 Helicopter yarding. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-070 Tractor and wheeled skidding systems. * (1) Typed waters and wetlands.

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

*** (2) Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

*** (3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

*** (4) Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

*** (5) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

(6) **Protection of residual timber.** Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

***(7) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

***(8) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

***(9) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

***(10) Disturbance avoidance.** The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

NEW SECTION

WAC 222-30-075 Timber and rock hauling. The following limits on timber hauling shall apply within 0.25 mile northern spotted owl site center between March 1 and August 31:

(1) At all times of the day vehicle speed shall be limited to 15 miles per hour; and

(2) Timber and rock hauling shall be limited to 1 hour after official sunrise to 1 hour before official sunset; and

(3) All reasonable attempts shall be made to minimize traffic within suitable habitat, attempt to route traffic through non-habitat.

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-100 Slash disposal or prescribed burning. (1) **Slash disposal techniques:**

***(a)** Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided*, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian manage-

ment zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

***(c)** Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

***(4) Removing slash and debris** from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

***(5) Fire trails.**

(a) Construct ditches, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

***(6) Disturbance avoidance.** Burning shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

AMENDATORY SECTION (Amending Order 263 [WSR 93-12-001], filed 6/16/76 [5/19/93])

WAC 222-38-020 Handling, storage, and application of pesticides. ***(1) No pesticide leakage, contamination, pollution.**

Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

***(2) Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

***(3) Riparian management zone.** Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(4) Wetland management zone.** Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(5) Aerial application of pesticides.**

(a) To keep pesticides out of the water, leave a 50 foot buffer strip on all typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off spray equipment during turns and over open water.

(e) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an over-flight of the area shall be made by the pilot with the marked photos or maps.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerially treated units is required. The signs will contain the name of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

(h) Disturbance avoidance. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

***(6) Ground application of pesticides with power equipment.**

Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

***(7) Hand application of pesticides.**

Apply only to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps.

***(8) Limitations on application.** Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

***(9) Container disposal.** Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

***(10) Daily records - aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

***(11) Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

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

AMENDATORY SECTION (Amending WSR 92-15-011 [93-12-001], filed 7/2/92 [5/19/93], effective 8/2/92 [6/19/93])

WAC 222-38-030 Handling, storage, and application of fertilizers. ***(1) Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

***(2) Riparian management zone.** Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(3) Wetland management zone.** Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(4) Aerial application of fertilizer.**

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an over-flight of the area shall be made by the pilot with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

(g) Disturbance avoidance. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

* (5) Ground and hand application of fertilizers. Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

* (6) Reporting of fertilizer spills. All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

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

WSR 94-06-032
EMERGENCY RULES
HEALTH CARE AUTHORITY
 [Filed February 23, 1994, 12:59 p.m.]

Date of Adoption: February 23, 1994.

Purpose: Rule is designed to carry out the purposes of chapter 70.47 RCW, the Health Care Access Act.

Citation of Existing Rules Affected by this Order: Amending WAC 55-01-010, 55-01-020, 55-01-030, 55-01-040, 55-01-050, 55-01-060, and 55-01-070.

Statutory Authority for Adoption: RCW 70.47.050.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Changes were made to accommodate revisions in the provisions for Medicaid/basic health plan eligibility coordination in the Health Services Act, E2SSB 5304.

Effective Date of Rule: Immediately.

February 23, 1994

Elin S. Meyer

Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-14-088, filed 6/30/92, effective 7/31/92)

WAC 55-01-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the (~~Washington basic health plan~~) administrator of the Washington health care authority or designee.

(2) "Certificate of coverage" means a written document issued by the plan to a subscriber which describes the covered services, premiums, grievance procedures and other rights and responsibilities of enrollees. The certificate of coverage issued to a subscriber shall pertain to the subscriber and family dependents.

(3) "Copayment" means a payment indicated in the schedule of benefits which is made by an enrollee to a managed health care system or health care provider, or to the plan, when specifically instructed to do so by the plan, for covered services provided to the enrollee.

(4) "Covered services" means those services and benefits to which an enrollee is entitled, under the certificate of coverage issued by the plan to the enrollee (or to a subscriber on behalf of the enrollee), in exchange for payment of premium and applicable copayments.

(5) "Dependent child" means an individual's unmarried natural child, stepchild, or legally adopted child, who is either:

(a) Younger than age nineteen(~~(-)~~); or

(b) Younger than age twenty-three and:

(i) Is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on(~~(-)~~); or

(ii) Is pursuing a full-time course of institutional on-farm training under the supervision of an educational organization described in (~~WAC 55-01-010 (5)~~)(b)(i) of this subsection.

(6) "Effective date of enrollment" means the first date, as established by the plan, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.

(7) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

(8) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the plan, and for whom applicable premium payments have been made.

~~((8))~~ (9) "Family" means an individual or an individual and the individual's spouse, if not legally separated, and the individual's dependent children. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

~~((9))~~ (10) "Family dependent" means a subscriber's legal spouse, if not legally separated, or the subscriber's dependent child, who meets all eligibility requirements, is enrolled in the plan, and for whom the applicable premium has been paid.

~~((10))~~ (11) "Financial sponsor" means a person, employer or other entity that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any family dependents.

(12) "Grievance procedure" means ~~((the formal process))~~ a written procedure for resolution of problems or concerns raised by enrollees ~~((which cannot be resolved in an informal manner to the enrollee's satisfaction))~~. "Grievance" means a problem or concern presented for resolution through a grievance procedure.

~~((11))~~ (13) "Gross family income" means the total income of all members of an enrollee's family, regardless of whether those family members enroll in the plan.

(a) For purposes of this definition, for applications for enrollment which are received by the plan on or before March 31, 1989, "income" includes but is not limited to wages and salaries, net income from rentals or self-employment, tips, interest income, dividends, royalties, public or private pensions, and Social Security benefits.

(b) For purposes of this definition, for applications for enrollment which are received by the plan on or after April 1, 1989 and for premium payments which are made for coverage on or after June 1, 1989, "income" means total cash receipts before taxes from all sources, with the exceptions noted below.

(i) Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from Social Security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance ~~((including aid to families with dependent children, supplemental security income, emergency assistance money payments, and non-federally funded general assistance or general relief money payments)), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions))~~ (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships and assistantships, if received as or convertible by the recipient into cash; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

(ii) Income does not include the following types of money received: Capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house or a car; tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation). Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance.

(c) "Income" shall not include income earned by dependent children, nor shall it include income of a family member who resides in another household when such income is not available to those family members seeking enrollment in the plan.

(d) In the event that an item of income is received periodically, but less frequently than once per month, the latest amount received will be divided by the number of months in the period (i.e., between payments) in order to calculate an average amount per month. That monthly average will be combined with other monthly items of income to derive a monthly total, which will be used in the calculation of income as a percentage of federal poverty level. (For example, if an applicant receives quarterly interest payments in January, April, July, and October, and applies for coverage by the plan in September, the July payment will be divided by three to obtain a monthly income amount.)

~~((12))~~ (14) "Managed health care system" (or "MHCS") means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system.

~~((13))~~ (15) "Medicaid" means the Title XIX Medicaid program. This medical care program is administered by the Medical Assistance Administration to the "categorically needy" as defined in chapters 388-82 and 388-92 WAC and to those defined as "medically needy" under WAC 388-80-005(45).

(16) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

~~((14))~~ (17) "Nonsubsidized enrollee" means an enrollee who pays, or on whose behalf is paid (excluding Medicaid recipients or those enrollees who are eligible to receive Medicaid benefits), the full costs for participation in BHP, including administrative costs, without any subsidy from BHP.

(18) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their membership from one participating managed health care system to another. There shall be at least one open enrollment period of at least twenty consecutive days, at least once annually, in each site served by the plan.

~~((15))~~ (19) "Participating," when referring to a managed health care system, means one that has entered into a contract with the plan to provide covered services to enrollees. When referring to a health care provider, "participating" means one who is employed by or has entered into a contract with a participating managed health care system to provide covered services to enrollees.

~~((16))~~ (20) The "plan" is the basic health plan authorized under chapter 70.47 RCW.

(21) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which a subscriber or financial sponsor makes to the plan on behalf of the subscriber and family dependents in consideration for enrollment in the plan.

~~((17))~~ (22) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington.

~~((18))~~ (23) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of enrollees in the plan and in that MHCS.

~~((19))~~ (24) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which enrollees shall be entitled to receive from participating managed health care systems.

~~((20))~~ (25) "Service area" means the geographic area served by a participating managed health care system as defined in its contract with the plan.

~~((21))~~ (26) "Site" means a geographic area designated by the plan in which one or more participating managed health care systems are offered to enrollees for selection.

~~((22))~~ (27) "Subscriber" means an enrollee, or the parent or legal guardian of an enrolled dependent child, who has been designated by the plan as the individual to whom the plan and the managed health care system will issue all notices, information requests and premium bills on behalf of all enrolled family members. For purposes of chapter 55-01 WAC, notice to a subscriber shall be considered notice to all enrolled members of the subscriber's family as well.

~~((23))~~ "Subsidy" means the difference between the rate paid by the administrator to a managed health care system on behalf of an enrollee and the enrollee's premium responsibility.

~~((24))~~ (28) "Subsidized enrollee" means an enrollee whose gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services, and for whom funds are available to provide a partial subsidy of the premium according to a premium schedule adopted by the administrator. Medicaid recipients who are enrolled in managed health care systems through the basic health plan are also considered by the plan and the department of social and health services to be "subsidized" enrollees.

(29) "Subsidy" means the difference between the premium responsibility of a subsidized enrollee, who is not a Medicaid recipient, and the costs incurred by the plan in providing coverage to that subsidized enrollee. The costs incurred include both the rate paid by the administrator to a managed health care system on behalf of the enrollee and that portion of the administrative cost of providing the plan allocated by the administrator to that enrollee.

(30) "Washington basic health plan," "BHP" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by chapter 70.47 RCW. The Washington basic health plan is a program within the Washington health care authority.

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-020 Schedule of benefits. (1) The administrator shall design and from time to time may revise a schedule of benefits which shall include such physician services, inpatient and outpatient hospital services, prescription drugs and medications, proven preventive and primary care services, all services necessary for prenatal, postnatal and well-child care, and other services as determined by the administrator to be necessary for basic health care and which enrollees shall receive in return for premium payments to the plan and payment of required copayments. However, ~~((for the period beginning July 1, 1992, and ending June 30, 1993,))~~ the schedule of benefits shall not include prenatal or postnatal services for enrollees who are eligible for coverage under the medical assistance program under chapter 74.09 RCW, except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider ~~((, or except to provide any such services associated with pregnancies diagnosed by the managed care provider before July 1, 1992)).~~ The schedule of benefits may include copayments, limitations and exclusions which the administrator determines are appropriate and consistent with the goals and objectives of the plan.

(2) In designing and revising the schedule of benefits, the administrator will consider the effects of particular benefits, copayments, limitations and exclusions on access to necessary basic health care services, as well as the cost to the enrollees and to the state, and will also consider generally accepted practices of the health insurance and managed health care industries.

(3) Prior to enrolling in the plan, each applicant will be given a complete written description of covered benefits, including all copayments, limitations and exclusions. Enrollees will also be given information on the services, providers, facilities, hours of operation, and other information descriptive of the managed health care system(s) available to enrollees in a given site.

(4) Subscribers will be given written notice by the plan of any ~~((planned revisions to the benefit package and the accompanying premiums:))~~ changes in the amount and scope of benefits provided under the plan. Such notice ~~((to))~~ will be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect. For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan. The administrator will make available a separate schedule of benefits for children, eighteen years of age and younger, for those who choose to enroll only their dependent children in the plan.

AMENDATORY SECTION (Amending WSR 92-14-088, filed 6/30/92, effective 7/31/92)

WAC 55-01-030 Premiums and copayments. (1) ~~((Each))~~ Subscribers shall be responsible for paying a monthly premium to the plan, on behalf of the subscriber and all family dependents ~~((, according to a premium schedule to be provided by the plan at the time the subscriber is~~

~~enrolled by the plan~~). A third party may, with the approval of the administrator, become a financial sponsor and pay all or a designated portion of the premium on behalf of any enrollee.

~~(2) For subsidized enrollees, the amount of premium (payable by any subscriber) due will be based upon the subscriber's gross family income and rates payable to participating managed health care systems, and may vary with the number and ages of individuals enrolled from a given family. (A third party may, with the approval of the administrator and through a mechanism acceptable to the administrator, pay the premium on behalf of any enrollee. Premium amounts payable shall be a monthly dollar payment or a percentage of the total rate payable by the plan. A statement of the monthly amount due will be mailed to the subscriber upon determination of eligibility for the plan.~~

~~(2))~~ (3) For nonsubsidized enrollees, the amount of premium due will be equal to the cost charged by the managed health care system for that enrollee, plus that portion of the administrative cost of providing the plan allocated by the administrator to that enrollee. Nonsubsidized enrollees will also pay the appropriate premium tax as provided by law. A nonsubsidized enrollee who documents a change in income that causes the gross family income to fall below twice the federal poverty level may be eligible to become a subsidized enrollee, and will pay a monthly premium as provided by subsection (1) of this section, subject to the limits in WAC 55-01-040.

(4) Based on the information provided by an enrollee on the application for enrollment, and any other information obtained by the plan, the enrollee will be informed of the premium amount due. The plan will notify subscribers in writing of any revisions to the premium schedule or to the premium amounts payable to the plan, such notice to be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect, except that retroactive enrollment of a newborn or newly adopted child (as provided in WAC 55-01-050(6)) may result in a corresponding retroactive increase in premium payable to the plan. For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan.

~~((3))~~ (5) Once the plan has determined that a subscriber and members of the subscriber's family (if any) are eligible for enrollment, the plan will bill the subscriber, and financial sponsor if applicable, for the family's first month's premium. The subscriber and family members will not be eligible to receive covered services on the effective date of enrollment specified by the plan unless the premium bill is paid in full by the due date specified on the bill. (Thereafter, the plan will bill each subscriber monthly, and the subscriber shall be responsible for payment of the billed amount in full by the date specified on the bill.

~~(4))~~ (6) Premium bills must be paid in full by the date specified on the bill. Payment may be made in person at the plan's administrative office in Olympia, Washington, or by mail to the address specified on the bill. If the plan does not receive payment in full of a premium bill by 5:00 p.m. on the date specified on the bill, the plan shall issue a notice of delinquency to the subscriber, or to the financial sponsor, at

the ~~((subscriber's))~~ last address on file with the plan, requiring payment in full by a date not less than ten days from the date of the notice. If full payment is not received by the date specified in the delinquency notice, the subscriber and enrolled family members will be disenrolled effective the first day of the month following the last month for which full premium payment was received by the plan. Partial payment of premiums due will be regarded as nonpayment. The plan may disenroll a subscriber and enrolled family members in the event that ~~((the subscriber receives))~~ more than two delinquency notices are issued for that family in a twelve-month period.

~~((5))~~ (7) Enrollees shall be responsible for paying any required copayment directly to the provider of a covered service, unless the enrollee has been instructed by his or her managed health care system or the plan to make payment to another party. Copayments must be paid in full by the enrollee at the time of service. Failure to pay a required copayment in full at the time of service may result in the denial or rescheduling of that service by the managed health care system. Repeated failure to pay copayments in full on a timely basis may result in disenrollment, as provided in WAC 55-01-060(2).

AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

WAC 55-01-040 Eligibility. (1) To be eligible for enrollment in the plan, an individual must:

(a) ~~((Be under age sixty-five;~~

~~(b) Not be eligible for medicare;))~~ Not be eligible for Medicare;

~~(b) At the time of application, not have health insurance more comprehensive than that offered by the plan based upon a determination by the administrator. Factors which may be considered in determining whether insurance is more comprehensive include, but are not limited to, enrollee's current benefit plan and the associated co-pays, co-insurance, deductibles and benefit exclusions;~~

(c) Reside within the service area of a participating managed health care system; and

~~(d) ((Have a gross family income at the time of enrollment that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the Federal Department of Health and Human Services.))~~ If subsidized and if requested by the administrator, provide proof that a Medicaid eligibility determination has been completed within the last thirty days, including the results of that determination.

Persons not meeting all of these criteria, at the time of initial application, as evidenced by information submitted on the application for enrollment or otherwise obtained by the plan, will not be enrolled. An enrollee who subsequently fails to meet all of the criteria, or is later determined to have failed to meet all of the criteria at the time of enrollment, will be disenrolled from the plan as provided in WAC 55-01-060~~((—except that an enrollee whose gross family income exceeds twice the federal poverty level may continue as an enrollee for up to six months, provided all other criteria are met and provided that the enrollee pays a monthly premium equal to the rate stated in the contract~~

~~between the plan and the participating managed health care system selected by the enrollee).~~

(2) To be eligible for subsidized enrollment in the plan, an individual must have a gross family income that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services.

The administrator may require enrollees or prospective enrollees to complete the following eligibility determination process, as further defined under chapter 74.09 RCW (pertaining to eligibility for the Medicaid program), prior to enrollment or continued participation in the plan.

(a) A prospective or current enrollee shall comply with a plan request to provide evidence to the administrator that a Medicaid eligibility determination has been completed within the past thirty days and the results of this determination.

(b) The administrator shall ensure that all prospective or current plan enrollees who are determined to be eligible for Medicaid receive complete information regarding the benefits available through the Medicaid program compared to the benefits they would receive (or are currently receiving) under the plan.

(c) Failure or refusal on the part of a prospective or current enrollee to comply with a request to complete the Medicaid eligibility determination process may preclude enrollment and may affect continued participation in the plan subsidy.

(3) An individual otherwise eligible for enrollment in the plan may be denied enrollment if the administrator has determined that acceptance of additional enrollment in a given service area would exceed limits established by the legislature, would jeopardize the orderly development of the plan in that service area, or would result in an overexpenditure of plan funds. In the event that the administrator closes enrollment in a given service area, the plan will continue to accept applications for enrollment, but will not process those applications for determination of eligibility. The plan will place the names of applicants on a waiting list in the order in which applications are received, and will so notify the applicants. In the event that enrollment is reopened by the administrator, applicants whose names appear on the waiting list will be notified by the plan of the opportunity to enroll; provided that the plan may require new application forms and documentation from applicants on the waiting list, or may contact applicants to verify continued interest in applying, prior to determining their eligibility.

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-050 Enrollment in the plan. (1) Any individual applying for enrollment in the plan must complete and submit the plan's application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or legal guardian, who shall also be held responsible by the plan for payment of premiums due on behalf of the child.

(2) Each applicant shall complete and sign the application for enrollment, listing family members to be enrolled and supplying such other information as required by the plan.

(a) Documentation will be required, showing the amount and sources of (~~applicant's~~) applicant's income for the most recent complete calendar month as of the date of application. Applicants will also be required to submit a copy of their most recent federal income tax form. Income documentation shall be required for all income-earning family members, including those not applying for enrollment, except for family members who reside in another household and whose income is not available to the family seeking enrollment, and dependent children.

(b) Documentation of residence shall also be required, displaying the applicant's name and address.

(c) The plan may request additional information from applicants for purposes of establishing or verifying eligibility, including Medicaid eligibility in chapter 74.09 RCW, premium responsibility or managed health care system selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in the plan. Intentional submission of false information may result in disenrollment of the applicant and all enrolled family members, retroactive to the date upon which coverage began.

(3) Each family applying for enrollment must designate a participating managed health care system from which all enrolled family members will receive covered services. All applicants from the same family must receive covered services from the same managed health care system. No applicant will be enrolled for whom designation of a participating managed health care system has not been made as part of the application for enrollment. The administrator will establish procedures for the selection of managed health care systems, which will include conditions under which an enrollee may change from one managed health care system to another. Such procedures will allow enrollees to change from one managed health care system to another during open enrollment, or otherwise upon showing of good cause for the transfer.

(4) Except as provided in WAC 55-01-040(~~(2)~~) (3), applications for enrollment will be reviewed by the plan within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(5) Eligible applicants will be enrolled in the plan in the order in which their completed applications, including all required documentation, have been received by the plan, provided that the applicant also remits full payment of the first premium bill to the plan by the due date specified by the plan.

(6) Not all family members are required to apply for enrollment in the plan; however, any family member for whom application for enrollment is not made at the same time that other family members apply may not subsequently enroll as a family dependent until the next open enrollment period available to that family member. Eligible newborn and newly adopted children may be enrolled effective from the date of birth or physical placement with the adoptive parents for adoption, provided that application for enrollment is submitted to the plan within sixty days of the date of birth or such placement for adoption. A newly acquired spouse of an enrollee may apply for enrollment within thirty days of the date of marriage and, if found eligible by the plan, will

be enrolled on the first of a month following completion of the enrollment process by the plan, provided that the addition of the spouse does not otherwise render the family ineligible for coverage by the plan.

(7) Any enrollee who disenrolls from the plan for reasons other than ~~((a) ineligibility due to an increase in gross family income or (b))~~ coverage by another health care benefits program may not reenroll in the plan for a period of twelve months from the effective date of disenrollment. ~~((An enrollee who disenrolls because of ineligibility due to an increase in gross family income may reenroll in the event that gross family income subsequently falls to a level which qualifies the enrollee for eligibility.))~~ An enrollee who disenrolls because of coverage by another health care benefits program may reenroll in the event that the enrollee becomes ineligible for such other coverage, provided that the enrollee has been continuously covered since the date of disenrollment from the plan, and provides documentation of such continuous coverage to the plan. Before any person shall be reenrolled in the plan, that person must complete a new application for enrollment and must be determined by the plan to be otherwise eligible for enrollment as of the date of application.

(8) The plan may require any enrollee or applicant for enrollment in the plan who appears to meet eligibility requirements for medical care under chapter 74.09 RCW to complete the eligibility determination process under chapter 74.09 RCW prior to enrollment or continued participation in the plan.

(9) Once every six months, the plan will request verification of information from enrollees ("recertification"), which may include a request to complete a new application form and submit required documentation. At recertification, enrollees will be required to report their gross family income for the most recent complete calendar month as of the recertification date specified by the plan, and to provide the same documentation of such income as required of applicants. The plan may request information more frequently from an enrollee for the purpose of verifying eligibility if the plan has good cause to believe that the enrollee's income, residence, family size or other eligibility criteria may have changed since the date on which information was last received by the plan. Enrollees shall be given at least twenty days from the date of any such information request to respond to the request. Failure to respond within the time designated in any information request shall result in a second request from the plan. Failure to respond within the time designated in any second request for information may result in disenrollment of the enrollee. Each enrollee is responsible for notifying the plan within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility.

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-060 Disenrollment from the plan. (1) An enrollee may disenroll effective the first day of any month by giving the plan at least ten days prior written notice of the intention to disenroll. Reenrollment in the plan shall be subject to the provisions of WAC 55-01-050(7). The administrator shall also establish procedures for notice

by an enrollee of a disenrollment decision, including the date upon which disenrollment shall become effective. Nonpayment of premium by an enrollee shall be considered an indication of the enrollee's intention to disenroll from the plan.

(2) The plan may disenroll any enrollee from the plan for good cause, which shall include: Failure to meet the eligibility requirements set forth in WAC 55-01-040; loss of eligibility; nonpayment of premium; repeated failure to pay copayments in full on a timely basis; failure to provide eligibility information necessary to determine whether the enrollee may be eligible for medical care under chapter 74.09 RCW within thirty days of the date of request by the plan; failure to apply when such application is required by the plan to the department of social and health services for determination of eligibility for medical care under chapter 74.09 RCW within thirty days of the date of request by the plan; providing false information; fraud or abuse ~~((including but not limited to serious misconduct))~~; intentional misconduct; and refusal to accept or follow procedures or medical treatment determined by a participating provider to be essential to the health of the enrollee, where the managed health care system demonstrates to the satisfaction of the plan that no professionally acceptable alternative form of treatment is available from the managed health care system, and the enrollee has been so advised by the managed health care system. The plan shall provide the enrollee with advance written notice of its intent to disenroll the enrollee. Such notice shall specify an effective date of disenrollment, which shall be at least ten days from the date of the notice, and shall describe the procedures for disenrollment, including the enrollee's right to appeal the disenrollment decision as set forth in WAC 55-01-070. Prior to the effective date specified, if the enrollee submits a grievance to the plan contesting the disenrollment decision, as provided in WAC 55-01-070(3), disenrollment shall not become effective until the date, if any, established as a result of the plan's grievance procedure, provided that the enrollee otherwise remains eligible and continues to make all premium payments when due; and further provided that the enrollee does not pose a threat of nonconsensual violent, aggressive or sexually aggressive behavior, assault or battery or purposeful damage to or theft of managed health care system property, or the property of staff or providers, patients or visitors while on the property of the managed health care system or one of its participating providers.

(3) Any ~~((applicant for enrollment))~~ enrollee in the plan who knowingly provides false information to the plan or to a participating managed health care system may ~~((be disenrolled by the plan and may))~~ be held financially responsible for any covered services obtained from the plan. The administrator may apply other available remedies as well.

AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

WAC 55-01-070 Hearings and grievances. The plan will develop procedures for the expeditious resolution of enrollees' grievances, and will require participating managed health care systems to do the same. The written grievance

procedure for the plan and the managed health care system will be provided to the enrollee at the time of enrollment.

(1) If an enrollee has a grievance pertaining to a managed health care system, the enrollee shall exhaust the managed health care system's grievance procedure prior to requesting consideration of the grievance by the plan. The managed health care system's grievance procedure shall provide for expeditious resolution by managed health care system personnel with authority to require corrective action. There shall be a written reply from the managed health care system stating either the decision and its basis, or the reasons for failure to reach a decision, within thirty days of receipt of the written grievance. An enrollee has the right to request consideration of the grievance by the administrator if the final decision is adverse or if the written reply is not received within thirty days from the date the managed health care system received the written grievance.

(2) If an enrollee has a grievance pertaining to actions of the plan, the enrollee may submit the grievance to the plan for resolution by the plan's grievance procedure. ~~((A written description of the plan's grievance procedure will be provided to the enrollee upon enrollment, or at any time upon request.))~~ The plan's grievance procedure shall provide for resolution of the grievance within thirty days of receipt of complete information describing the grievance and its basis.

(3) An enrollee who is involuntarily disenrolled by the plan may contest the disenrollment by submitting a grievance to the plan, within ten days of the notice of disenrollment, for resolution by the plan's grievance procedure. The plan shall issue and mail a written decision within thirty days of receiving the grievance.

(4) An individual whose application for enrollment in the plan is denied may contest the denial of enrollment by submitting a grievance to the plan, within ten days of the notice by the plan of such denial, for resolution by the plan's grievance procedure. The plan shall issue and mail a written decision within thirty days of receiving the grievance.

(5) If the plan's decision resulting from its grievance procedure is adverse to an enrollee or applicant, he or she may, within fifteen days of receiving notice of the grievance decision, request a hearing under chapter ~~((s 34.04 and 34.12))~~ 34.05 RCW in order to contest the plan's decision.

WSR 94-06-042
EMERGENCY RULES
DEPARTMENT OF FISHERIES

[Order 94-08—Filed February 28, 1994, 11:45 a.m., effective February 28, 1994, 12 noon]

Date of Adoption: February 28, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-33-01000U.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon

adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of spring chinook salmon are available in the Columbia River. This rule is consistent with the actions of the February 25, 1994, meeting of the Columbia River Compact.

Effective Date of Rule: February 28, 1994, 12 noon.

February 28, 1994

Loren J. Stern

for Robert Turner

Director

NEW SECTION

WAC 220-33-01000V Columbia River salmon seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, 220-33-020, and 220-33-030, it is unlawful for a person to take or possess salmon, shad or sturgeon taken for commercial purposes from Columbia River SMCRA 1A, 1B, 1C, and that portion of SCMRA 1D downstream from Kelley Point at the mouth of the Willamette River, except as provided in the following subsections.

FISHING PERIODS

(1) noon February 28 to 6:00 p.m. March 3, 1994.

GEAR

(2) It is unlawful to fish for salmon, shad and sturgeon with gill net gear that:

(a) exceeds 1,500 feet in length along the corkline;

(b) is constructed of monofilament webbing;

(c) has webbing with a mesh size of less than 8 inches or more than 9-1/4 inches; or

(d) has lead or weight on the leadline that exceeds two pounds in any one fathom, measurement to be taken along the corkline of the net.

(3)(a) it is unlawful to gaff a sturgeon.

(b) White sturgeon less than 48 inches or greater than 66 inches may not be retained for commercial purposes and shall be returned immediately to the water. The length of a sturgeon is the shortest distance between the tip of the nose and the extreme tip of the tail measured while the fish is lying on its side on a flat surface with its tail in a normal position.

(c) Sturgeon must be delivered to wholesale dealers and fish buyers undressed (in the round).

(d) It is unlawful for a wholesale dealer or fish buyer to possess a sturgeon from which only the head and tail have been removed if the remaining carcass is less than 28 inches in length. A carcass length of less than 28 inches is prima facie evidence that the total length of the whole sturgeon was less than 48 inches.

SANCTUARIES

(4) During the season provided for in subsection 1 of this section, the following sanctuaries, as defined in WAC 220-33-005, are closed to fishing:

(a) Grays Bay

(b) Elokomin-A

(c) Kalama-A

(d) Lewis-A

(e) Cowlitz

(f) Gnat Creek

(g) Big Creek

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 section of the Washington Administrative Code is repealed:

WAC 220-33-01000U Columbia River salmon seasons below Bonneville. (94-04)

WSR 94-06-044
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 94-01—Filed February 28, 1994, 4:51 p.m.]

Date of Adoption: February 28, 1994.

Purpose: Chapter 296-306 WAC, Safety standards for agriculture, state-initiated emergency rules are adopted to provide agriculture employees with protection at least as effective as that provided employees in other industries covered by chapter 296-24 WAC, General safety and health standards. The adoption of these emergency rules are a result of testimony received from the November and December 1993 public hearings and written comments received during the extended post hearing comment period. The emergency rules include a September 1, 1994, effective date for the application of chapter 296-24 WAC, Part C, Machinery and machine guarding, and Part L, Electrical, to the agriculture industry. The emergency rules also incorporate parts of Oregon's machine guarding and electrical rules. This will allow the industry and Department of Labor and Industries an opportunity to identify and develop vertical rules unique to the agriculture industry. The state has included administrative housekeeping corrections in the emergency rule. The housekeeping changes will not add or detract from the requirements of the standard. Details of specific emergency rule amendments and new sections: WAC 296-306-061, amends effective date to September 1, 1994, and adds electrical protection "at least as effective as" statement; WAC 296-306-145, amends effective date to September 1, 1994, and adds machine guarding protection "at least as effective as" statement; WAC 296-306-14501, this new section provides agricultural electrical applications; WAC 296-306-14503, this new section provides electrical definitions applicable to agriculture; WAC 296-306-14505, this new section defines hazards and use of temporary wiring in agricultural applications; WAC 296-306-14507, this new section defines electrical protection requirements for agricultural employees; WAC 296-306-14509, this new section defines electrical installation, arrangement and maintenance requirements for agriculture; WAC 296-306-14511, this new section defines electrical overhead clearances and high voltage in agriculture; WAC 296-306-165, this amendment adds a definition for "point of operation:" corrects a reference to gender; adds a new Table K-1 and a note reference to the table; and adds a new subsection (15) subdivisions (a) and (b) which add miscellaneous guarding requirements for

rip saws, rotary mowers, ceiling fans, etc. New subsection (16) and subdivisions (a) through (d) add machine control requirements for location, identification, operation, and guarding; WAC 296-306-170, this amendment adds new item (5)(b)(iii) to include guarding requirements for augers that bridge over; WAC 296-306-175, this amendment includes the addition of new subsection (8) and subdivisions (a) and (b) which address clutches, clearances, and stopping means; and administrative housekeeping corrections; and WAC 296-306-180, this amendment includes the addition of new subsection (5), subdivision (a), items (i) through (iii), and subdivision (b), items (i) through (iii) addressing electrical disconnect means and protection devices; adds new point of operation Table K-2; and administrative housekeeping corrections.

Citation of Existing Rules Affected by this Order: Amending WAC 296-306-061 Machinery and machine guarding, 296-306-145 Electrical, 296-306-165 General requirements for all agriculture equipment, 296-306-170 Auger conveying equipment, 296-306-175 Farm field equipment guarding, and 296-306-180 Farmstead equipment.

Statutory Authority for Adoption: Chapter 49.17 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: These state-initiated emergency rules are being filed to delay the effective date of previously adopted rules on machine guarding and electrical hazards in the agriculture. Rules which were adopted and became effective February 1, 1994, incorporated by reference into chapter 296-306 WAC, the requirements of chapter 296-24 WAC, Part C, Machinery and machine guarding, and Part L, Electrical. Public hearings held in November and December 1993 produced testimony which indicated that more time was needed for machine guarding and electrical requirements relating to the agricultural industry. Due to their complexity, many employers testified that application of chapter 296-24 WAC, Part C and Part L might be very burdensome and have adverse economic impacts on agricultural employers. In order to prevent unintended impact and provide opportunity to resolve disputed issues, the director finds it necessary to adopt emergency rules for agricultural machine guarding and electrical. The emergency rules reestablish the effective date for incorporation by reference, of chapter 296-24 WAC, Part C and Part L to September 1, 1994, and provide interim protection for workers based on Oregon's agriculture standards. This action is being taken with the advice and consent of labor and management agricultural industry representatives. These rules will provide interim protection for agriculture employees until changes to chapter 296-306 WAC are proposed and adopted and/or; chapter 296-24 WAC, Part C and Part L become effective. One or both or a combination of the above shall become effective September 1, 1994. Beginning immediately, the department and agricultural industry and labor representatives will work together to identify and develop any necessary rules for machine guarding and electrical to address situations unique to agriculture. The emergency

rules will be in effect until consensus rules are developed, proposed, adopted and become effective by the September 1, 1994 date.

Effective Date of Rule: Immediately.

February 28, 1994

Mark O. Brown

Director

Amended Sections: Chapter 296-306 WAC, Safety standards for agriculture, WAC 296-306-061 Machinery and machine guarding, 296-306-145 Electrical, 296-306-165 General requirements for all agriculture equipment, 296-306-170 Auger conveying equipment, 296-306-175 Farm field equipment guarding, and 296-306-180 Farmstead equipment.

New Sections: Chapter 296-306 WAC, Safety standards for agriculture, WAC 296-306-14501 Purpose, scope and application, 296-306-14503 Definitions, 296-306-14505 Temporary lighting and wiring, 296-306-14507 Protective arrangements, 296-306-14509 Equipment installation and maintenance, and 296-306-14511 Proximity to overhead lines.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-061 Machinery and machine guarding. Chapter 296-24 WAC, Part C shall apply to agriculture equipment effective (~~February~~) September 1, 1994. Note: The delayed implementation date is to provide the opportunity for the department, agriculture industry, and farmworker advocates to develop agriculture specific machinery and machine guarding requirements for equipment that is unique to agriculture, (~~which will take precedence over~~) and which will provide protection at least as effective as the requirements of chapter 296-24 WAC, Part C.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-145 Electrical. Chapter 296-24 WAC, Part L shall apply to agriculture industry effective (~~February~~) September 1, 1994. Note: The delayed implementation date is to provide the opportunity for the department, agriculture industry, and farmworker advocates to develop electrical requirements for electrical applications that are unique to agriculture, (~~which will take precedence over~~) and which will provide protection at least as effective as the requirements of chapter 296-24 WAC, Part L.

NEW SECTION

WAC 296-306-14501 Purpose, scope and application.
(1) WAC 296-306-14501 through 296-306-14511 prescribe safety standards to provide for protection against hazards incurred with electricity in places of agricultural employment.

Note: The provisions of chapter 296-306 WAC, Part J do not cover:

1. Installations in watercraft, or automotive vehicles.
2. Facilities under the exclusive control of electric utilities (see chapter 296-45 WAC, electrical workers safety rules).
3. Electric welding (see chapter 296-306 WAC, Part I).

(2) Unless otherwise provided in this section all electrical work, installation, and wire capacities shall be in accor-

dance with the National Electrical Code, NFPA 70-1973; ANSI C1-1971, and all other applicable standards administered by the department of labor and industries. Should further information be desired, it is recommended that you contact your local department of labor and industries.

NEW SECTION

WAC 296-306-14503 Definitions. The following definitions apply to this chapter.

(1) "Acceptable."

(a) An installation or equipment is acceptable to the director of labor and industries and approved within the meaning of WAC 296-306-14501 through 296-306-14511.

(b) If it is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory.

(c) If it is inspected or tested by a federal agency, or by state, municipal, or other local authority responsible for enforcing occupational safety provisions of the National Electrical Code, and found in compliance with the provisions of the National Electrical Code.

(2) "Accepted." An installation is "accepted" if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes.

(3) "Bonding jumper." A reliable conductor to assure the required electrical conductivity between metal parts required to be electrically connected.

(4) "Branch circuits." That portion of a wiring system extending beyond the final overcurrent device protecting the circuit. A device not approved for branch circuit protection, such as thermal cutout or motor overload protective device, is not considered as the overcurrent device protecting the circuit.

(5) "Certified." Equipment is certified if it:

(a) Has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner; or

(b) Is of a kind whose production is periodically inspected by a nationally recognized testing laboratory; and

(c) Bears a label, tag, or other record of certification.

(6) "Exposed" (as applied to live parts). A live part that can be inadvertently touched or approached nearer than a safe distance by a person. This term applies to parts not suitably guarded, isolated, or insulated.

(7) "Ground." A conducting connection, whether intentional or accidental, between an electrical circuit or equipment and earth, or to some conducting body which serves in place of the earth.

(8) "Grounded." Connected to earth or to some conducting body which serves in place of the earth. (See NFPA 70 Art.250.)

(9) "Isolated." Not readily accessible to persons unless special means of access are used.

(10) "Labeled." Equipment is "labeled" if there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory that:

(a) Makes periodic inspections of the production of such equipment; and

(b) Whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner.

(11) "Shock hazard." Considered to exist at an accessible part in a circuit between the part and ground, or other accessible parts if the potential is more than 42.4 volts peak and the current through a 1,500 ohm load is more than 5 milliamperes.

(12) "Weatherproof." So constructed or protected that exposure to the weather shall not interfere with successful operation.

NEW SECTION

WAC 296-306-14505 Temporary lighting and wiring.

(1) Temporary lighting and portable extension lamps:

(a) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb.

Note: Guards are not required when the bulb is deeply recessed in the reflector. (The entire bulb is below the rim and completely surrounded and protected by the reflector.)

(b) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition.

(c) Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension.

(d) Hand lamps of the portable type shall be of molded composition or other approved type. Brass shell, paper lined lamp holders shall not be used. Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lamp holder or the handle.

(e) Portable extension lamps used where flammable vapors or gases, or combustible dusts, or easily ignitable fibers or flyings are present, shall be specifically approved as complete assemblies for the type of hazard involved.

(2) Temporary wiring:

(a) Working spaces, walkways, and similar locations shall be kept clear of power cords.

(b) All temporary wiring shall be grounded. (See NFPA 70 Art. 250)

(c) All electric equipment used in hazardous locations shall be chosen from among those listed by a nationally recognized testing laboratory, such as Underwriters' Laboratories, Inc., or Factory Mutual Engineering Corp., except custom made components and utilization equipment.

(d) All wiring equipment shall be maintained as vapor, dust, or fiber tight as contemplated by their approvals. There shall be no loose or missing screws, gaskets, threaded connections, or other impairments to this tight condition.

(e) Precautions shall be taken to make any necessary open wiring inaccessible to unauthorized personnel.

NEW SECTION

WAC 296-306-14507 Protective arrangements. (1)

Protection of employees:

(a) All exposed live electrical conductors shall be isolated from accidental contact by persons or equipment.

(b) Electrical repairs shall be made only by persons authorized by the employer.

(c) When fuses are installed or removed with one or both terminals energized, special tools insulated for the voltage shall be used.

(d) No employer shall permit an employee to work in such proximity to an electric power circuit that he/she may contact it unless the employee is protected against electric shock.

Note: Protection may be accomplished by deenergizing the circuit and grounding it, by guarding it, by effective insulation, or other means.

(e) In work areas where the exact location of underground electric power lines is unknown, workers using jack-hammers, bars or other hand tools which may contact a line shall be provided with insulated protective gloves.

(f) Before work is begun the employer shall ascertain by inquiry or direct observation, or by instruments, whether any part of an electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool or machine into physical or electrical contact therewith.

(i) The employer shall post and maintain proper warning signs where such a circuit exists.

(ii) The employer shall advise its employees of the location of such lines, the hazards involved and the protective measures to be taken.

(2) Workspace:

(a) Sufficient space shall be provided and maintained in the area of electrical equipment to permit safe operation and maintenance of such equipment.

(i) When parts are exposed, the minimum clearance for the workspace shall not be less than six feet six inches high, nor less than a radius of three feet wide.

(ii) There shall be clearance sufficient to permit at least a ninety inch opening of all doors or hinged panels.

(b) Suitable barriers or other means shall be provided to ensure that workspace for electrical equipment will not be used as a passageway during periods when energized parts of electrical equipment are exposed.

(3) Lockout and tagging of circuits.

(a) Equipment or circuits that are deenergized for cleanup, maintenance, or repair work shall be locked out and tags shall be attached at all points where such equipment or circuits can be energized.

(b) Controls that are to be deactivated during the course of work on energized or deenergized equipment or circuits shall be so tagged or labeled.

(c) Tags shall be placed to identify plainly the equipment or circuits being worked on.

NEW SECTION

WAC 296-306-14509 Equipment installation and maintenance. (1) Flexible cable extension cords:

(a) Extension cords used with portable electric tools and appliances shall be of three-wire type, and fitted with approved grounding-type attachment plug and receptacle providing ground continuity.

Note: This rule does not apply to cords used with portable tools and equipment provided by an approved system of double insulation or its equivalent.

(b) Worn or frayed electric cables shall not be used.

(c) Flexible cables and extension cords shall be protected against accidental damage as may be caused by traffic, sharp corners, or projections and pinching in doors or elsewhere.

(d) Cables passing through work areas shall be covered or elevated to protect them from damage.

(e) Flexible cables and extension cords shall not be fastened with staples, hung from nails or suspended by wire.

(f) Electrical conductors shall be spliced or joined in splicing devices suitable for the use, by brazing, welding or soldering with a fusible metal or alloy.

(i) Soldered splices shall first be so spliced or joined as to be mechanically and electrically secured without solder, and then soldered. (Rosin-core solder should be used, not acid core solder, when joining electrical conductors.)

(ii) All splices and joints and the free ends of conductors shall be covered with an insulation equivalent to that of the conductors or with an insulating device suitable for that purpose.

(iii) Splices for flexible cords must provide the flexibility and usage characteristics as that of the cord being spliced. Such repairs may be made by vulcanized splices or equivalent means such as systems using shrinkable materials.

(2) Attachment plugs and receptacles:

(a) Attachment plugs for use in work areas shall be so constructed that they will endure rough use and be equipped with a suitable cord grip to prevent strain on the terminal screws.

(b) Attachment plugs shall be of approved grounding type.

(c) Receptacles for attachment plugs shall be of approved concealed contact type with a contact for extending ground continuity and shall be so designed and constructed that the plug may be pulled out without leaving any live parts exposed to accidental contact.

(d) Polarized attachment plugs, receptacles and cord connectors shall be wired to maintain continuity.

(e) Polarized attachment plugs, receptacles and cord connectors for plugs and polarized plugs shall have the terminal intended for connection to the grounded (white) conductor identified by a metal coating substantially white in color. If the terminal is not visible, its entrance hole shall be marked with the word "white," or otherwise identified by a white color.

(f) The terminal for the connection of the equipment grounding conductor shall be identified by:

(i) A green colored, not readily removable terminal screw with hexagonal head; or

(ii) A green colored, hexagonal, not readily removable terminal nut; or

(iii) A green colored pressure wire connector.

(iv) If the terminal for the grounding conductor is not visible, the conductor entrance hole shall be marked with the word "green" or otherwise identified by a distinctive green color.

Note: Two-wire attachment plugs, unless of the polarity type, need not have their terminals marked for identification.

(g) Where different voltages, or types of current (A.C. or D.C.) are to be supplied by portable cords, receptacles shall be of such design that attachment plugs used on such circuits are not interchangeable.

(h) Attachment plugs or other connectors supplying equipment at more than 300 volts shall be of the skirted type or otherwise so designed that arcs will be confined.

(3) Cord and plug connected equipment:

(a) The noncurrent-carrying metal parts of portable or plug-connected equipment shall be grounded.

(b) Portable tools and appliances protected by an approved system of double insulation, or its equivalent, need not be grounded. Where such an approved system is employed, the equipment shall be distinctively marked.

(c) Exposed noncurrent-carrying metal parts of fixed electrical equipment, including motors, frames, electrically driven machinery, etc., shall be grounded.

(d) All shocks received from electrical equipment, no matter how slight, shall be reported immediately to the person in charge or the employer. The equipment causing the shock shall be checked and any necessary corrective action taken without delay.

(4) Grounding and bonding:

(a) Effective grounding. The path from circuits, equipment, structures, and conduit or enclosures to ground shall be permanent and continuous; having ample carrying capacity to conduct safely the currents liable to be imposed on it; and have impedance sufficiently low to limit the potential above ground and to result in the operation of the overcurrent devices in the circuit.

(b) Ground resistance. Driven rod electrodes shall, where practical, have a resistance to ground not to exceed 25 ohms. Where the resistance is not as low as 25 ohms, two electrodes connected in parallel shall be used.

(c) Testing of grounds. Grounding circuits shall be checked to ensure that the circuit between the ground and the grounded power conductor has a resistance which is low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(d) Conductors used for bonding and grounding stationary and moveable equipment shall be of ample size to carry the anticipated current.

(5) Switches and circuit breakers:

(a) Not less than 3' of clear space shall be maintained in front of switch centers or panels at all times.

(b) Live parts of electrical switchboards and panel boards shall be enclosed or screened.

(c) Each disconnecting means for motors and appliances, and each service feeder or branch circuit at the point where it originates, shall be legibly marked to indicate its purpose unless located and arranged so the purpose is evident.

(d) Disconnecting means shall be located or shielded so that employees will not be injured. The use of open knife switches is prohibited.

(e) Boxes for disconnecting means shall be securely and rigidly fastened to the surface upon which they are mounted and fitted with covers.

(f) Boxes for disconnecting means installed in damp or wet locations shall be waterproof to the extent that water does not enter or accumulate.

(6) Identification and load ratings:

(a) Name plates, rating data, and marks of identification on electrical equipment and electrically operated machines shall not be removed, defaced or obliterated.

(b) In existing installations no changes in circuit protection shall be made to increase the load in excess of the

load rating of the circuit wiring, as specified in the National Electrical Code, NFPA 70-1973; ANSI C1-1972, Article 310.

(c) Tampering with, bridging, or using oversize fuses is prohibited. If fuses blow repeatedly, such trouble shall be immediately reported to the employer or an authorized electrician.

(d) Attempts to start electric motors that kick out repeatedly are prohibited.

NEW SECTION

WAC 296-306-14511 Proximity to overhead lines.

(1) Clearance or safeguards required:

(a) All exposed overhead conductors shall be isolated from probability of accidental contact by persons or equipment.

(b) Irrigation pipe shall not be stored within one hundred feet of overhead conductors.

(c) Upending irrigation pipe within one hundred feet of overhead conductors is prohibited.

(d) No part of any water or irrigation system, or any other device which discharges a conductive liquid, shall be set up or operated in such a way that the discharge from that system is directed or may come within ten feet of overhead high voltage lines, or may contact any other exposed electrical power conductor.

(e) No employer shall require or permit any employees to enter or to perform any function in proximity to high-voltage lines, unless danger from accidental contact with said high-voltage lines has been effectively guarded against.

Note: Voltage 600V and higher is considered high voltage.

(f) The operation, erection, or transportation of any tools, equipment, or any part thereof capable of movement; the handling, transportation, or storage of any materials; or the moving of any building near high voltage lines is prohibited if at any time it is possible to bring such object within ten feet of high voltage lines.

(g) Except where electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated near power lines only in accordance with the following:

(i) For lines rated 50 kv. or below, minimum clearance between the lines and any part of the object shall be ten feet;

(ii) For lines rated over 50 kv. minimum clearance between the lines and any part of the object shall be ten feet plus four tenths of an inch for each 1 kv., over 50 kv., or twice the length of the line insulator but never less than ten feet.

(iii) In transit, the clearance shall be a minimum of four feet for voltages less than 50 kv., ten feet for voltages over 50 kv. up to and including 345 kv., and sixteen feet for voltages up to and including 750 kv.

(iv) A person shall be designated to observe clearance and give timely warning for all operations where it is difficult for the operator to maintain the desired clearance by visual means.

(2) Warning sign required:

The employer shall post and maintain in plain view of the operator on each derrick, power-shovel, drilling-rig, hay loader, hay stacker, or similar apparatus, any part of which is capable of vertical, lateral or swinging motion, a durable warning sign legible at twelve feet reading "Unlawful to operate this equipment within ten feet of high-voltage lines."

(3) Notification to power company and responsibility for safeguards. When any operations are to be performed, tools or materials handled, or equipment is to be moved or operated within ten feet of any high voltage line, the person or persons responsible for the work to be done shall promptly notify the operator of the high-voltage line of the work to be performed, and shall be responsible for the completion of the safety measures as required before proceeding with any work which would impair the aforesaid clearance.

Note: The foregoing rules are not intended to apply to the construction, reconstruction, operations and maintenance of overhead electrical conductors (and their supporting structures and associated equipment) by authorized and qualified electrical workers; nor to authorized and qualified employees engaged in the construction, reconstruction, operations and maintenance of overhead electrical circuits or conductors (and their supporting structures and associated equipment) of rail transportation systems, or electrical generating, transmission, distribution, and communication systems.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-165 General requirements for all agricultural equipment. (1) Definitions.

(a) "Agricultural equipment" means equipment used in production or handling of agricultural products.

(b) "Agricultural field equipment" means tractors, self-propelled implements, implements and combinations thereof used in agricultural operations.

(c) "Agricultural tractor" means a two-wheel or four-wheel drive type vehicle, or a track vehicle, of more than twenty net engine horsepower (continuous brake power rating per Society of Automotive Engineers (SAE) J816b - or the power recommended by the manufacturer for satisfactory operation under the manufacturer specified continuous duty conditions), designed to furnish the power to pull, carry, propel, or drive implements that are designed for agriculture. All self-propelled implements are excluded.

(d) "Augers" means screw conveyors and related accessories designed primarily for conveying agricultural materials on farms.

(e) "Constant-running drives" means those drives which continue to rotate when the engine is running. (With all clutches disengaged.)

(f) "Farm field equipment" means tractors or implements, including self-propelled implements, or any combination thereof used in agricultural operations.

(g) "Farmstead equipment" means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

(h) "Guarding by location" means a component may be considered guarded by location when, because of its location, it does not present a hazard during operation or maintenance.

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A component seven feet or more above a working surface is considered guarded by location.

(i) "Ground-drive equipment" means equipment using power supplied by its pulled wheels to move gears, chains, sprockets, belts, pulleys, augers, tines, etc.

(j) "Low profile tractor" means a wheel or track equipped vehicle possessing the following characteristics:

(i) The front wheel spacing is equal to the rear wheel spacing, as measured from the centerline of each right wheel to the centerline of the corresponding left wheel.

(ii) The clearance from the bottom of the tractor chassis to the ground does not exceed eighteen inches.

(iii) The highest point of the hood does not exceed sixty inches, and

(iv) The tractor is designed so that the operator straddles the transmission when seated.

(k) A "guard" or "shield" is a barrier which insures that no part of an employee may come into contact with a hazard created by a moving machinery part.

(l) "Point of operation" means the area on a machine where work is actually performed upon the material being processed.

(m) "Power take-off shafts" are the shafts and knuckles between the tractor, or other power source, and the first gear set, pulley, sprocket, or other components on power take-off shaft driven equipment.

(2) Immediate priority shall be given to guarding of power take-off drives on all tractors and equipment. These must be guarded no later than January 1, 1976.

(3) All other power transmission components must be guarded on all equipment manufactured on or after January 1, 1976.

(4) If unguarded power transmission components on older field equipment show evidence that they were once guarded, the guards shall be replaced by January 1, 1976.

(5) The manufacturer's instruction manual, if published by the manufacturer and currently available, shall be the source of information for the safe operation and maintenance of field equipment.

(6) The employer shall establish a written program consisting of an energy control procedure, employee training, and periodic inspections to ensure that before any employee performs any servicing or maintenance on a machine or equipment where the unexpected energizing, start up, or release of stored energy could occur and cause injury, the machine, equipment, system, or process shall be isolated, and rendered inoperative. Whenever major replacement, repair, renovation, relocation, or modification of machines or equipment is performed, and whenever new machines or equipment are installed, energy isolating devices for such machines or equipment shall be designed to accept a lockout device.

(7) Operating instructions. At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he/she is or will be involved, including at least the following safe operating practices:

(a) Keep all guards in place when the machine is in operation;

(b) Passengers, other than persons required for instruction or machine operation shall not be permitted to ride on

equipment unless a passenger seat or other protective device is provided.

(c) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees as to all steps and procedures which are necessary to safely service or maintain the equipment;

(d) Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine;

(e) Lock out electrical power before performing maintenance or service on farmstead equipment.

(8) Methods of guarding. Except as otherwise provided in this chapter, each employer shall protect employees from coming into contact with moving machinery parts as follows:

(a) Through the installation and use of a guard or shield or guarding by location;

(b) Whenever a guard or shield or guarding by location is infeasible, by using a guardrail or fence.

(9) Strength and design of guards.

(a) Where guards are used to provide the protection required by this section, they shall be designed and located to prevent inadvertent contact with the hazard being guarded.

Note: Minimum requirements for guards shall correspond to Table K-1.

(b) Unless otherwise specified, each guard and its supports shall be capable of withstanding the force that a two hundred fifty pound individual, leaning on or falling against the guard, would exert upon that guard.

(c) Guards shall be free from burrs, sharp edges, and sharp corners, and shall be securely fastened to the equipment or building.

TABLE K-1

<u>Material</u>	<u>Clearance From Moving Parts at All Points</u>	<u>Largest Mesh or Opening Allowable</u>	<u>Minimum Gauge (U.S. Standard) or Thickness</u>
<u>Woven Wire</u>	<u>(inches)</u> <u>under 2</u>	<u>(inches)</u> <u>3/8</u>	<u>No. 16 Gauge</u>
	<u>2-4</u>	<u>1/2</u>	<u>No. 16 Gauge</u>
	<u>4-15</u>	<u>2</u>	<u>No. 12 Gauge</u>
<u>Expanded Metal</u>	<u>under 4</u>	<u>1/2</u>	<u>No. 18 Gauge</u>
	<u>4/15</u>	<u>2</u>	<u>No. 13 Gauge</u>
<u>Perforated Metal</u>	<u>under 4</u>	<u>1/2</u>	<u>No. 20 Gauge</u>
	<u>4/15</u>	<u>2</u>	<u>No. 14 Gauge</u>
<u>Sheet Metal</u>	<u>under 15</u>		<u>No. 22 Gauge</u>
<u>Plastic</u>	<u>under 15</u>		<u>Tensile strength of 10,000 lb/in²</u>

(10) Guarding by railings. Guardrails or fences shall be capable of preventing employees from inadvertently entering the hazardous area.

(11) Servicing and maintenance. Whenever a moving machinery part presents a hazard during servicing or maintenance, the engine shall be stopped, the power source disconnected, and all machine movement stopped before servicing or maintenance is performed, except where the employer can establish that:

(a) The equipment must be running to be properly serviced or maintained;

(b) The equipment cannot be serviced or maintained while a guard or guards are in place; and

(c) The servicing or maintenance is safely performed.

(12) Shields, guards and access doors that will prevent accidental contact with rotating machine parts on constant-running drives shall be in place when the machine is running. This requirement shall not apply to combines where such guards could create fire hazards.

(13) A guard or shield on stationary equipment shall be provided at the mesh point or pinch point where the chain or belt contacts the sprocket or pulley. Revolving shafts shall be guarded by a standard safeguard unless guarded by location. Shafts that protrude less than one-half the outside diameter of the shaft are exempt from this section.

(14) Projections, such as exposed bolts, keys, or set screws on sprockets, sheaves or pulleys on stationary equipment shall be shielded unless guarded by location.

(15) Miscellaneous general requirements:

(a) Machines which are of a type that will throw stock, material, or objects shall be covered or provided with a device designed and constructed to minimize this action. (Such machines as rip saws, rotary mowers and beaters, rotary tillers are a few in this classification.)

(b) When the periphery of the blades of a fan is less than seven feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch.

(16) Machine controls.

(a) If the operation of a machine requires the presence of an operator on the machine, a power control device shall be provided on each machine to enable the operator to stop the machine or machine feed without leaving his/her position.

(b) Power control devices whose function is not readily self-evident to a casual observer shall be marked to indicate their function and the machine which they control. The position of ON and OFF shall be indicated.

(c) "Stop" buttons shall be colored red or orange. Each machine shall have one or more stop buttons according to the working position of the operator or operators.

(d) Machine control devices shall be located or guarded to prevent unexpected or accidental movement of the control. Electrical switch "start" buttons shall be recessed.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-170 Auger conveying equipment. (1) Scope. This section applies only to farm augers as defined in WAC 296-306-165 (1)(e).

(2) General specifications.

(a) All shields and guards shall conform to WAC 296-306-165(13).

(b) Power take off shaft guards shall conform to WAC 296-306-165(8).

(3) Specifications.

(a) Each sweep auger shall have its top half shielded by a guard. No opening in such guard shall exceed 4 3/4 inches in length or width.

(b) The exposed auger at the hopper and the intake shall be guarded or otherwise designed to provide a deterrent from accidental contact with the rotating inlet area and extend a minimum of 2 1/2 inches above and below the exposed auger. Openings in the guard, for the free flow of material, shall not exceed 4 3/4 inches in length or width and shall be of sufficient strength to support a concentrated weight of 250 pounds at mid span.

(c) The hand raising winch shall be provided with a control which will hold the auger at any angle of inclination, and respond only to handle actuation. It shall not be necessary to disengage such control to lower the auger. The force required on the handle to raise or lower the auger manually shall not exceed 50 pounds.

(d) The wire rope lifting pulleys shall be grooved to fit the wire rope with which they are used.

(e) In order to avoid separation, a positive restraint shall be provided between the auger tube and the under-carriage lifting arm. Stops that restrict the maximum raised angle and minimum lowered angle shall be provided.

(f) Wire ropes (cables) shall be rust resistant and selected for the design load and service intended.

(g) Service and operation instructions provided the equipment operator shall include those basic practices for safe operation and servicing.

(4) All augers shall be covered or guarded when exposed to contact.

(5) Equipment manufactured after October 25, 1976, shall be guarded in compliance with the following specification:

(a) Sweep arm material gathering mechanisms used on the top surface of materials within silo structures shall be guarded. The lower or leading edge of the guard shall be located no more than 12 inches above the material surface and no less than 6 inches in front of the leading edge of the rotating member of the gathering mechanism. The guard shall be parallel to, and extend the fullest practical length of the material gathering mechanism.

(b) Exposed auger flighting on portable grain augers shall be guarded with either grating type guards or solid baffle style covers as follows:

(i) The largest dimensions or openings in grating type guards through which materials are required to flow shall be 4 3/4 inches. The area of each opening shall be no larger than 10 square inches. The opening shall be located no closer to the rotating flighting than 2 1/2 inches.

(ii) Slotted openings in solid baffle style covers shall be no wider than 1 1/2 inches, or closer than 3 1/2 inches to the exposed flighting.

(iii) Openings larger than those specified in (i) and (ii) of this subdivision may be permitted if necessary to permit the free flow of material which has a tendency to bridge over. Such opening shall be no larger than that required for proper functioning of the auger. In any case, the guard shall be designed, arranged or located so that no part of a worker's person or limbs may contact the auger flighting.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)**WAC 296-306-175 Farm field equipment guarding.**

(1) Power takeoff guarding.

(a) All power takeoff shafts, including rear, mid- or side-mounted shafts, shall be guarded either by a master shield, as provided in item (1)(b) of this subdivision, or by other protective guarding.

(b) All tractors shall be equipped with an agricultural tractor master shield on the rear power takeoff except where removal of the tractor master shield is permitted by item (1)(c) of this subdivision. The master shield shall have sufficient strength to prevent permanent deformation of the shield when a 250 pound operator mounts or dismounts the tractor using the shield as a step.

(c) Power takeoff driven equipment shall be guarded to prevent employee contact with positively driven rotating members of the power drive system. Where power takeoff driven equipment is of a design requiring removal of the tractor master shield, the equipment shall also include protection from that portion of the tractor power takeoff shaft which protrudes from the tractor.

(d) Signs shall be placed at prominent locations on tractors and power takeoff driven equipment specifying that power drive system safety shields must be kept in place.

(2) Other power transmission components.

(a) The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets and idlers shall be guarded.

(b) All revolving shafts, including projections such as bolts, keys or set screws, shall be guarded, except smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.

(c) Ground driven components shall be guarded in accordance with items ~~((2)(i))~~~~((2)(a))~~ and ~~((2)(ii))~~~~((2)(b))~~ (2)(a) and (b) of this subdivision if any employee may be exposed to them while the drives are in motion.

(3) Functional components, such as snapping or husking rolls, straw spreaders and choppers, cutterbars, flail rotors, rotary beaters, mixing augers, feed rolls, conveying augers, rotary tillers, and similar units which must be exposed for proper function shall be shielded to a degree consistent with the intended function and operator's vision of the component.

(4) Access to moving parts. Where removal of a guard or access door will expose an employee to any component which continues to rotate after the power is disengaged, the employer shall provide, in the immediate area, ~~((the following:~~

~~((+))~~ a safety sign warning the employee to:

~~((++))~~ (a) Look and listen for evidence of rotation; and

~~((++))~~ (b) Not remove the guard or access door until all components have stopped; and

~~((+++))~~ (c) On equipment manufactured after October 25, 1976, a readily visible or audible warning of rotation.

(5) If the mounting steps or ladder and the handholds of the propelling vehicle are made inaccessible by installation of other equipment, other steps and handholds shall be provided on the equipment.

(6) A slip-resistant means or material shall be provided on the operator's steps and platform to minimize the possibility of feet slipping.

(7) Ground-drive equipment shall be shielded or guarded as specified in WAC 296-306-165(12) if operators are exposed to drives while they are in motion.

(8) Additional requirements:

(a) A clutch or other effective means of stopping shall be used on powered machines not driven by an individual motor.

(b) All friction clutches shall have sufficient clearance and shall be kept adjusted to prevent any drag or creeping when disengaged.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)**WAC 296-306-180 Farmstead equipment.** (1) Power takeoff guarding.

(a) All power takeoff shafts, including rear, mid- or side-mounted shafts, shall be guarded either by a master shield as provided in WAC 296-306-175 (1)(b) or other protective guarding.

(b) Power takeoff driven equipment shall be guarded to prevent employee contact with positively driven rotating members of the power drive system. Where power takeoff driven equipment is of a design requiring removal of the tractor master shield, the equipment shall also include protection from that portion of the tractor power takeoff shaft which protrudes from the tractor.

(c) Signs shall be placed at prominent locations on power takeoff driven equipment specifying that power drive system safety shields must be kept in place.

(2) Other power transmission components.

(a) The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets and idlers shall be guarded.

(b) All revolving shafts, including projections such as bolts, keys, or set screws, shall be guarded, with the exception of:

(i) Smooth shafts and shaft ends (without any projecting bolts, keys, or set screws), revolving at less than 10 rpm, on feed handling equipment used on the top surface of materials in bulk storage facilities; and

(ii) Smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.

(3) Functional components, such as snapping or husking rolls, straw spreaders and choppers, cutterbars, flail rotors, rotary beaters, mixing augers, feed rolls, conveying augers, rotary tillers and similar units, which must be exposed for proper function shall be shielded to a degree consistent with the intended function and operator's vision of the component.

(4) Access to moving parts.

(a) Guards, shields and access doors shall be in place when the equipment is in operation.

(b) Where removal of a guard or access door will expose an employee to any component which continues to rotate after the power is disengaged, the employer shall provide, in the immediate area, ~~((the following:~~

~~((+))~~ a safety sign warning the employee to:

~~((++))~~ (i) Look and listen for evidence of rotation; and

~~((B))~~ (ii) Not remove the guard or access door until all components have stopped; and

~~((C))~~ (iii) On equipment manufactured after October 25, 1976, a readily visible or audible warning of rotation.

(5) Electrical disconnect means:

(a) Application of electrical power from a location not under the immediate and exclusive control of the employee or employees maintaining or servicing equipment shall be prevented by:

(i) Providing an exclusive, positive locking means on the main switch which can be operated only by the employee performing the maintenance or servicing; or

(ii) In the case of material handling equipment located in a bulk storage structure, by physically locating on the equipment an electrical or mechanical means to disconnect the power.

Minimum lock out means shall meet the requirements of WAC 296-306-14507(3).

(b) All circuit protection devices, including those which are an integral part of a motor, shall be of the manual reset type, except where:

(i) The employer can establish that because of the nature of the operation, distances involved and the amount of time normally spent by employees in the area of the affected equipment, use of the manual reset device would be infeasible;

(ii) There is an electrical disconnect switch available to the employee within fifteen feet of the equipment upon which maintenance or service is being performed; and

(iii) A sign is prominently posted near each hazardous component which warns the employee that unless the electrical disconnect switch is utilized, the motor could automatically reset while the employee is working on the hazardous component.

(6) Additional guarding requirements:

(a) Carton or bag stitching machines shall be properly safeguarded to prevent persons from coming in contact with the stitching head and other pinch or nip points.

(b) The point of operation of all machines shall be guarded. The guard shall be so designed and constructed as to prevent the operator from having any part of his/her body in the danger zone during the operating cycle.

Note: Table K-2 prescribes the distances that point-of-operation guards shall be positioned from the danger line with relation to the size of the opening.

TABLE K-2

<u>Guarding Line or Distance of opening from point of operation hazard (inches)</u>	<u>Maximum width of opening (inches)</u>
<u>1/2 to 1 1/2</u>	<u>1/4</u>
<u>1 1/2 to 2 1/2</u>	<u>3/8</u>
<u>2 1/2 to 3 1/2</u>	<u>1/2</u>
<u>3 1/2 to 5 1/2</u>	<u>5/8</u>
<u>5 1/2 to 6 1/2</u>	<u>3/4</u>
<u>6 1/2 to 7 1/2</u>	<u>7/8</u>
<u>7 1/2 to 12 1/2</u>	<u>1 1/4</u>
<u>12 1/2 to 15 1/2</u>	<u>1 1/2</u>
<u>15 1/2 to 17 1/2</u>	<u>1 7/8</u>
<u>17 1/2 to 31 1/2</u>	<u>2 1/8</u>

EMERGENCY

WSR 94-06-001
RULES COORDINATOR
DEPARTMENT OF PERSONNEL
 [Filed February 16, 1994, 4:47 p.m.]

The person listed below is designated as rules coordinator for the Department of Personnel and for the director of the Department of Personnel.

Sandy Brownrigg
 Department of Personnel
 Higher Education Unit
 Mailstop 47500
 Olympia, WA 98504-7500
 (206) 753-0381/SCAN 234-0381

In addition, the Washington State Personnel Resources Board has replaced the State Personnel Board and the Higher Education Personnel Board.

Dennis Karras
 Director

WSR 94-06-002
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—February 15, 1994]

The location of the February 23 and 24, 1994, regular commission meeting has been changed from Olympia to Seattle, Washington. The meeting on February 23, will be held at the Seattle City Council Chambers, Municipal Building, 11th Floor, 600 Fourth Avenue, Seattle instead of the Evergreen Plaza Building, Second Floor Conference Room, 711 South Capitol Way, Olympia. The meeting will be a planning and training session beginning at 7:00 p.m. The regular business meeting will be held at the Washington State Department of Health, Melbourne Towers, 1511 Third Avenue, Suite 321, Seattle, instead of the Department of Licensing, Conference Room 1, 405 Black Lake Boulevard, Olympia. The meeting will begin at 9:00 a.m.

WSR 94-06-005
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
 [Memorandum—February 16, 1994]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, February 23, 1994, at 1:30 p.m. in Room 601 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call 447-5000.

WSR 94-06-006
RULES COORDINATOR
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
 [Filed February 17, 1994, 3:46 p.m.]

Greg Lovelady, Planning Services Division Chief, has been designated as the rules coordinator for the Interagency Committee for Outdoor Recreation (IAC). His mailstop is 40917 and his scan and nonscan telephone number is 902-3008.

Laura Eckert
 Director

WSR 94-06-007
NOTICE OF PUBLIC MEETINGS
PUBLIC WORKS BOARD
 [Memorandum—February 16, 1994]

The Public Works Board regular meeting scheduled for 8:30 a.m., March 1, 1994, in the city of SeaTac has been moved.

The new location is: The meeting will be handled by conference call. Persons wishing to participate and/or monitor the meeting may do so by appearing at the vacant office in the northeast corner on the 5th Floor, Department of Community Development, 906 Columbia Street Southwest, Olympia, WA.

WSR 94-06-009
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
 [EO 94-03]

CREATING THE WASHINGTON COMMISSION ON NATIONAL AND COMMUNITY SERVICE

WHEREAS, the State of Washington has a long and distinguished history and is a recognized leader at implementing national model efforts that promote the ethic of citizen service; and

WHEREAS, the passage of the National and Community Service Trust Act of 1993 by the Congress requires the Governor to establish a state Commission on Service to be eligible for federal support of national service efforts; and

WHEREAS, the Corporation for National and Community Service has established short timelines for states to develop grant requests; and

WHEREAS, the State of Washington and the Office of the Governor will be active participants in our state and nation's rebirth of national service;

NOW, THEREFORE, I, Mike Lowry, Governor of the State of Washington, by virtue of the power vested in me, do hereby create the Washington Commission on National and Community Service.

I. The Commission is charged with the following duties:

- Comply and implement Title II, Sec. 201-205 of the National and Community Service Trust Act of 1993 pertaining to the State Commission on National and Community Service;
- Seek additional sources of non-federal funds, especially private funds, to meet matching requirements and build upon existing service initiatives;
- Provide recommendations to the Governor including those pertaining to legislative or policy initiatives that promote the ethic of service;
- Initiate activities or projects that expand and promote the concept of service beyond the scope of federal resources available from the Corporation on National and Community Service;
- Provide the leadership and vision with local volunteer organizations, civic and community groups and units of government to make service a part of the lives of all Washingtonians.

II. The Commission shall have 25 voting members appointed by the Governor including at least one individual with expertise in training youth, one individual with experience promoting volunteerism among older adults, one representative of community-based agencies, the Superintendent of Public Instruction or her designee, a representative of local governments, a representative of labor organizations, a representative of business, a youth, and a representative of a national service program. Other members may include local educators, representatives of Indian tribes, and out of school youths.

The Washington state Director of ACTION, the directors of the Higher Education Coordinating Board, the Department of Community Trade and Economic Development, the Employment Security Department and the Department of Ecology, or their designees shall serve as non-voting members of the Commission.

Members of the Commission shall be appointed to three year terms, however, of the initial appoints, one-third shall be appointed to one year terms, one-third shall be appointed to two year terms and one-third shall be appointed to three year terms.

- III. Commission members shall elect the Chair of the Commission.
- IV. The Executive Director of the Commission shall be selected by the Governor and shall serve at his pleasure.
- V. The Office of Financial Management will provide funds from federal grants for the staffing and support of the Commission. Members of the Commission shall receive per diem and travel expenses in accordance with OFM policies.
- VI. This executive order shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 17th day of February, A.D., nineteen hundred and ninety-four.

Mike Lowry

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

WSR 94-06-011
NOTICE OF PUBLIC MEETINGS
BUILDING CODE COUNCIL
 [Memorandum—February 18, 1994]

LOCATION: Olympia Community Center
 Multi-Purpose Room B
 222 North Columbia Street
 Olympia, WA
 (206) 753-8380

DATE: Friday, March 11, 1994

TIME: 9 a.m.

If additional information is needed, please contact Unit Manager, Willy O'Neil, at (206) 586-0486. This meeting location is accessible. Sign language interpreter service, assistive listening services, and communication materials in alternative formats including Braille, large print, and audio tape is available on advance request to Willy O'Neil at (206) 586-0486.

WSR 94-06-015
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
 (Clemency and Pardons Board)
 [Memorandum—February 21, 1994]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following changes and additions to its meeting schedule:

The March 4 regularly scheduled meeting has been canceled.

A special meeting of the board has been set for March 23 for the purpose of reviewing the Charles Campbell case. This meeting is scheduled for 9:00 a.m. in Senate Hearing Room No. 2 located in the John A. Cherberg Building.

The regularly scheduled June 3 meeting has been moved from the Governor's Conference Room to Senate Hearing Room No. 2 located in the John A. Cherberg Building. This meeting is scheduled to begin at 9:00 a.m.

The regularly scheduled September 2 meeting has been moved from the Governor's Conference Room to Senate Hearing Room No. 2 located in the John A. Cherberg Building. This meeting is scheduled to begin at 9:00 a.m.

WSR 94-06-019
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—February 22, 1994]

Board of Trustees
 February 25, 1994, 9:00 a.m.
 Spokane Center, Second Floor Mall

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in Room 222 on the second floor of the Spokane Center.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 94-06-033
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES
 [Memorandum—February 22, 1994]

The Seattle Community College District board of trustees will hold their regular meeting on Tuesday, March 1, 1994, beginning with a work session at 4:00 p.m., an executive session at 4:45 p.m., and a reception for newly tenured faculty at 5:30 p.m. The regular meeting will reconvene at 6:00 p.m. This meeting will be held at the Seattle Central Community College Wood Construction Site, 2310 South Lane, Seattle, WA 98144.

WSR 94-06-041
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
 [Memorandum—February 24, 1994]

The March 1994 Washington State Transportation Commission meetings will be held at 1:00 p.m. on Wednesday, March 16, and 9:00 a.m. on Thursday, March 17, 1994, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington. There will be committee meetings at 9:00 a.m., Wednesday, March 16, in the Transportation Building, Rooms 1D2 and 3F21, Olympia, Washington.

The April 1994 Washington State Transportation Commission meetings will be held at 10:00 a.m. on Wednesday, April 20, and 9:00 a.m. on Thursday, April 21, 1994, in the Ballroom of the Seattle Hilton Hotel, 6th and University, Seattle, Washington. There will be committee meetings at 8:30 a.m., Wednesday, April 20, in the Taku and Chinook Rooms, Seattle Hilton Hotel, 6th and University, Seattle, Washington.

WSR 94-06-052
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
 [Memorandum—December 9, 1993]

At their regular quarterly meeting in November, the Interagency Committee for Outdoor Recreation adopted the following meeting schedule for 1994:

- | | |
|-----------------|-------------------------------|
| March 24-25 | Olympia |
| July 28-29 | Snoqualmie Pass/Cle Elum Area |
| September 26-27 | SeaTac |
| November 17-18 | Olympia |

WSR 94-06-053
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
 (Library Commission)
 [Memorandum—February 25, 1994]

Thursday, March 10, 1994, at 3:30 p.m., the Washington State Library Commission will meet for a staff briefing in the Office of the State Librarian, Washington State Library, Olympia, Washington.

Friday, March 11, 1994, at 10:00 a.m., the Washington State Library Commission will hold its regular business meeting in the Conference Room at Timberland Regional Library Service Center, 415 Airdustrial Way S.W., Olympia, WA.

WSR 94-06-054
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY
 [Memorandum—March 1, 1994]

Hearing cancellation: The joint public hearing scheduled for March 29, 1994, at 4:00 p.m., with the Puget Sound Regional Council regarding contingency measure options being proposed for the Puget Sound carbon monoxide state implementation plan has been cancelled. The original notice was published in WSR 94-05-091.

If you have any questions regarding this notice, please contact Lydia Blalock at (206) 407-6860.

WSR 94-06-056
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD
 [Memorandum—March 1, 1994]

Meeting Notice: April 21, 1994
 1:00 - 5:00 p.m.
 April 22, 1994
 9:00 - 12:00 noon
 Four Season's Inn -
 Wenatchee
 11 West Grant Road
 East Wenatchee, WA 98802

MISCELLANEOUS

Hearing Notice: April 22, 1994
10:00 a.m.
Four Season's Inn -
Wenatchee
11 West Grant Road
East Wenatchee, WA 98802

* Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (206) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

WSR 94-06-057
RULES COORDINATOR
OFFICE OF
FINANCIAL MANAGEMENT
[Filed March 2, 1994, 9:34 a.m.]

In accordance with RCW 34.05.310, I have been designated as the rules coordinator for the Office of Financial Management. My office and mailing addresses are Accounting and Fiscal Services Division, Office of Financial Management, 406 Legion Way S.E., Mailstop 43123, Olympia, WA 98504-3123, phone (206) 664-3350.

Carl Wieland, Assistant Director
Accounting and Fiscal Services Division

WSR 94-06-067
ATTORNEY GENERAL'S OPINION
[Filed March 2, 1994, 11:40 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 are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by March 18, 1994. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by March 18, 1994, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (206) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, 905 Plum Street, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and

a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion requests.

94-2-3 Request by Deborah Senn, Insurance Commissioner

Question about the effect of amended RCW 48.21.100 on insureds with dual coverage.

94-2-4 Request by Melissa Warheit, Executive Director of the Public Disclosure Commission

Question about the authority of one house of the legislature to adopt a rule on constituent mailings which is inconsistent with PDC rules implementing Initiative 134.

WSR 94-06-069
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
[Memorandum—March 2, 1994, 12:00 noon]

The Title and Registration Advisory Committee (TRAC) meeting schedule is: April 14, 1994, 9:30 a.m. to 12:00 noon, Room 500, SeaTac Office Building, 18000 Pacific Highway South, Seattle, WA.

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.

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4-25-186	REP	94-02-070	16-223-040	REP	94-03-023	44-06-030	AMD-P	94-06-050
4-25-187	REP	94-02-070	16-223-050	REP	94-03-023	44-06-040	AMD-P	94-06-050
4-25-188	REP	94-02-070	16-223-060	REP	94-03-023	44-06-050	AMD-P	94-06-050
4-25-280	REP	94-02-070	16-223-070	REP	94-03-023	44-06-060	AMD-P	94-06-050
4-25-300	REP	94-02-070	16-400-210	AMD-E	94-04-091	44-06-070	AMD-P	94-06-050
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16-219-018	NEW-P	94-05-092	16-470-92015	NEW-C	94-06-003	50-60-160	NEW	94-03-009
16-219-020	AMD-P	94-05-092	16-470-92015	NEW-W	94-06-051	50-60-170	NEW	94-03-009
16-219-022	NEW-P	94-05-092	16-470-92020	NEW-C	94-06-003	50-60-180	NEW	94-03-009
16-219-025	AMD-P	94-05-092	16-470-92020	NEW-W	94-06-051	51-04-015	AMD	94-05-058
16-219-027	NEW-P	94-05-092	16-470-92025	NEW-C	94-06-003	51-04-018	AMD	94-05-058
16-219-029	NEW-P	94-05-092	16-470-92025	NEW-W	94-06-051	51-04-020	AMD	94-05-058
16-219-030	REP-P	94-05-092	16-470-92030	NEW-C	94-06-003	51-04-025	AMD	94-05-058
16-219-031	NEW-P	94-05-092	16-470-92030	NEW-W	94-06-051	51-04-030	AMD-W	94-05-102
16-219-100	NEW-P	94-05-061	16-470-92035	NEW-C	94-06-003	51-04-060	AMD	94-05-058
16-219-105	NEW-P	94-05-061	16-470-92035	NEW-W	94-06-051	51-11-0201	AMD	94-05-059
16-221-001	REP	94-03-024	16-470-92040	NEW-C	94-06-003	51-11-0402	AMD	94-05-059
16-221-010	REP	94-03-024	16-470-92040	NEW-W	94-06-051	51-11-0502	AMD-E	94-05-007
16-221-020	REP	94-03-024	16-514-020	AMD-P	94-05-073	51-11-0502	AMD	94-05-059
16-221-030	REP	94-03-024	16-580-040	AMD-P	94-05-066	51-11-0525	AMD	94-05-059
16-221-040	REP	94-03-024	16-602-025	NEW	94-05-049	51-11-0527	AMD	94-05-059
16-223-001	REP	94-03-023	16-678-001	REP	94-03-022	51-11-0601	AMD	94-05-059
16-223-002	REP	94-03-023	16-678-010	REP	94-03-022	51-11-0602	AMD	94-05-059
16-223-004	REP	94-03-023	16-680-001	REP	94-03-021	51-11-0603	AMD	94-05-059
16-223-005	REP	94-03-023	16-680-010	REP	94-03-021	51-11-0625	AMD	94-05-059
16-223-010	REP	94-03-023	16-680-015	REP	94-03-021	51-11-0626	AMD	94-05-059
16-223-020	REP	94-03-023	44-06-010	AMD-P	94-06-050	51-11-0627	AMD	94-05-059

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162-30-030	NEW-W	94-04-087	173-335-010	REP-P	94-03-071	204-30-030	REP	94-05-024
162-30-035	NEW-W	94-04-087	173-335-020	REP-P	94-03-071	204-30-040	REP	94-05-024
162-30-040	NEW-W	94-04-087	173-335-030	REP-P	94-03-071	204-30-050	REP	94-05-024
162-30-050	NEW-W	94-04-087	173-335-040	REP-P	94-03-071	204-30-060	REP	94-05-024
162-30-060	NEW-W	94-04-087	173-335-050	REP-P	94-03-071	204-30-070	REP	94-05-024
162-30-070	NEW-W	94-04-087	173-400-045	NEW-P	94-04-106	204-30-080	REP	94-05-024
162-30-080	NEW-W	94-04-087	173-400-101	NEW-P	94-04-105	220-16-015	AMD-P	94-03-106
162-30-090	NEW-W	94-04-087	173-400-116	NEW-P	94-04-106	220-16-460	NEW-P	94-03-105
162-30-100	NEW-W	94-04-087	173-401-200	AMD-P	94-04-104	220-20-021	AMD-P	94-03-106
173-19-100	AMD-P	94-03-093	173-401-510	AMD-P	94-04-104	220-20-025	AMD-P	94-03-106
173-19-120	AMD-P	94-03-092	173-401-530	NEW-P	94-04-104	220-20-02500B	NEW-E	94-05-002
173-19-2401	AMD-C	94-05-038	173-401-531	NEW-P	94-04-104	220-32-05100E	NEW-E	94-04-048
173-19-2602	AMD-P	94-04-107	173-401-532	NEW-P	94-04-104	220-33-01000U	NEW-E	94-04-101
173-19-390	AMD	94-03-095	173-401-533	NEW-P	94-04-104	220-33-01000U	REP-E	94-06-042
173-19-4205	AMD-P	94-03-094	173-422-020	AMD	94-05-039	220-33-01000V	NEW-E	94-06-042
173-34-010	REP-P	94-03-071	173-422-030	AMD	94-05-039	220-33-060	AMD-P	94-03-106
173-34-020	REP-P	94-03-071	173-422-050	AMD	94-05-039	220-44-020	AMD-P	94-03-106
173-34-030	REP-P	94-03-071	173-422-070	AMD	94-05-039	220-44-030	AMD-P	94-03-106
173-34-040	REP-P	94-03-071	173-422-075	AMD	94-05-039	220-44-05000I	REP-E	94-05-003
173-34-050	REP-P	94-03-071	173-422-095	AMD	94-05-039	220-44-05000J	NEW-E	94-05-003
173-58-010	AMD-P	94-05-037	173-422-130	AMD	94-05-039	220-44-090	NEW-P	94-03-106
173-58-020	AMD-P	94-05-037	173-422-140	REP	94-05-039	220-48-001	AMD-P	94-03-106
173-58-090	AMD-P	94-05-037	173-422-160	AMD	94-05-039	220-48-005	AMD-P	94-03-106
173-60-010	AMD-P	94-05-037	173-422-170	AMD	94-05-039	220-48-011	AMD-P	94-03-106
173-60-020	AMD-P	94-05-037	173-460-020	AMD	94-03-072	220-48-015	AMD-P	94-03-106
173-60-050	AMD-P	94-05-037	173-460-030	AMD	94-03-072	220-48-016	NEW-P	94-03-106
173-60-070	AMD-P	94-05-037	173-460-040	AMD	94-03-072	220-48-017	AMD-P	94-03-106
173-70-010	REP-P	94-05-037	173-460-050	AMD	94-03-072	220-48-019	AMD-P	94-03-106
173-70-020	REP-P	94-05-037	173-460-060	AMD	94-03-072	220-48-028	AMD-P	94-03-106
173-70-030	REP-P	94-05-037	173-460-080	AMD	94-03-072	220-48-031	AMD-P	94-03-106
173-70-040	REP-P	94-05-037	173-460-090	AMD	94-03-072	220-48-041	AMD-P	94-03-106
173-70-050	REP-P	94-05-037	173-460-100	AMD	94-03-072	220-48-051	AMD-P	94-03-106
173-70-060	REP-P	94-05-037	173-460-110	AMD	94-03-072	220-48-061	AMD-P	94-03-106
173-70-070	REP-P	94-05-037	173-460-150	AMD	94-03-072	220-48-071	AMD-P	94-03-106
173-70-080	REP-P	94-05-037	173-460-160	AMD	94-03-072	220-49-005	NEW-P	94-03-106
173-70-090	REP-P	94-05-037	180-16-200	AMD	94-03-104	220-49-011	AMD-P	94-03-106
173-70-100	REP-P	94-05-037	180-29-135	AMD-P	94-05-088	220-49-012	AMD-P	94-03-106
173-70-110	REP-P	94-05-037	180-29-147	NEW-P	94-05-088	220-49-013	AMD-P	94-03-106
173-70-120	REP-P	94-05-037	180-29-170	AMD-P	94-05-088	220-49-014	AMD-P	94-03-106
173-95-010	REP	94-04-030	180-40-235	AMD	94-03-102	220-49-015	REP-P	94-03-106
173-95-020	REP	94-04-030	180-50-115	AMD	94-03-104	220-49-016	REP-P	94-03-106
173-95-030	REP	94-04-030	180-50-120	AMD	94-03-104	220-49-017	AMD-P	94-03-106
173-95-040	REP	94-04-030	180-51-050	AMD	94-03-100	220-49-020	AMD-P	94-03-106
173-95-050	REP	94-04-030	180-51-075	AMD	94-03-104	220-49-02000F	NEW-E	94-04-047
173-95-060	REP	94-04-030	180-51-105	AMD	94-03-103	220-49-021	AMD-P	94-03-106
173-95-070	REP	94-04-030	180-78-266	NEW-P	94-05-034	220-49-022	REP-P	94-03-106
173-95-080	REP	94-04-030	180-95-010	AMD	94-03-103	220-49-023	AMD-P	94-03-106
173-95-090	REP	94-04-030	180-95-020	AMD	94-03-103	220-49-024	AMD-P	94-03-106
173-95-100	REP	94-04-030	180-95-030	AMD	94-03-103	220-49-025	REP-P	94-03-106
173-95-110	REP	94-04-030	180-95-040	AMD	94-03-103	220-49-026	REP-P	94-03-106
173-95-120	REP	94-04-030	180-95-050	AMD	94-03-103	220-49-055	REP-P	94-03-106
173-95-130	REP	94-04-030	180-95-060	AMD	94-03-103	220-49-056	AMD-P	94-03-106
173-95-140	REP	94-04-030	180-96-005	AMD	94-03-101	220-49-057	AMD-P	94-03-106
173-95-150	REP	94-04-030	180-96-010	AMD	94-03-101	220-49-063	AMD-P	94-03-106
173-95-160	REP	94-04-030	180-96-015	REP	94-03-101	220-49-064	AMD-P	94-03-106
173-202-020	AMD-E	94-04-108	180-96-025	REP	94-03-101	220-52-010	AMD-P	94-03-106
173-224	AMD-C	94-05-082	180-96-030	REP	94-03-101	220-52-018	AMD-P	94-03-106
173-224-020	AMD-P	94-02-080	180-96-035	AMD	94-03-101	220-52-019	AMD-P	94-03-106
173-224-030	AMD-P	94-02-080	180-96-045	AMD	94-03-101	220-52-01901	AMD-P	94-03-106
173-224-040	AMD-P	94-02-080	180-96-048	NEW	94-03-101	220-52-020	AMD-P	94-03-106
173-224-050	AMD-P	94-02-080	180-96-050	AMD	94-03-101	220-52-030	AMD-P	94-03-106
173-224-070	REP-P	94-02-080	180-96-053	NEW	94-03-101	220-52-040	AMD-P	94-03-106
173-224-090	AMD-P	94-02-080	180-96-055	REP	94-03-101	220-52-043	AMD-P	94-03-106
173-224-100	AMD-P	94-02-080	180-96-058	NEW	94-03-101	220-52-046	AMD-P	94-03-106
173-224-120	REP-P	94-02-080	180-96-060	REP	94-03-101	220-52-050	AMD-P	94-03-106
173-320-010	REP-P	94-03-071	180-96-065	REP	94-03-101	220-52-051	AMD-P	94-03-098
173-320-020	REP-P	94-03-071	180-96-070	REP	94-03-101	220-52-051	AMD-P	94-03-106
173-320-030	REP-P	94-03-071	180-96-075	REP	94-03-101	220-52-060	AMD-P	94-03-106
173-320-040	REP-P	94-03-071	192-28-145	AMD-P	94-04-124	220-52-063	AMD-P	94-03-106
173-320-050	REP-P	94-03-071	204-24-050	AMD-E	94-02-081	220-52-066	AMD-P	94-03-106
173-320-060	REP-P	94-03-071	204-24-050	AMD-P	94-02-082	220-52-068	AMD-P	94-03-106
173-320-070	REP-P	94-03-071	204-30-010	REP	94-05-024	220-52-069	AMD-P	94-03-106
173-320-080	REP-P	94-03-071	204-30-020	REP	94-05-024	220-52-070	AMD-P	94-03-106

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220-52-073	AMD-P	94-03-106	220-88A-060	NEW-P	94-03-098	232-28-61946	NEW-P	94-06-039
220-52-07300R	REP-E	94-03-063	220-88A-070	NEW-P	94-03-098	232-28-61947	NEW-P	94-06-040
220-52-07300S	NEW-E	94-03-063	220-88A-080	NEW-P	94-03-098	240-20-001	NEW-P	94-05-100
220-52-07300S	REP-E	94-05-055	222-16-010	AMD-E	94-05-046	240-20-001	NEW-E	94-05-101
220-52-07300T	NEW-E	94-05-055	222-16-080	AMD-E	94-05-046	240-20-010	NEW-P	94-05-100
220-52-075	AMD-P	94-03-106	222-24-030	AMD-E	94-05-046	240-20-010	NEW-E	94-05-101
220-56-100	AMD-P	94-03-105	222-30-050	AMD-E	94-05-046	240-20-015	NEW-P	94-05-100
220-56-105	AMD-P	94-03-105	222-30-060	AMD-E	94-05-046	240-20-015	NEW-E	94-05-101
220-56-123	NEW-P	94-03-105	222-30-065	NEW-E	94-05-046	240-20-020	NEW-P	94-05-100
220-56-124	AMD-P	94-03-105	222-30-070	AMD-E	94-05-046	240-20-020	NEW-E	94-05-101
220-56-128	AMD-P	94-03-105	222-30-075	NEW-E	94-05-046	240-20-025	NEW-P	94-05-100
220-56-190	AMD-P	94-03-105	222-30-100	AMD-E	94-05-046	240-20-025	NEW-E	94-05-101
220-56-191	AMD-P	94-03-105	222-38-020	AMD-E	94-05-046	240-20-030	NEW-P	94-05-100
220-56-195	AMD-P	94-03-105	222-38-030	AMD-E	94-05-046	240-20-030	NEW-E	94-05-101
220-56-235	AMD-P	94-03-105	230-02-161	AMD-P	94-04-024	240-20-035	NEW-P	94-05-100
220-56-240	AMD-P	94-03-105	230-04-035	AMD-P	94-04-024	240-20-035	NEW-E	94-05-101
220-56-245	AMD-P	94-03-105	230-04-075	AMD-P	94-04-024	240-20-040	NEW-P	94-05-100
220-56-255	AMD-P	94-03-105	230-08-015	AMD-P	94-04-024	240-20-040	NEW-E	94-05-101
220-56-285	AMD-P	94-03-105	230-12-010	AMD-P	94-04-024	240-20-042	NEW-P	94-05-100
220-56-305	AMD-P	94-03-105	230-12-305	AMD-P	94-04-024	240-20-042	NEW-E	94-05-101
220-56-307	AMD-P	94-03-105	230-20-064	AMD-P	94-04-024	240-20-044	NEW-P	94-05-100
220-56-315	AMD-P	94-03-105	230-20-111	AMD-P	94-04-024	240-20-044	NEW-E	94-05-101
220-56-320	AMD-P	94-03-105	230-20-220	AMD-P	94-04-024	240-20-046	NEW-P	94-05-100
220-56-350	AMD-P	94-03-105	230-20-230	AMD-P	94-04-024	240-20-046	NEW-E	94-05-101
220-56-380	AMD-P	94-03-105	230-20-400	AMD-P	94-04-024	240-20-048	NEW-P	94-05-100
220-56-382	AMD-P	94-03-105	230-20-680	AMD-P	94-04-024	240-20-048	NEW-E	94-05-101
220-56-390	AMD-P	94-03-105	230-25-160	AMD-P	94-04-024	240-20-050	NEW-P	94-05-100
220-56-400	AMD-P	94-03-105	230-30-060	AMD-P	94-04-024	240-20-050	NEW-E	94-05-101
220-56-405	AMD-P	94-03-105	230-30-072	AMD-P	94-04-024	240-20-052	NEW-P	94-05-100
220-56-410	AMD-P	94-03-105	230-30-102	AMD-P	94-04-024	240-20-052	NEW-E	94-05-101
220-56-415	NEW-P	94-03-105	230-30-103	AMD-P	94-04-024	240-20-054	NEW-P	94-05-100
220-57-130	AMD-P	94-03-105	230-40-055	AMD-P	94-04-024	240-20-054	NEW-E	94-05-101
220-57-135	AMD-P	94-03-105	232-12-131	AMD-P	94-04-118	240-20-056	NEW-P	94-05-100
220-57-140	AMD-P	94-03-105	232-12-131	AMD-W	94-06-036	240-20-056	NEW-E	94-05-101
220-57-155	AMD-P	94-03-105	232-12-131	AMD-P	94-06-037	240-20-058	NEW-P	94-05-100
220-57-200	AMD-P	94-03-105	232-12-166	AMD-P	94-06-043	240-20-058	NEW-E	94-05-101
220-57-210	AMD-P	94-03-105	232-12-168	AMD	94-06-014	240-20-060	NEW-P	94-05-100
220-57-215	AMD-P	94-03-105	232-28-022	REP-P	94-04-055	240-20-060	NEW-E	94-05-101
220-57-230	AMD-P	94-03-105	232-28-02201	NEW-P	94-04-055	240-20-065	NEW-P	94-05-100
220-57-235	REP-P	94-03-105	232-28-02202	NEW-P	94-04-057	240-20-065	NEW-E	94-05-101
220-57-250	AMD-P	94-03-105	232-28-02203	NEW-P	94-04-056	240-20-070	NEW-P	94-05-100
220-57-255	AMD-P	94-03-105	232-28-02204	NEW-P	94-04-058	240-20-070	NEW-E	94-05-101
220-57-270	AMD-P	94-03-105	232-28-02205	NEW-P	94-04-059	240-20-075	NEW-P	94-05-100
220-57-280	AMD-P	94-03-105	232-28-02206	NEW-P	94-04-060	240-20-075	NEW-E	94-05-101
220-57-285	AMD-P	94-03-105	232-28-02210	NEW-P	94-04-061	240-20-080	NEW-P	94-05-100
220-57-300	AMD-P	94-03-105	232-28-02220	NEW-P	94-04-062	240-20-080	NEW-E	94-05-101
220-57-310	AMD-P	94-03-105	232-28-02230	NEW-P	94-04-063	240-20-090	NEW-P	94-05-100
220-57-319	AMD-P	94-03-105	232-28-02240	NEW-P	94-04-064	240-20-090	NEW-E	94-05-101
220-57-335	AMD-P	94-03-105	232-28-02250	NEW-P	94-04-065	240-20-110	NEW-P	94-05-100
220-57-350	AMD-P	94-03-105	232-28-02260	NEW-P	94-04-066	240-20-110	NEW-E	94-05-101
220-57-370	AMD-P	94-03-105	232-28-02270	NEW-P	94-04-067	240-20-120	NEW-P	94-05-100
220-57-385	AMD-P	94-03-105	232-28-02280	NEW-P	94-04-068	240-20-120	NEW-E	94-05-101
220-57-400	AMD-P	94-03-105	232-28-02290	NEW-P	94-04-069	240-20-130	NEW-P	94-05-100
220-57-415	AMD-P	94-03-105	232-28-226	REP-P	94-04-114	240-20-130	NEW-E	94-05-101
220-57-425	AMD-P	94-03-105	232-28-227	REP-P	94-04-116	240-20-210	NEW-P	94-05-100
220-57-430	AMD-P	94-03-105	232-28-228	REP-P	94-04-115	240-20-210	NEW-E	94-05-101
220-57-435	AMD-P	94-03-105	232-28-236	REP-P	94-05-079	240-20-220	NEW-P	94-05-100
220-57-450	AMD-P	94-03-105	232-28-237	REP-P	94-05-078	240-20-220	NEW-E	94-05-101
220-57-455	AMD-P	94-03-105	232-28-238	REP-P	94-04-117	240-20-230	NEW-P	94-05-100
220-57-465	AMD-P	94-03-105	232-28-239	NEW	94-04-123	240-20-230	NEW-E	94-05-101
220-57-473	AMD-P	94-03-105	232-28-240	NEW-P	94-04-114	240-20-310	NEW-P	94-05-100
220-57-480	AMD-P	94-03-105	232-28-241	NEW-P	94-04-115	240-20-310	NEW-E	94-05-101
220-57-490	AMD-P	94-03-105	232-28-242	NEW-P	94-04-116	240-20-320	NEW-P	94-05-100
220-57-495	AMD-P	94-03-105	232-28-243	NEW-P	94-04-117	240-20-320	NEW-E	94-05-101
220-57-520	AMD-P	94-03-105	232-28-244	NEW-P	94-05-079	240-20-330	NEW-P	94-05-100
220-57-525	AMD-P	94-03-105	232-28-245	NEW-P	94-05-078	240-20-330	NEW-E	94-05-101
220-57A-012	AMD-P	94-03-105	232-28-417	AMD-E	94-04-007	240-20-410	NEW-P	94-05-100
220-57A-152	AMD-P	94-03-105	232-28-61940	NEW	94-04-018	240-20-410	NEW-E	94-05-101
220-88A-010	NEW-P	94-03-098	232-28-61941	NEW	94-06-012	240-20-420	NEW-P	94-05-100
220-88A-020	NEW-P	94-03-098	232-28-61942	NEW	94-06-013	240-20-420	NEW-E	94-05-101
220-88A-030	NEW-P	94-03-098	232-28-61944	NEW-E	94-03-038	240-20-430	NEW-P	94-05-100
220-88A-040	NEW-P	94-03-098	232-28-61945	NEW-E	94-04-012	240-20-430	NEW-E	94-05-101

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246-878-030	NEW-P	94-02-079	260-36-080	AMD	94-04-002	284-97-030	PREP	94-05-071
246-878-040	NEW-P	94-02-079	260-48-322	AMD-P	94-05-077	284-97-040	PREP	94-05-071
246-878-050	NEW-P	94-02-079	260-48-324	AMD-P	94-05-076	284-97-050	PREP	94-05-071
246-878-060	NEW-P	94-02-079	260-48-328	AMD-P	94-05-075	284-97-060	PREP	94-05-071
246-878-070	NEW-P	94-02-079	260-70-040	AMD	94-04-002	284-97-070	PREP	94-05-071
246-878-080	NEW-P	94-02-079	260-72-020	AMD	94-04-003	284-97-080	PREP	94-05-071
246-878-090	NEW-P	94-02-079	275-27-220	AMD	94-04-092	284-97-100	PREP	94-05-071
246-878-100	NEW-P	94-02-079	275-27-221	NEW	94-04-092	284-97-110	PREP	94-05-071
246-878-110	NEW-P	94-02-079	275-27-223	AMD	94-04-092	284-97-120	PREP	94-05-071
246-878-120	NEW-P	94-02-079	275-55-221	NEW-E	94-03-004	284-97-130	PREP	94-05-071
246-883-030	AMD-P	94-02-078	275-55-221	NEW-P	94-03-005	284-97-140	PREP	94-05-071
246-886-030	AMD	94-02-060	275-55-221	NEW	94-06-025	284-97-150	PREP	94-05-071
246-887	AMD-C	94-02-089	275-59-072	NEW-E	94-03-004	284-97-160	PREP	94-05-071
246-887-100	AMD-P	94-04-111	275-59-072	NEW-P	94-03-005	296-15-020	AMD-C	94-03-006
246-887-140	AMD-P	94-04-111	275-59-072	NEW	94-06-025	296-15-020	AMD	94-05-042
246-887-150	AMD-P	94-04-111	284-07-060	AMD	94-04-045	296-15-02606	NEW-C	94-03-006
246-889-020	AMD-P	94-04-111	284-07-100	AMD	94-04-045	296-15-02606	NEW	94-05-042
246-901-010	NEW-P	94-04-112	284-07-110	AMD	94-04-045	296-15-030	AMD-C	94-03-006
246-901-020	AMD-P	94-04-112	284-07-130	AMD	94-04-045	296-15-030	AMD	94-05-042
246-901-030	AMD-P	94-04-112	284-07-140	AMD	94-04-045	296-15-170	AMD-C	94-03-006
246-901-035	NEW-P	94-04-112	284-07-180	AMD	94-04-045	296-15-170	AMD	94-05-042
246-901-100	AMD-P	94-04-112	284-07-220	AMD	94-04-045	296-17-45005	NEW-P	94-06-055
246-901-130	AMD-P	94-04-112	284 10	NEW-C	94-02-065	296-17-66003	NEW-P	94-06-055
246-907-030	AMD	94-05-036	284 10	NEW-C	94-03-048	296-17-895	AMD-P	94-06-055
246-915-040	AMD	94-05-014	284-10-010	NEW-E	94-03-084	296-20-135	AMD	94-03-008
246-915-050	AMD	94-05-014	284-10-010	NEW-W	94-03-085	296-20-370	AMD	94-03-073
246-915-078	NEW	94-05-014	284-10-010	NEW-P	94-04-126	296-20-380	AMD	94-03-073
246-915-085	NEW	94-05-014	284-10-015	NEW-E	94-03-084	296-20-385	NEW	94-03-073
246-915-090	AMD	94-05-014	284-10-015	NEW-W	94-03-085	296-20-680	AMD	94-03-073
246-915-120	AMD	94-05-014	284-10-015	NEW-P	94-04-126	296-24-11001	AMD	94-06-068
246-915-140	AMD	94-05-014	284-10-020	NEW-E	94-03-084	296-24-12001	AMD	94-06-068
246-915-160	AMD	94-05-014	284-10-020	NEW-W	94-03-085	296-24-14011	AMD	94-06-068
246-915-340	NEW	94-05-014	284-10-020	NEW-P	94-04-126	296-24-33003	AMD	94-06-068
246-922-032	NEW	94-05-051	284-10-030	NEW-E	94-03-084	296-24-58503	AMD	94-06-068
246-922-033	NEW	94-05-051	284-10-030	NEW-W	94-03-085	296-24-73501	AMD	94-06-068
246-922-100	AMD	94-05-051	284-10-030	NEW-P	94-04-126	296-104-281	NEW-E	94-04-006
246-922-110	REP	94-05-051	284-10-050	NEW-P	94-04-125	296-104-281	NEW-P	94-05-072
246-922-120	AMD	94-05-051	284-10-060	NEW-E	94-03-084	296-116-185	RESCIND	94-05-005
246-922-220	REP	94-05-051	284-10-060	NEW-W	94-03-085	296-116-185	AMD	94-05-006
246-922-250	REP	94-05-051	284-10-060	NEW-P	94-04-126	296-116-500	NEW-P	94-04-119
246-922-260	AMD	94-05-051	284-10-070	NEW-E	94-03-084	296-306-010	AMD	94-06-068
246-922-300	AMD	94-05-051	284-10-070	NEW-W	94-03-085	296-306-012	AMD	94-06-068
246-922-310	AMD	94-05-051	284-10-070	NEW-P	94-04-126	296-306-015	AMD	94-06-068
246-922-500	NEW-P	94-05-081	284-10-080	NEW-W	94-03-085	296-306-020	AMD	94-06-068
250-62-010	NEW-W	94-06-018	284-10-090	NEW-E	94-03-084	296-306-057	AMD	94-06-068
250-62-020	NEW-W	94-06-018	284-10-090	NEW-W	94-03-085	296-306-061	AMD-E	94-06-044
250-62-030	NEW-W	94-06-018	284-10-090	NEW-P	94-04-126	296-306-110	AMD	94-06-068
250-62-040	NEW-W	94-06-018	284-10-100	NEW-W	94-03-085	296-306-115	AMD	94-06-068
250-62-050	NEW-W	94-06-018	284-10-110	NEW-W	94-03-085	296-306-120	AMD	94-06-068
250-62-060	NEW-W	94-06-018	284-10-120	NEW-W	94-03-085	296-306-145	AMD-E	94-06-044
250-62-070	NEW-W	94-06-018	284-10-130	NEW-W	94-03-085	296-306-14501	NEW-E	94-06-044
250-62-080	NEW-W	94-06-018	284-10-140	NEW-W	94-03-085	296-306-14503	NEW-E	94-06-044
250-62-090	NEW-W	94-06-018	284-10-150	NEW-W	94-03-085	296-306-14505	NEW-E	94-06-044
250-62-100	NEW-W	94-06-018	284-10-160	NEW-W	94-03-085	296-306-14507	NEW-E	94-06-044
250-62-110	NEW-W	94-06-018	284-10-170	NEW-W	94-03-085	296-306-14509	NEW-E	94-06-044
250-62-120	NEW-W	94-06-018	284-10-180	NEW-W	94-03-085	296-306-14511	NEW-E	94-06-044
250-62-130	NEW-W	94-06-018	284-10-190	NEW-W	94-03-085	296-306-160	AMD	94-06-068
250-62-140	NEW-W	94-06-018	284-10-200	NEW-W	94-03-085	296-306-165	AMD-E	94-06-044
250-62-150	NEW-W	94-06-018	284-13-110	REP-P	94-05-089	296-306-170	AMD-E	94-06-044
250-62-160	NEW-W	94-06-018	284-13-120	REP-P	94-05-089	296-306-175	AMD-E	94-06-044
250-62-170	NEW-W	94-06-018	284-13-130	REP-P	94-05-089	296-306-180	AMD-E	94-06-044
250-62-180	NEW-W	94-06-018	284-13-140	REP-P	94-05-089	296-306-200	AMD	94-06-068
250-62-190	NEW-W	94-06-018	284-13-150	REP-P	94-05-089	296-306-25007	AMD	94-06-068
250-62-200	NEW-W	94-06-018	284-13-800	NEW-P	94-05-089	296-306-260	AMD	94-06-068
250-62-210	NEW-W	94-06-018	284-13-810	NEW-P	94-05-089	296-306-265	AMD	94-06-068
250-79-010	NEW-C	94-04-093	284-13-820	NEW-P	94-05-089	296-306-400	AMD	94-06-068
251-23-010	REP-W	94-04-010	284-13-830	NEW-P	94-05-089	308-13-150	AMD	94-04-044
251-23-015	REP-W	94-04-010	284-30	PREP	94-05-056	308-13-160	AMD	94-04-044
251-23-020	REP-W	94-04-010	284-30-450	PREP	94-05-070	308-62-010	REP-P	94-04-017
251-23-030	REP-W	94-04-010	284-44	PREP	94-05-056	308-62-020	REP-P	94-04-017
251-23-040	REP-W	94-04-010	284-46	PREP	94-05-056	308-62-030	REP-P	94-04-017
251-23-050	REP-W	94-04-010	284-97-010	PREP	94-05-071	308-72-543	NEW-P	94-02-076
251-23-060	REP-W	94-04-010	284-97-020	PREP	94-05-071	308-72-660	AMD-P	94-02-076

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308-77-010	AMD-P	94-02-075	352-32-250	AMD-P	94-03-097	388-28-439	AMD-P	94-03-055
308-77-060	AMD-P	94-02-075	352-32-250	AMD-C	94-06-010	388-28-439	AMD	94-06-024
308-77-095	AMD-P	94-02-075	352-32-25001	AMD	94-04-075	388-28-457	REP	94-04-043
308-77-155	NEW-P	94-02-075	352-32-252	AMD-P	94-03-097	388-28-458	REP	94-04-043
308-77-250	AMD-P	94-02-075	352-32-252	AMD-C	94-06-010	388-28-459	REP	94-04-043
308-93-073	AMD-W	94-03-018	352-32-255	AMD-P	94-03-097	388-28-460	REP	94-04-043
308-93-280	AMD-W	94-03-018	352-32-255	AMD-C	94-06-010	388-28-461	REP	94-04-043
308-93-330	AMD-W	94-03-018	352-32-320	NEW-P	94-03-097	388-28-462	REP	94-04-043
308-93-630	REP-W	94-03-018	352-32-320	AMD-C	94-06-010	388-28-463	REP	94-04-043
308-128A-020	AMD	94-04-050	352-65-010	AMD	94-04-076	388-28-464	REP	94-04-043
308-128A-030	AMD	94-04-050	352-65-020	AMD	94-04-076	388-28-465	REP	94-04-043
308-128A-040	AMD	94-04-050	352-65-030	AMD	94-04-076	388-28-470	REP	94-04-043
308-128C-040	AMD	94-04-050	352-65-040	AMD	94-04-076	388-28-471	REP	94-04-043
308-128C-050	AMD	94-04-050	352-65-060	AMD	94-04-076	388-28-472	REP	94-04-043
308-128D-010	AMD	94-04-050	352-74-040	AMD-P	94-03-089	388-28-473	REP	94-04-043
308-128D-030	AMD	94-04-050	352-74-040	AMD-C	94-06-020	388-28-474	AMD-P	94-05-018
308-128D-040	AMD	94-04-050	356-05-477	NEW	94-04-011	388-28-484	AMD-P	94-05-029
308-128D-070	AMD	94-04-050	356-05-479	NEW	94-04-011	388-28-530	AMD-P	94-05-016
308-128E-011	AMD	94-04-050	356-06-045	NEW	94-04-011	388-28-560	AMD-P	94-05-019
308-128F-020	AMD	94-04-050	356-09	NEW-C	94-04-086	388-28-575	AMD-P	94-05-054
314-12-142	NEW-W	94-06-021	356-09-010	REP-W	94-04-010	388-28-600	AMD-P	94-04-042
314-12-185	NEW-P	94-05-094	356-09-020	REP-W	94-04-010	388-29-001	REP-P	94-06-035
314-16-050	AMD-P	94-05-096	356-09-030	REP-W	94-04-010	388-29-005	REP-P	94-06-035
314-16-150	AMD-P	94-05-093	356-09-040	REP-W	94-04-010	388-29-010	REP-P	94-06-035
314-25-010	NEW-P	94-05-095	356-09-050	REP-W	94-04-010	388-29-020	REP-P	94-06-035
314-25-020	NEW-P	94-05-095	356-26-030	AMD-E	94-04-085	388-29-080	REP-P	94-06-035
314-25-030	NEW-P	94-05-095	356-26-030	AMD-P	94-06-066	388-29-100	REP-P	94-06-035
314-25-040	NEW-P	94-05-095	356-26-070	AMD-E	94-04-085	388-29-110	REP-P	94-06-035
314-52-115	AMD	94-06-022	356-26-070	AMD-P	94-06-066	388-29-112	REP-P	94-06-035
314-60-010	AMD	94-03-060	356-30-285	NEW	94-04-011	388-29-125	REP-P	94-06-035
314-60-020	AMD	94-03-060	356-30-315	NEW	94-04-011	388-29-130	REP-P	94-06-035
314-60-030	AMD	94-03-060	356-30-328	NEW-W	94-04-009	388-29-150	REP-P	94-06-035
314-60-080	AMD	94-03-060	356-37-080	AMD-P	94-04-084	388-29-160	REP-P	94-06-035
314-60-105	AMD	94-03-060	356-37-090	AMD-P	94-04-084	388-29-180	REP-P	94-06-035
314-60-110	AMD	94-03-060	356-56-015	AMD-E	94-03-069	388-29-200	REP-P	94-06-035
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315-04-180	AMD	94-03-020	356-56-030	AMD-P	94-06-064	388-29-220	REP-P	94-06-035
315-04-210	AMD	94-03-020	356-56-115	AMD-P	94-06-064	388-29-230	REP-P	94-06-035
315-06-035	AMD	94-03-020	356-56-230	AMD-E	94-03-069	388-29-270	REP-P	94-06-035
315-06-140	REP	94-03-020	356-56-230	AMD-P	94-06-064	388-29-280	REP-P	94-06-035
315-06-150	REP	94-03-020	359-09-010	AMD	94-06-063	388-29-295	AMD	94-04-035
315-06-160	REP	94-03-020	359-09-012	AMD	94-06-063	388-29-295	REP-P	94-06-035
315-06-170	AMD	94-03-020	359-09-015	AMD	94-06-063	388-43-120	NEW-E	94-04-032
315-06-180	REP	94-03-020	359-09-020	AMD	94-06-063	388-43-120	NEW	94-04-037
315-06-190	AMD	94-03-020	359-09-030	AMD	94-06-063	388-44-010	REP	94-05-045
315-10-030	AMD	94-03-020	359-09-040	AMD	94-06-063	388-44-020	REP	94-05-045
315-10-060	AMD	94-03-020	359-09-050	AMD	94-06-063	388-44-035	REP	94-05-045
315-10-080	AMD	94-03-020	359-39-010	NEW-P	94-06-065	388-44-046	REP	94-05-045
315-11A-114	NEW	94-03-019	359-39-020	NEW-P	94-06-065	388-44-050	REP	94-05-045
315-11A-115	NEW	94-03-019	359-39-030	NEW-P	94-06-065	388-44-110	REP	94-05-045
315-11A-116	NEW	94-03-019	359-39-040	NEW-P	94-06-065	388-44-115	REP	94-05-045
315-11A-117	NEW	94-03-019	359-39-050	NEW-P	94-06-065	388-44-120	REP	94-05-045
315-11A-118	NEW-P	94-03-099	359-39-090	NEW-P	94-06-065	388-44-125	REP	94-05-045
315-11A-119	NEW-P	94-03-099	359-39-140	NEW-P	94-06-065	388-44-127	REP	94-05-045
315-11A-120	NEW-P	94-03-099	388-22-030	AMD-P	94-04-042	388-44-140	REP	94-05-045
315-11A-121	NEW-P	94-03-099	388-24-044	AMD-P	94-05-017	388-44-145	REP	94-05-045
315-30-030	AMD	94-03-020	388-24-111	AMD	94-04-034	388-44-150	REP	94-05-045
315-34-040	AMD-P	94-03-099	388-24-250	REP-P	94-03-051	388-44-160	REP	94-05-045
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332-120-020	AMD	94-06-034	388-24-252	REP	94-06-026	388-44-330	REP	94-05-045
332-120-030	AMD	94-06-034	388-24-253	REP-P	94-03-051	388-49-535	AMD-P	94-03-041
332-120-040	AMD	94-06-034	388-24-253	REP	94-06-026	388-49-535	AMD-W	94-06-023
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332-120-070	NEW	94-06-034	388-24-255	REP-P	94-03-051	388-53-010	REP	94-04-036
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352-28-005	AMD-P	94-06-049	388-24-260	REP-P	94-03-051	388-59-010	REP	94-04-033
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352-32-010	AMD-P	94-03-097	388-24-265	REP-P	94-03-051	388-59-030	REP	94-04-033
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388-59-050	REP	94-04-033	388-250-1700	NEW-P	94-06-035	392-127-750	REP	94-04-096
388-59-060	REP	94-04-033	388-250-1750	NEW-P	94-06-035	392-127-755	REP	94-04-096
388-59-070	REP	94-04-033	388-255-1020	NEW-P	94-06-035	392-127-760	REP	94-04-096
388-59-080	REP	94-04-033	388-255-1050	NEW-P	94-06-035	392-127-765	REP	94-04-096
388-59-090	REP	94-04-033	388-255-1100	NEW-P	94-06-035	392-127-770	REP	94-04-096
388-59-100	REP	94-04-033	388-255-1150	NEW-P	94-06-035	392-127-775	REP	94-04-096
388-84-115	AMD-P	94-05-026	388-255-1200	NEW-P	94-06-035	392-127-780	REP	94-04-096
388-86-030	AMD-C	94-04-031	388-255-1250	NEW-P	94-06-035	392-127-785	REP	94-04-096
388-86-030	AMD-C	94-05-044	388-255-1300	NEW-P	94-06-035	392-127-790	REP	94-04-096
388-86-040	REP-C	94-05-043	388-255-1350	NEW-P	94-06-035	392-127-795	REP	94-04-096
388-86-04001	NEW-C	94-05-043	388-255-1400	NEW-P	94-06-035	392-127-800	REP	94-04-096
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388-86-073	AMD-P	94-04-022	388-270-1010	NEW	94-05-045	392-127-815	REP	94-04-096
388-86-073	AMD-E	94-04-023	388-270-1025	NEW	94-05-045	392-127-820	REP	94-04-096
388-86-090	AMD-P	94-04-022	388-270-1075	NEW	94-05-045	392-127-825	REP	94-04-096
388-86-090	AMD-E	94-04-023	388-270-1100	NEW	94-05-045	392-127-830	REP	94-04-096
388-86-098	AMD-P	94-04-022	388-270-1110	NEW	94-05-045	392-140-500	NEW-P	94-04-122
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