

# Washington State Register

**JUNE 5, 1996**

**OLYMPIA, WASHINGTON**

**ISSUE 96-11**



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filed not later than May 22, 1996

## CITATION

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

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 753-7470.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of June 1996 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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

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*Subscription Clerk*

## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **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.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **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].

**1995 - 1996**

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

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
95-16	Jul 5	Jul 19	Aug 2	Aug 16	Sep 5
95-17	Jul 26	Aug 9	Aug 23	Sep 6	Sep 26
95-18	Aug 9	Aug 23	Sep 6	Sep 20	Oct 10
95-19	Aug 23	Sep 6	Sep 20	Oct 4	Oct 24
95-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
95-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
95-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
95-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
95-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1996
96-01	Nov 22	Dec 6	Dec 20, 1995	Jan 3, 1996	Jan 23
96-02	Dec 6	Dec 20, 1995	Jan 3, 1996	Jan 17	Feb 6
96-03	Dec 27, 1995	Jan 10, 1996	Jan 24	Feb 7	Feb 27
96-04	Jan 10	Jan 24	Feb 7	Feb 21	Mar 12
96-05	Jan 24	Feb 7	Feb 21	Mar 6	Mar 26
96-06	Feb 7	Feb 21	Mar 6	Mar 20	Apr 9
96-07	Feb 21	Mar 6	Mar 20	Apr 3	Apr 23
96-08	Mar 6	Mar 20	Apr 3	Apr 17	May 7
96-09	Mar 20	Apr 3	Apr 17	May 1	May 21
96-10	Apr 3	Apr 17	May 1	May 15	Jun 4
96-11	Apr 24	May 8	May 22	Jun 5	Jun 25
96-12	May 8	May 22	Jun 5	Jun 19	Jul 9
96-13	May 22	Jun 5	Jun 19	Jul 3	Jul 23
96-14	Jun 5	Jun 19	Jul 3	Jul 17	Aug 6
96-15	Jun 26	Jul 10	Jul 24	Aug 7	Aug 27
96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
96-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
96-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
96-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
96-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
96-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1997

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

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

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

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

There is less than minor economic impact on business;

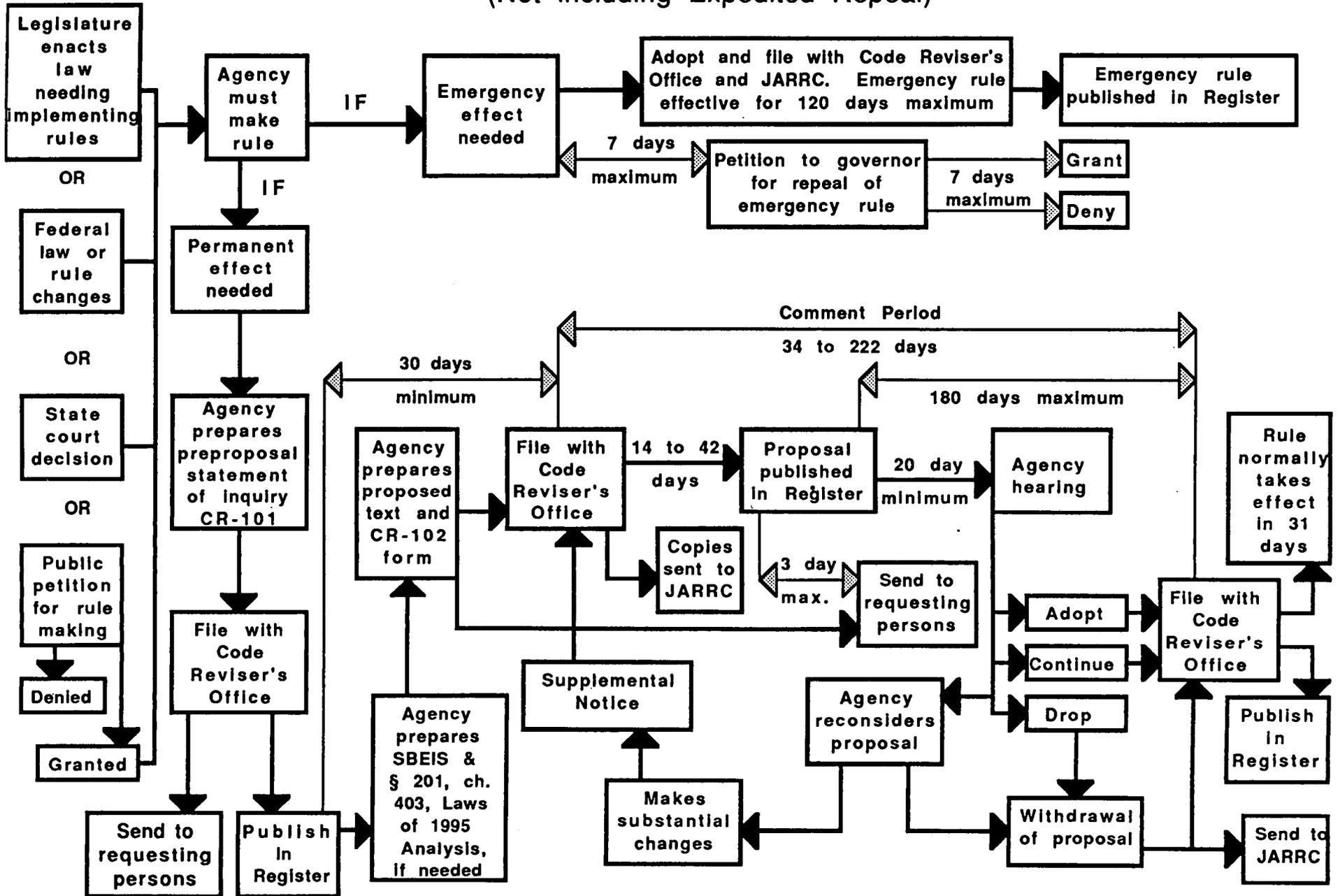
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS

(Not including Expedited Repeal)



**WSR 96-11-009**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF TRANSPORTATION**

[Filed May 6, 1996, 8:30 a.m.]

**Subject of Possible Rule Making:** Proposal will modify/clarify language to remove current confusion over what is allowed to move on the state highway. Language insures that industry can continue to move manufactured housing in the same manner as in the past. (WAC 468-38-120)

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 46.44.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Current language causes confusion between industry, regulators and enforcement as to how manufactured houses may be transported on state highways. There should be no impact on the motoring public.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Federal Highway Administration, Department of Housing and Urban Development. The change will not affect the regulatory aspects of these agencies.

**Process for Developing New Rule:** The change is the result of discussions between the Washington State Department of Transportation, the Washington State Patrol and the Washington Association of Manufactured Housing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, FAX (360) 664-9497.

May 3, 1996  
 S. A. Moon  
 Deputy Secretary  
 for Operations

**WSR 96-11-040**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
 (Dispensing Optician)

[Filed May 8, 1996, 9:04 a.m.]

**Subject of Possible Rule Making:** Repeal of Optometry Board temporary permit fee in concurrence with repeal of temporary permit rule by the board.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 43.70.250.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Board of Optometry is proposing that the temporary permit rule be repealed because of duplicative language. Repeal of the rule necessitates repeal of the accompanying fee.

**Other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** None.

**Process for Developing New Rule:** This proposed rule has been discussed previously at a regular open public meeting of the Board of Optometry. A public meeting will be held on May 17, 1996, to allow interested parties to participate in the formulation of proposed rule making prior to publication.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Judy Haenke, P.O. Box 47863, Olympia, WA 98504-7863, (360) 753-4614, (360) 586-0745. Seattle Meeting: WestCoast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA 98168.

May 8, 1996  
 Bruce Miyahara  
 Secretary

**WSR 96-11-047**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed May 8, 1996, 11:51 a.m.]

**Subject of Possible Rule Making:** Repeal JOBS program supportive service and on-time [one-time] work-related expenses from chapter 388-290 WAC, Child care. Move repealed language in new chapter 388-301 WAC, JOBS program supportive services and one-time work-related expenses.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.04.050.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** JOBS supportive services and one-time work-related expenses are currently included in chapter 388-290 WAC, Child care. It is more appropriate for the rules relating to JOBS supportive services and one-time work-related expenses to be in a separate chapter. Also, when chapter 388-51 WAC was repealed and replaced by chapter 388-290 WAC, the length of time transitional supportive services are available was incorrectly stated in chapter 388-290 WAC. This error will be corrected in the proposed WAC.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other agency regulates this subject.

**Process for Developing New Rule:** Agency study, internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before the final rule is issued.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sue Ann Langley, JOBS Section, Division of Employment and Social Services, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 438-8281, FAX (360) 407-0653.

May 8, 1996  
 Philip A. Wozniak  
 for Merry Kogut, Supervisor  
 Rules and Policies Assistance Unit

**WSR 96-11-049**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
 (Board of Optometry)  
 [Filed May 8, 1996, 4:05 p.m.]

Subject of Possible Rule Making: Board of Optometry wishes to continue a rule process began in 1995 on examination and licensure; credentialing by endorsement; temporary permitting and examination appeal procedures.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.54.070(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Housekeeping changes to eliminate duplicative and unclear language. WAC 246-851-080 Examination appeal procedures and 246-851-480 Temporary permits should be repealed to eliminate unnecessary and duplicative rules. Minor change is necessary to provide clarity to WAC 246-851-490 Examination and licensure and to remove conflicting language in WAC 246-851-500 Credentialing by endorsement.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: These rules have been the subject of a public hearing in July 1995 and a subsequent public meeting discussion in September 1995. A public meeting will be held on May 17, 1996, to allow interested parties to participate in the formulation of the proposed rule making before publication.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before

publication by contacting Judy Haenke, P.O. Box 47863, Olympia, WA 98504, (360) 753-4614, FAX (360) 586-0745. Seattle Meeting: WestCoast Sea-Tac Hotel, 18220 Pacific Highway South, Seattle, WA 98168.

April 18, 1996  
 Judy Haenke  
 Program Manager

**WSR 96-11-056**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF TRANSPORTATION**  
 [Filed May 10, 1996, 9:26 a.m.]

Subject of Possible Rule Making: The adoption of a revised fare schedule for the Washington state ferries amending WAC 468-300-020 and 468-300-040.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.56.030 and 47.60.326.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The tariff change represents the final phase in the oversize vehicle fare restructuring began in 1992.

Process for Developing New Rule: Agency study.  
 Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael T. McCarthy, Seattle Ferry Terminal, 801 Alaskan Way, Seattle, WA 98104.

May 10, 1996  
 Chris R. Rose, Administrator  
 Transportation Commission

AMENDATORY SECTION (Amending Order 77, filed 8/25/94, effective 9/25/94)

**WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.**

Effective 03:00 a.m. October (~~9, 1994~~) 13, 1996

ROUTES	Under 20' Incl. Driver One Way	Vehicle Under 20' Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over Height Surcharge <sup>1</sup>	Frequent User Ticket book 20 Rides <sup>2</sup>	Motorcycle/Stowage <sup>5</sup> Incl. Driver Stowage <sup>5</sup> One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>5</sup> One Way	Frequent User Ticket book 20 Rides <sup>2</sup>
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Port Townsend-Keystone Edmonds-Kingston	5.90	5.05	<del>((2.80))</del> <u>5.90</u>	94.15	2.60	1.75	41.55
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	7.85	6.85	<del>((5.10))</del> <u>7.95</u>	63.60	3.40	2.25	27.15
Mukilteo-Clinton	4.00	3.40	<del>((2.55))</del> <u>4.00</u>	63.60	1.70	1.15	27.15
10 Rides							
*Anacortes to Lopez	12.30	9.85	<del>((7.80))</del> <u>12.30</u>	49.20	6.40	3.95	51.30
*Shaw, Orcas	14.70	12.20	<del>((9.35))</del> <u>14.70</u>	58.75	6.90	4.45	55.15
*Friday Harbor	16.80	14.35	<del>((10.75))</del> <u>16.80</u>	67.20	7.30	4.85	58.55
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	7.00	7.00	<del>((4.50))</del> <u>7.00</u>	27.50	2.00	2.00	N/A

*International Travel*

Anacortes to Sidney and Sidney to all destinations	29.70	26.30	<del>((17.85))</del> <u>29.70</u>	N/A	11.45	8.00	N/A
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	<del>((14.00</del>	<del>13.25</del>	<del>8.50</del>	<del>N/A</del>	<del>4.00</del>	<del>3.25</del>	<del>N/A))</del>
	<u>15.00</u>	<u>14.25</u>	<u>15.00</u>	<u>N/A</u>	<u>4.50</u>	<u>3.75</u>	<u>N/A</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>6</sup>	<del>((43.90</del>	<del>39.55</del>	<del>26.35</del>	<del>N/A</del>	<del>15.45</del>	<del>11.25</del>	<del>N/A))</del>
	<u>44.70</u>	<u>40.55</u>	<u>44.70</u>	<u>N/A</u>	<u>15.95</u>	<u>11.75</u>	<u>N/A</u>

@ These fares rounded to the nearest multiple of \$ .25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay a height surcharge of 60% of the vehicle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height surcharge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSR Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>MOTORCYCLES - The motorcycle including driver fare includes motorcycles pulling trailers and motorcycles with side cars.

<sup>6</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

VANPOOLS - A commuter vanpool which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 77, filed 8/25/94, effective 9/25/94)

**WAC 468-300-040 Oversize vehicle ferry tolls.**

Effective 03:00 a.m. October ~~((9, 1994))~~ 13, 1996

ROUTES	Oversize Vehicle Ferry Tolls <sup>1</sup>							Cost Per Ft. Over 80'
	Overall Unit Length - Including Driver							
	20' To Under 30'	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To Under 70'	70' To and Include 80'		
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow	<del>((15.00</del>	<del>20.00</del>	<del>27.40</del>	<del>32.90</del>	<del>41.20</del>	<del>47.10</del>	<del>0.60))</del>	
Port Townsend-Keystone Edmonds-Kingston	<u>17.70</u>	<u>23.60</u>	<u>29.50</u>	<u>35.40</u>	<u>41.30</u>	<u>47.20</u>	<u>0.60</u>	

*Fautleroy-Vashon	<del>(20.35)</del>	<del>27.10</del>	<del>37.05</del>	<del>44.50</del>	<del>55.70</del>	<del>63.60</del>	<del>(0.80)</del>
*Southworth-Vashon	<del>(20.35)</del>	<del>27.10</del>	<del>37.05</del>	<del>44.50</del>	<del>55.70</del>	<del>63.60</del>	<del>(0.80)</del>
*Pt. Defiance-Tahlequah	<u>24.00</u>	<u>32.00</u>	<u>40.00</u>	<u>48.00</u>	<u>56.00</u>	<u>64.00</u>	<u>0.80</u>
Mukilteo-Clinton	<del>(10.15)</del>	<del>13.50</del>	<del>18.50</del>	<del>22.25</del>	<del>27.85</del>	<del>31.80</del>	<del>(0.40)</del>
	<u>12.00</u>	<u>16.00</u>	<u>20.00</u>	<u>24.00</u>	<u>28.00</u>	<u>32.00</u>	<u>0.40</u>
*Anacortes to Lopez <sup>2</sup>							
*Shaw, Orcas	<del>(37.55)</del>	<del>50.05</del>	<del>68.40</del>	<del>82.10</del>	<del>102.80</del>	<del>117.50</del>	<del>(1.50)</del>
*Friday Harbor	<u>44.10</u>	<u>58.80</u>	<u>73.50</u>	<u>88.20</u>	<u>102.90</u>	<u>117.60</u>	<u>1.50</u>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup> @	<del>(15.75)</del>	<del>15.75</del>	<del>15.75</del>	<del>58.25</del>	<del>58.25</del>	<del>58.25</del>	<del>(N/A)</del>
	<u>21.00</u>	<u>28.00</u>	<u>35.00</u>	<u>42.00</u>	<u>49.00</u>	<u>56.00</u>	<u>N/A</u>
<i>International Travel</i>							
Anacortes to Sidney and Sidney to all destinations	<del>(55.75)</del>	<del>74.35</del>	<del>92.90</del>	<del>111.45</del>	<del>166.50</del>	<del>190.20</del>	<del>(2.40)</del>
	<u>89.10</u>	<u>118.80</u>	<u>148.50</u>	<u>178.20</u>	<u>207.90</u>	<u>237.60</u>	<u>2.40</u>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	<del>(18.10)</del>	<del>24.25</del>	<del>24.50</del>	<del>29.25</del>	<del>57.00</del>	<del>65.25</del>	<del>(1.00)</del>
	<u>45.00</u>	<u>60.00</u>	<u>75.00</u>	<u>90.00</u>	<u>105.00</u>	<u>120.00</u>	<u>1.00</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup>	<del>(73.85)</del>	<del>98.60</del>	<del>117.40</del>	<del>140.70</del>	<del>223.50</del>	<del>255.45</del>	<del>(3.40)</del>
	<u>134.10</u>	<u>178.80</u>	<u>223.50</u>	<u>268.20</u>	<u>312.90</u>	<u>357.60</u>	<u>3.40</u>

@ These fares rounded to the nearest multiple of \$ .25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles which are 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses shall travel free upon display of an annual permit which may be purchased for \$10.

<sup>2</sup>STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

<sup>3</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for interisland travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

**DISCOUNT FROM REGULAR TOLL**

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

**WSR 96-11-066**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed May 10, 1996, 10:56 a.m.]

Subject of Possible Rule Making: Payment for hospital inpatient and outpatient services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.030 and 51.36.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 51.04.030 mandates the department to coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible. Refining and updating rules for the Department of Labor and Industries' hospital payment system will result in increased consistency between the hospital payment programs for the Department of Labor and Industries, Health Care Authority (HCA) and the Department of Social and Health Services (DSHS) Medical Assistance Administration. It will improve equity of reimbursement to hospitals and for the Department of Labor and Industries. The rules that are being considered for amendment will be included under chapter 296-23A WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Department of Labor and Industries is solely responsible for setting reimbursement rates for health care services rendered to covered workers. The Department of Labor and Industries is coordinating with other state health care purchasers through regular phone calls, ad hoc meetings and joint meetings with the Washington State Hospital Association, to promote as much consistency and uniformity in payment for hospital services as possible, while taking into account the unique requirements and differences between programs.

Process for Developing New Rule: This rule change affects hospitals who provide services for covered workers. We are consulting with hospitals through an advisory committee of the Washington State Hospital Association and an interested persons letter. Anyone who wishes to provide input is encouraged to contact the department through the CR-101 process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Diane Reus, Medical Program Specialist, Department of Labor and Industries, Health Services Analysis Section, P.O. Box 44322, Olympia, WA 98504-4322, phone (360) 902-5021, FAX (360) 902-4249.

May 8, 1996  
 Mark O. Brown  
 Director

**WSR 96-11-070**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**WASHINGTON STATE PATROL**  
 [Filed May 10, 1996, 11:37 a.m.]

Subject of Possible Rule Making: Repeal WAC 446-20-290 and create a new section to identify fee structures and requirements mandated by recent legislative changes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 10.97 RCW, RCW 43.43.830 - [43.43]-845.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recent legislative changes mandate certain persons to submit to fingerprint-based background checks and other record checks. These changes will clearly define the different fee structures and requirements for the different record checks.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Bureau of Investigation reviewed legislation changing the requirements. The Office of the Superintendent of Public Instruction also reviewed the legislation and the rule changes.

Process for Developing New Rule: Mandated by legislative changes, stakeholders have reviewed changes and concur.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ms. S. Coon, Washington State Patrol, Identification Section, P.O. Box 42633, Olympia, WA 98504-2633, phone (360) 705-5100, FAX (360) 664-9461.

May 10, 1996  
 Annette M. Sandberg  
 Chief

**NEW SECTION**

**WAC 446-20-600 Fees.** (1) A nonrefundable fee of ten dollars shall accompany each request for conviction records submitted for a name and date of birth background check or a twenty-five dollar fee if the request is submitted by fingerprint card at the state level pursuant to RCW 43.43.830 through 43.43.845, and chapter 10.97 RCW unless through prior arrangement, an account is authorized and established.

(2) A nonrefundable FBI fee of twenty-four dollars shall be charged for fingerprint cards submitted for federal searches. It shall be the responsibility of the Washington state patrol to collect all fees due and forward fingerprint cards and fees to the FBI.

(3) All fees are to be made payable to the Washington state patrol and are to be remitted by cashier's check, money order or check written on a business account. The Washington state patrol identification and criminal history section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of these chapters are recovered.

(4) Pursuant to the provisions of RCW 43.43.838 and chapter 28A.410 RCW, no fees will be charged to a nonprofit organization, or volunteers in school districts and educational service districts for background checks.

**NEW SECTION**

**WAC 446-20-610 Superintendent of public instruction—Prospective educational employees—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410 RCW. Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(2) Appropriate nonrefundable fees are to be charged and made payable to the Washington state patrol for searches conducted under chapter 28A.410 RCW as follows:

(a) The fee for the state search is fifteen dollars for school district employees.

(b) The fee for the state search is twenty-five dollars for persons applying for their certification or for contractual employees.

(c) The fee for the FBI search is twenty-four dollars.

(d) In addition, a four-dollar processing fee will be charged for each fingerprint background check processed under chapter 28A.410 RCW. The Washington state patrol will reimburse the superintendent of public instruction four dollars for each fingerprint background check processed under this chapter for applicants who are certificated, contractual or classified.

(3) Prospective employees hired by the superintendent of public instruction, educational service districts, school districts and/or their contractors shall pay the appropriate fees for state and federal fingerprint checks conducted under chapter 28A.410 RCW.

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

#### NEW SECTION

**WAC 446-20-620 Superintendent of public instruction—Current educational employees hired prior to June 11, 1992.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410 RCW (2SSB 6272). Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(a) Fingerprint cards submitted under this law shall be clearly marked under reason fingerprinted in the following manner: "School district employees/contractors chapter 28A.400 RCW Laws of 1996."

(b) Failure to clearly identify fingerprint cards submitted under this rule will result in rejection for fees.

(2) An appropriation of fees is provided to the Washington state patrol for implementation of this section which expires March 31, 1998. No fees are to be charged to the superintendent of public instruction, educational service districts, school districts, their contractors or the employees.

(3) Distribution of the sixty-six dollar fee for each set of acceptable fingerprint cards received by the Washington state patrol will be as follows:

(a) A fee of ten dollars to the school district, educational service district, law enforcement agency or other named agency taking the fingerprint impressions. This fee will only be paid upon approval of acceptable quality fingerprints by the Washington state patrol.

(b) The fee for the state search is twenty-five dollars.

(c) The fee for the FBI search is twenty-four dollars.

(d) In addition, a seven-dollar fee for final disposition costs will be reimbursed to the superintendent of public instruction by the Washington state patrol for each fingerprint background check processed under chapter 28A.410 RCW (chapter 126, Laws of 1996).

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

This section will expire March 31, 1998.

#### NEW SECTION

**WAC 446-20-630 Department of social and health services—Child care licensing—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 74.15 RCW. Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(2) Department of social and health services (DSHS) shall process fingerprint background checks under chapter 74.15 RCW. Under "reason fingerprinted," cards will be marked "DSHS Child Care Licensing RCW 74.15.030" or "DSHS Child Care Licensing RCW 74.15.030 DDD."

(3) Department of social and health services, division of children and family services (DCFS) shall pay the expense and submit a waiver of fee form on licensees if the background check expense would work a hardship on the licensee. The six-dollar processing fee will not be applicable when a waiver of fee form is submitted to the Washington state patrol or the fingerprint card is marked "volunteer."

(4) A monthly billing account will be established for the DSHS division of developmental disabilities (DDD). The six-dollar processing fee will not be applicable on any fingerprint cards indicated as "DDD."

(5) Each month the Washington state patrol shall prepare a billing statement and detail report for waiver of fee forms from DCFS and for all DDD fingerprint cards submitted.

(6) All fees collected under chapter 74.15 RCW, will be deposited into the Washington state patrol fingerprint identification account.

(7) Nonrefundable fees are to be charged to:

(a) "DSHS child care licensing RCW 74.15.030" (division of children and family services (DCFS)) as follows:

- (i) The fee for the state search is twenty-five dollars.
- (ii) The fee for the FBI search is twenty-four dollars.
- (iii) A six-dollar processing fee.

(b) "DSHS division of children and family services (DCFS) for fee waivers" as follows:

- (i) The fee for the state search is twenty-five dollars.
- (ii) The fee for the FBI search is twenty-four dollars.
- (c) "DSHS child care licensing RCW 74.15.030 division

of developmental disabilities (DDD)" as follows:

- (i) The fee for the state search is twenty-five dollars.
- (ii) The fee for the FBI search is twenty-four dollars.
- (d) "DSHS child care licensing RCW 74.15.030" division of developmental disabilities "volunteers" as follows:

- (i) The fee for the state search is twenty-five dollars.
- (ii) The FBI fee shall be eighteen dollars on those fingerprint cards clearly designated as "volunteer" pursuant to provisions under Section 3e of the National Child Care Protection Act of 1993 as amended by the Crime Control Act of 1994.

(iii) "Chapter 74.15 RCW" and "volunteer" must be entered in the "reason fingerprinted" box on both the state and FBI fingerprint cards submitted. Failure to indicate "volunteer" and the RCW citation on fingerprint cards will result in full fees being charged.

(iii) "Chapter 74.15 RCW" and "volunteer" must be entered in the "reason fingerprinted" box on both the state and FBI fingerprint cards submitted. Failure to indicate "volunteer" and the RCW citation on fingerprint cards will result in full fees being charged.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 446-20-290 Fees.

**WSR 96-11-071**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 (Public Assistance)

[Order 5588—Filed May 10, 1996, 3:40 p.m.]

Subject of Possible Rule Making: WAC 388-521-2106 Eligibility for children's health program (new).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Allow three month retro certification for children's health program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

May 9, 1996  
 Philip A. Wozniak  
 for Merry A. Kogut, Supervisor  
 Rules and Policies Assistance Unit

**WSR 96-11-104**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed May 17, 1996, 1:32 p.m.]

Subject of Possible Rule Making: Review and update of chapter 308-57 WAC, Motor vehicle excise tax.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules set the statutory depreciation rate used to determine the vehicle excise tax amount assessed by vehicle use class. This rule-making inquiry is to review the adopted rules and make amendments based on legislative activities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Periodic review of adopted rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3773, FAX (360) 664-0831, TDD (360) 664-8885. Comments are requested by July 15, 1996.

May 16, 1996  
 Nancy Kelly, Administrator  
 Title and Registration Services

**WSR 96-11-105**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

(Medical Assistance Administration)

[Filed May 20, 1996, 9:55 a.m.]

Subject of Possible Rule Making: WAC 388-513-1380 Institutional participation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 11.92.180 and SB 6604, Laws of 1994.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Required by statute SB 6604 (RCW 11.92.180).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Aging and Adult Services Administration.

Process for Developing New Rule: The department has been working with a group of professional guardians and attorneys since 1994. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

May 20, 1996  
 Merry A. Kogut, Supervisor  
 Rules and Policies Assistance Unit

**WSR 96-11-108**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 20, 1996, 10:52 a.m.]

Subject of Possible Rule Making: Traffic safety education, chapter 392-153 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28A.220 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To conform with the intent of SHB 1736 and to be in compliance with teacher certification rules while maintaining quality and consistency within the state-wide program.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (360) 753-4201, TDD (360) 664-3631. Gary Bloomfield, Office of Superintendent of Public Instruction, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504, (360) 753-6736, FAX (360) 664-3683.

May 17, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

#### WSR 96-11-114

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed May 21, 1996, 9:05 a.m.]

Subject of Possible Rule Making: Update chapter 36-12 WAC regulating professional boxing and wrestling.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.08.017(1), 67.08.080, 43.24.086.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes to chapter 67.08 RCW, abolishment of the Boxing Commission, and the recent renewed growth in industry activity has deemed it essential to revise the rules for professional athletics in order to assure the health, safety, and welfare of the participants.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Pat Brown, Business and Professions Division, P.O. Box 2445, Olympia, WA 98507, phone (360) 664-2356, FAX (360) 753-3747, TDD (360) 586-2788.

May 20, 1996  
Tim Baker  
Program Manager

#### WSR 96-11-125

##### PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed May 21, 1996, 3:29 p.m.]

Subject of Possible Rule Making: Possible rules to implement bingo task force recommendations regarding net income compliance for charitable and nonprofit bingo licensees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070 (1), (3), (8) - (11), (14), (20).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Gambling Commission passed amendments to WAC 230-20-064 instituting a temporary moratorium on the issuance of mandatory down-

grades for failure to meet license class net income requirements while the commission studied the possible factors beyond licensees control that could be affecting their ability to meet their net income requirements. Proposed rules should help licensees improve their net income.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Negotiated rule making; and agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ben Bishop, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 438-7654 ext. 370; Meetings: 9 a.m. June 13 and 10 a.m. June 14, La Conner Country Inn/Vantage Room, 107 South 2nd Street, La Conner, WA; 9 a.m. July 11 and 10 a.m. July 12, Pasco Red Lion, 2525 North 20th, Pasco, WA 99301; 9 a.m. August 8 and 10 a.m. August 9, Silverdale on the Bay/West Coast Hotel, 3037 Bucklin Hill Road, Silverdale, WA.

May 21, 1996  
Michael R. Aoki-Kramer  
Rules and Policy Coordinator

#### WSR 96-11-129

##### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed May 22, 1996, 9:24 a.m.]

Subject of Possible Rule Making: The department proposes to amend the existing regulation, WAC 246-249-080, that limits the disposal of naturally occurring and accelerator produced radioactive material (NARM) waste to 8600 cubic feet per year. A notice of proposed rule making will be filed with the code reviser. Pursuant to an agreed superior court order, subsections (4), (5) and (6) are stayed pending the effective date of amendments or a decision not to amend. While subsections (4), (5) and (6) are stayed, also pursuant to the agreed order, the disposal of NARM is limited to 100,000 cubic feet per calendar year. The limit does not apply to accelerator produced radioactive material, excluding decommissioning waste, or to discrete sealed sources.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.98.050 (4)(f) and 70.98.080(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendment to WAC 246-249-080, large volumes of naturally occurring and accelerator produced materials, is needed to comply with an agreement settling an action in the superior court and to establish an annual NARM disposal volume limit that allows for the safe disposal of NARM and preserves the disposal facility for the disposal of low-level radioactive waste.

Process for Developing New Rule: The draft rules will be sent to all site use permit holders and other interested parties for comment. The process used to change chapter 246-249 WAC will be in accordance with departmental rule-making policy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Gary Robertson, Head, Waste

Management Section, by phone at (360) 753-3459 or in writing at P.O. Box 47827, Olympia, WA 98504-7827. FAX messages may be sent to (360) 753-1496.

May 21, 1996  
Bruce Miyahara  
Secretary

**WSR 96-11-130**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
[Filed May 22, 1996, 9:26 a.m.]

**Subject of Possible Rule Making:** Health care entities, WAC 246-904-010 - 246-904-120, defines health care entity and establishes licensure requirements for the purchasing, dispensing, administration, and delivery of legend drugs and controlled substances to patients who receive care within the health care entity.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.64.450.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The proposed rule will implement legislation passed by the 1995 legislature to license health care entities. This will allow free standing clinics, such as kidney dialysis clinics, cardiac centers, and outpatient surgical centers to purchase and dispense medications to their patients. Many of the procedures performed at these clinics require the administration or dispensing of medications. The proposed rules allow these entities to purchase and dispense medications under the supervision of pharmacists according to policy and procedures.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Public meetings, mailings to interested parties, publication of proposed rules in Medical Commission Newsletter.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa Salmi, Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504, phone (360) 753-6834, FAX (360) 586-4359. The board will discuss the proposed rules at their meeting on June 27, 1996, in Pasco, Washington. The board will accept comments and recommendations from interested parties. Individuals wanting to submit comments may do so prior to June 27th by FAX or mail.

May 20, 1996  
Charles R. James  
Acting Executive Director

**WSR 96-11-134**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF ECOLOGY**  
[Order 96-06—Filed May 22, 1996, 10:07 a.m.]

**Subject of Possible Rule Making:** Monitoring, record-keeping and reporting requirements for insignificant emissions units at sources of air pollution subject to chapter 173-401 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 70.94.161 (2)(a). Relevant text follows: "The department of ecology, or board of an authority, shall require ... permits ... subject to the following conditions and limitations: (1) ... (2)(a) Rules establishing the elements for a state-wide operating permit program and the process for permit application and renewal consistent with federal requirements shall be established ..."

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Environmental Protection Agency (EPA) has given ecology and the seven local air permitting authorities interim approval to run an air operating permits program using chapter 173-401 WAC as the implementing regulation. Final approval is subject to making several changes to the program. The issue of monitoring, record keeping, and reporting at insignificant emissions units is one of the issues needing resolution with EPA. A case has been heard in front of the United States Ninth Circuit Court of Appeals on whether this issue is properly identified as a program element needing change. If the court rules against ecology and the other litigants, this proposed rule will be used to make the then required change to the current rule. Ecology is proceeding at this time (prior to a decision being reached) due to a requirement for EPA to give final approval before December 1996. This rule will be finalized only if the current case is decided for the EPA and against ecology and other litigants.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The EPA has the authority and responsibility to approve state air operating programs such as Washington's. No other state agencies are involved except the Washington State University (WSU). They are a regulated source of air pollution that would be subject to the rule if finalized. WSU will be directly invited to comment on the rule as it is developed.

**Process for Developing New Rule:** A proposed rule will be published in the Washington State Register. The rule will be based upon interpretations from the EPA in consultation with the regulated community and regulators. A hearing will be held once the regulation is proposed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. If you have input into the scope of rule changes that would accomplish the objective listed above, please contact Tom Todd, Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7528, FAX (360) 407-6802, e-mail ttod461@ecy.wa.gov.

May 21, 1996  
Stu A. Clark  
for D. J. Patin  
Assistant Director

**WSR 96-11-135**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF ECOLOGY**  
[Order 96-03—Filed May 22, 1996, 10:09 a.m.]

**Subject of Possible Rule Making:** Rescinding the requirement to sell only oxygenated gasoline for use in

motor vehicles during the winter months in Clark, King, Pierce, and Snohomish counties.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 173-492 WAC.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Chapter 173-492 WAC was developed in response to a requirement of the Federal Clean Air Act that carbon monoxide (CO) nonattainment areas sell only oxygenated gasoline. Section 211 (m)(6) of the act specifies that once an area has achieved attainment for CO, oxygenated fuel may no longer be required, except as required to maintain the CO ambient air standard. The proposed rule would remove the requirement for oxygenated fuel in Clark, King, Pierce, and Snohomish counties when these areas are redesignated to attainment by the United States Environmental Protection Agency (EPA). The requirement would be retained in Spokane County where oxygenated gasoline is still needed to control CO.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: EPA is reviewing CO maintenance plans developed by the Southwest Air Pollution Control Authority (SWAPCA) and the Puget Sound Air Pollution Control Agency (PSAPCA). The maintenance plans identify a variety of strategies other than the use of oxygenated fuel for controlling CO in each area. The use of oxygenated fuel is a contingency to be implemented if other strategies fail. Once approved by the EPA, the local maintenance plans will be used by the local air authorities to manage CO. The proposed rule amendment will remove state requirements in locales that have approved maintenance plans.

Process for Developing New Rule: A proposed rule will be published. The rule will be based on the analysis of CO sources and control measures conducted by the local air authorities, testimony given on the local maintenance plans, and requirements of the local maintenance plans. Hearings will be held during August.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. For more information about the proposed rule contact Kitty Gillespie, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6862, FAX (360) 407-6802, e-mail: kgil461@ecy.wa.gov.

May 21, 1996  
Phyllis Baas  
for D. J. Patin  
Assistant Director

**WSR 96-11-140**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed May 22, 1996, 11:00 a.m.]

Subject of Possible Rule Making: Chapter 392-196 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.415.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The amendments to this

chapter are needed to make the rules consistent with 1995 legislation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: None.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comment to Rick Wilson, Rules Coordinator, Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, FAX (360) 753-4201, TDD (360) 664-3631. For telephone assistance contact Joanne Sorensen, (360) 586-2320.

May 21, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 96-11-143**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**INSURANCE COMMISSIONER'S OFFICE**  
[Matter No. R 96-4—Filed May 22, 1996, 11:28 a.m.]

Subject of Possible Rule Making: The commissioner will amend, create, consolidate, and repeal rules governing managed care plans offered by insurers, health care service contractors, and health maintenance organizations through the creation of a new chapter in Title 284 WAC that will contain all rules governing managed care. The commissioner will create subchapters relating to data reporting and consumer disclosures; consumer access to health services and network adequacy; provider contracts; claim settlement practices; grievance and dispute resolution standards; and health plan standards. In many instances, the commissioner will reorganize existing rules rather than adopt new standards. In other instances, the commissioner will adopt new standards implementing existing statutes.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.030, and 48.46.200.

Statutes Being Implemented: RCW 48.18.110, 48.20.-028, 48.21.045, 48.43.035, 48.43.045, 48.43.055, 48.44.020, 48.44.022, 48.44.023, 48.44.070, 48.44.080, 48.46.040, 48.-46.060, and 48.46.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current rules governing health care carriers offering managed health care plans need revision, consolidation, repeal, and development to create a consistent regulatory environment for managed health care. Some provisions of Title 284 WAC have been superseded by recent health care reform statutes. Some provisions of Title 284 WAC are inconsistent with other provisions of the title. Some rules are incomplete or no longer address the most pressing managed care issues. A new chapter of rules containing all standards for managed care plans will replace older rules inconsistent with current insurance statutes, will better meet the needs of consumers for access to quality health care services promised under managed care plans, will

foster consistent standards between the Insurance Commissioner and other state agencies, and will simplify regulatory oversight and carrier compliance with insurance laws.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The commissioner will consult with other state agencies involved in the development, purchase, and provision of managed health care services to minimize conflict between insurance regulations and other state agency rules on the same or similar subjects.

**Process for Developing New Rule:** For questions regarding substance of these rules contact John Conniff, (360) 664-3786 or his Administrative Assistant, Beverly Smith, (360) 664-8055. The commissioner will form small groups comprised of affected parties to develop a new chapter of rules for managed care plans.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3790, FAX (360) 586-3535, Internet: inscomr@aol. Deadline for comments July 15, 1996.

June [May] 22, 1996  
Greg J. Scully  
Chief Deputy Commissioner



**WSR 96-11-006**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed May 3, 1996, 11:35 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-07-047.

Title of Rule: (1) Transportation of passengers in for hire vehicles; and (2) limousine carrier businesses.

Purpose: (1) To clarify existing rules for "for hire"; and (2) establish those things required to be set by rule in chapter 87, Laws of 1996, and implement regulations of limousines.

Statutory Authority for Adoption: Chapter 87, Laws of 1996, chapters 19.02 and 46.72 RCW.

Statute Being Implemented: Chapter 87, Laws of 1996.

Summary: (1) Clarify and update existing rules; and (2) define definitions, establish liability and property damage insurance, application procedures and requirements, nonresident and chauffeur requirements, and set fees for limousine carrier businesses.

Reasons Supporting Proposal: The 1995 legislature passed and the governor signed HB 2551 (chapter 87, Laws of 1996) establishing regulations of limousine and for hire vehicles carrying passengers. All powers, duties, and functions of the Utilities and Transportation Commission pertaining to the regulation of limousines and limousine charter party carriers are transferred to the Department of Licensing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nell Benzschawel, 405 Black Lake Boulevard, Olympia, WA, (360) 586-5372.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules are to (1) clarify and update existing rules for the transportation of passengers in for hire vehicles; and (2) define definitions, establish liability and property damage insurance, application procedures and requirements, nonresident requirements, chauffeur qualifications, business owner operations, and set fees for the limousine carrier business as defined in chapter 87, Laws of 1996. The purpose and anticipated effect of these rules is to increase public safety, and reliability and stability of limousine carrier businesses who are licensed with the state of Washington.

Proposal Changes the Following Existing Rules: The existing rules have been repealed by legislation as defined in section 23, chapter 87, Laws of 1996.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Cost of compliance with the proposed rules is a reduction of \$95.00 to the business owner and therefore no small business economic impact statement is required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are "procedural rules" related to the process requirements for making application to an agency for a license or permit as defined in RCW 34.05.328, and do not apply to section 201, chapter 403, Laws of 1995.

Hearing Location: Department of Labor and Industries, Headquarter Building, Auditorium, 7273 Linderson Way S.W., Tumwater, WA 98501, on June 25, 1996, at 1:00 p.m. - 3:00 p.m.

Assistance for Persons with Disabilities: Contact Nancy Varnum by June 19, 1996, TDD (360) 586-2788, or (360) 586-1419.

Submit Written Comments to: Nell Benzschawel, P.O. Box 9034, Olympia, WA 98507-9034, FAX (360) 753-9668, by June 19, 1996.

Date of Intended Adoption: August 1, 1996.

May 2, 1996  
 Nell Benzschawel  
 Administrator

**TRANSPORTATION OF PASSENGERS IN FOR  
 HIRE VEHICLES**

**Chapter 308-89 WAC**

AMENDATORY SECTION (Amending Order TL-RG-18, filed 10/11/85)

**WAC 308-89-010 For hire liability and property damage insurance.** (1) For Hire businesses must maintain liability and property damage insurance for each vehicle as required in RCW 46.72.050.

(2) ~~((The insurance policy required in RCW 46.72.050 shall include:))~~ The bond or certificate of insurance must be submitted before a vehicle certificate may be issued, reissued, or renewed. The bond or the certificate of insurance shall include: (a) The name of the insured in the same manner as ~~((recorded))~~ will appear on the ((for hire permit)) master license ((application)); (b) ~~((b))~~ operating name ~~((c))~~ inception and expiration dates of coverage; ~~((e))~~ (d) the name ~~((and))~~ of the insuring company; (e) ~~((of the insuring company))~~ the policy number ~~((f))~~ and vehicle identification number of each vehicle operated or intended to be operated.

(3) ~~((The director may refuse any insurance ((policies)) policy submitted with one or more of the following conditions present: (a) Any policy containing a deductible clause for any amount deductible, unless the policy clearly states that all claims under the policy will be directly paid in full to the claimant including the deductible amount by the insurer; (b) any policy containing a clause restricting the insured's age in regard to insurance validity; and (c) any policy which is determined to be a "surplus line" policy, as described in RCW 48.15.040, with the office of the insurance commissioner. ((and a copy of that affidavit submitted with the certificate of insurance.))~~

(4) Cancellation: In the event of cancellation of the coverage noted on the policy, the insuring company shall serve a copy of such notice upon the director of the department of licensing which shall not be less than ten days prior to the date fixed in the notice as the date of termination of liability.

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 92-12-036, filed 5/29/92)

**WAC 308-89-020 Definitions**~~((—For hire vehicle. "For hire vehicle" as defined in RCW 46.72.010(1) shall include but not be limited to:))~~ Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "For hire vehicle" as defined in chapter 87, Laws of 1996, RCW 46.72.010(1), RCW 46.04.190, and such other vehicles used for the purpose of transporting passengers for compensation and not excluded in RCW or WAC.

~~((1))~~ (2) "Cabulance" Cabulance transportation is appropriate for persons confined to wheelchairs or persons otherwise physically restricted such that they cannot be safely transported by public mass transportation vehicles, taxicabs, or automobiles. Persons transported by cabulance must be stable, must not be incapacitated from medications, nor in need of oxygen or medical attention enroute:

~~((2))~~ ("Taxicab" As defined by RCW 46.90.178)

~~((3))~~ - ((Such other vehicles used for the purpose of transporting passengers for compensation and not excluded by RCW, WAC or departmental policy:))

(3) "Business owner" means operator or carrier as defined in chapter 87, Laws of 1996 and RCW 46.72.010(2).

(4) "Person or persons" means an individual, a corporation, association, joint stock association, partnership, limited liability partnership or limited liability companies, or their lessees, trustees, or receivers.

(5) "Public highway" includes every public street, road, or highway in this state.

(6) "Master License" as defined in RCW 19.02.

(7) "Vehicle Certificate" is a for hire vehicle certificate issued by the department which must be carried in the for hire vehicle at all times. The vehicle certificate is not the vehicle registration.

(8) "Operating Name" means Trade Name as defined in RCW 19.80.

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

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

AMENDATORY SECTION (Amending Order TL-RG-15, filed 8/6/85)

**WAC 308-89-030 Nonresident.** A nonresident ~~((owner/operator))~~ business owner of for hire vehicle(s) is one whose place of residence state does not participate in a reciprocal agreement with Washington state. Nonresident ~~((owner/operators))~~ business owners are subject to any and all requirements and restrictions which apply to the resident ~~((owner/operators))~~ business owner. ~~((Nonresident vehicle registrations will not be accepted as insurance proof.))~~ Nonresident insurance certificates will not be accepted with any limiting clause or statement which may invalidate the coverage upon entrance into the state of Washington.

AMENDATORY SECTION (Amending WSR 92-12-036, filed 5/29/92)

**WAC 308-89-040 Applications/For hire vehicle registration certificates.** (1) ~~((A))~~ All applications for a for hire ((operator)) business license shall be on a master application and accompanied by a filing fee as listed in WAC 308-060 and RCW 19.02.075. ((shall file an application for vehicle license for each vehicle intended to be operated as a for hire vehicle. In addition to the licensing requirements of motor vehicles, the following shall apply on for hire vehicles:))

(2) To acquire a vehicle certificate for each vehicle intended to be operated as a for hire vehicle, the for hire business shall submit to the department, the vehicle registration, the bond or certificate of insurance, and fees as defined in WAC 308-89-060.

~~((1))~~ (a) ((The name of the owner of the vehicle shall be displayed on the vehicle registration in the same name as recorded on the bond or insurance policy, the for hire permit, and the for hire certificates)) The certificate will be issued in the name of the business owner and the operating name. The bond or certificate of insurance and vehicle registration must be issued in the exact name of the business owner and trade name that will appear on the master license.

~~((2))~~ (b) The ((purpose for which the vehicle is used shall be)) vehicle registration must have the use class recorded as either "CAB" or "F/H".

(3) Remittances shall be made by any legal tender as authorized by the department.

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

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

AMENDATORY SECTION (Amending WSR 92-12-036, filed 5/29/92)

**WAC 308-89-050** ~~((Permits. Each permit will be issued in the operating name of the for hire company(ies) as recorded on the bond or insurance policy.))~~ Licenses. (1) The department will not issue a for hire business license to any person who does not meet the requirements established in RCW 46.72 and WAC 308-89.

(2) For hire business licenses may not be leased, assigned, or otherwise transferred.

(3) The vehicle certificate must be renewed annually on, or before the expiration date. Failure to renew prior to the expiration date will result in penalty fees as defined in RCW 19.02. No vehicle may continue to be operated as a for hire vehicle if its vehicle certificate has expired.

(4) The vehicle certificate renewal must include the bond or certificate of insurance.

AMENDATORY SECTION (Amending WSR 92-12-036, filed 5/29/92)

**WAC 308-89-060 Fees.** ~~((+))~~ The department, as authorized in RCW 46.72, shall charge and collect the following fees:

~~((a)) - ((Twenty dollars for each initial operator permit as required by RCW 46.72.020;))~~

~~((b)) - ((Twenty dollars for each certificate as required by RCW 46.72.070;))~~

~~((e)) - ((Twenty dollars for each nonresident permit as required by RCW 46.72.130;))~~

<u>New For Hire Business Application</u>	<u>\$20.00</u>
<u>New Vehicle Certificate</u>	<u>20.00</u>
<u>Vehicle Certificate Renewal</u>	<u>20.00</u>
<u>Change of Vehicle Certificate</u>	<u>20.00</u>
<u>Duplicate Vehicle Certificate</u>	<u>20.00</u>

~~((2)) - ((All fees remitted to the department under this chapter shall be deposited with the state treasurer to the highway safety fund;))~~

~~((3)) - ((No refund of less than five dollars shall be made except upon written request by the registrant;))~~

**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.

**LIMOUSINE CARRIER BUSINESSES**

**Chapter 308-87 WAC**

NEW SECTION

**WAC 308-87-010 Definitions** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Limousine" as defined in chapter 87, Laws of 1996.

(2) "Business owner" means operator or carrier as defined in chapter 87, Laws of 1996.

(3) "Person or persons" means an individual, a corporation, association, joint stock association, partnership, limited liability partnership or limited liability companies, or their lessees, trustees, or receivers.

(4) "Public highway" includes every public street, road, or highway in this state.

(5) "Chauffeur" means any person with a valid Washington state driver's license and authorized to drive a limousine as defined in chapter 87, Laws of 1996.

(6) "Master License" as defined in RCW 19.02.

(7) "Vehicle Certificate" is a Limousine vehicle certificate issued by the department which must be carried in the Limousine vehicle at all times. The vehicle certificate is not the vehicle registration.

NEW SECTION

**WAC 308-87-020 Limousine carrier business liability and property damage insurance.** (1) Limousine carrier businesses are required to maintain liability and property damage insurance for each vehicle as noted below:

Type of Coverage	Minimum Coverage Amount
Bodily injuries to one person:	\$ 100,000.00
Bodily injuries to all persons injured in any one accident:	\$1,000,000.00
Loss or damage in any one accident to property of others:	\$ 50,000.00

(2) The bond or certificate of insurance must be submitted before a vehicle certificate may be issued, reissued, or renewed. The bond or the certificate of insurance shall include: (a) The name of the insured in the same manner as will appear on the master license; (b) inception and expiration dates of coverage; (c) the name of the insuring company; (d) the policy number; and (e) the year, make, and vehicle identification number of each vehicle operated or intended to be operated.

(3) The director may refuse any insurance policy submitted with one or more of the following conditions present: (a) Any policy containing a deductible clause for any amount deductible, unless the policy clearly states that all claims under the policy will be directly paid in full to the claimant including the deductible amount by the insurer; (b) any policy containing a clause restricting the insured's age in regard to insurance validity; and (c) any policy which is determined to be a "surplus line" policy, as described in RCW 48.15.040, with the office of the insurance commissioner.

(4) Cancellation: In the event of cancellation of the coverage noted on the policy, the insuring company shall serve a copy of such notice upon the director of the department of licensing which shall not be less than ten days prior to the date fixed in the notice as the date of termination of liability.

(5) All liability and property damage insurance policies issued to Limousine carrier businesses shall carry a "uniform motor carrier bodily injury and property damage liability endorsement."

(6) Proof of insurance must be carried in the vehicle at all times.

NEW SECTION

**WAC 308-87-030 Nonresident.** A nonresident business owner of the limousine vehicle(s) is one whose place of residence state does not participate in a reciprocal agreement with Washington state. Nonresident business owners are subject to any and all requirements and restrictions which apply to the resident business owner. Nonresident insurance certificates will not be accepted with any limiting clause or statement which may invalidate the coverage upon entrance into the state of Washington.

NEW SECTION

**WAC 308-87-040 Applications/vehicle certificates.**

(1) All applications for a limousine carrier business license shall be on a master application and accompanied by a filing fee as listed in WAC 308-87-060 and RCW 19.02.075.

(2) To acquire a vehicle certificate for each vehicle intended to be operated as a limousine, the limousine carrier business shall submit to the department, the vehicle registration, the bond or the certificate of insurance, the vehicle

PROPOSED

inspection report, and the fee as defined in WAC 308-87-060.

(a) The certificate will be issued in the name of the business owner. The bond or certificate of insurance and vehicle registration must be issued in the exact name of the business owner that will appear on the master license.

(b) The vehicle registration must have the use class recorded as "F/H".

(3) Remittances shall be made by any legal tender as authorized by the department.

#### NEW SECTION

**WAC 308-87-050 Licenses.** (1) The department will not issue a limousine carrier business license to any person who does not meet the requirements established in Chapter 87, Laws of 1996 and WAC 308-87.

(2) A limousine carrier business license may not be leased, assigned, or otherwise transferred.

(3) The vehicle certificate must be renewed annually on or before the expiration date. No vehicle may continue to be operated as a limousine if its vehicle certificate has expired.

(4) The vehicle certificate renewal must include the vehicle inspection report and the bond or certificate of insurance.

(5) The limousine carrier business license must be renewed annually. No limousine carrier business owner may conduct business as a limousine carrier if the limousine carrier business license has expired.

(6) The department may cancel a limousine carrier business license issued under this chapter on any of the following grounds:

(a) Obtaining a limousine carrier business license by an application containing falsification or misrepresentation of any material information; or

(b) Failure of a business owner to complete the requirements for renewal of a limousine carrier business license and pay the business license renewal fees listed in WAC 308-87-060 and penalty fees listed in RCW 19.02 within three calendar months after the license expiration date.

(7) The limousine carrier business owner whose limousine carrier business license was canceled may reapply for a limousine carrier business license if the reapplication is filed in the same manner required as for the original license.

#### NEW SECTION

**WAC 308-87-060 Fees.** The department, as authorized in Chapter 87, Laws of 1996, shall charge and collect the following fees:

New Limousine Carrier Business Application	\$40.00
Limousine Carrier Business Renewal	40.00
New Vehicle Certificate	25.00
Vehicle Certificate Renewal	25.00
Change of Vehicle Certificate	20.00
Duplicate Vehicle Certificate	20.00
Training Course Approval	25.00

#### NEW SECTION

**WAC 308-87-070 Special needs vehicles and certificates.** (1) The department will issue special needs vehicle certificates to limousine carrier businesses. This certificate authorizes the use of rented or leased vehicles not owned by the limousine business. A separate certificate is required for each rented or leased vehicle operated as a limousine. The special needs vehicle certificate may be acquired by a licensed limousine carrier business at any time, but will expire on the current expiration date of the limousine business license, or the expiration of the insurance policy granting coverage to rented or leased vehicles, whichever occurs first, regardless of the date on which the certificate was issued.

(2) To acquire a special needs vehicle certificate, the limousine carrier business shall submit to the department, proof of insurance to cover the rented or leased vehicle.

(3) The certificate will be issued in the exact name of the business owner that will appear on the master license.

(4) The fee for each special needs vehicle certificate will be the same as a new vehicle certificate listed in WAC 308-87-060 and will not be prorated regardless of the length of time the certificate is valid.

(5) The rented or leased vehicle which is operated as a limousine must meet the definition of a limousine as stated in chapter 87, Laws of 1996, be in such safe condition as to be able to pass the limousine vehicle inspection, and be covered by insurance equivalent to that outlined in WAC 308-87-020 for the period in which it is operated as a limousine.

(6) The vehicle rental or lease agreement must specify a rental or lease period of no more than 30 days.

(7) The original special needs vehicle certificate, a copy of the rental or lease agreement, and a copy of the document certifying insurance coverage for the vehicle must each be carried in the rented or leased vehicle while it is being operated as a limousine.

#### NEW SECTION

**WAC 308-87-080 Chauffeurs.** (1) Any person who is hired as a chauffeur either full time, part time, or in an intermittent hire capacity in Washington State on or after June 6, 1996 must meet the criteria listed in Chapter 87, Laws of 1996.

(2) All persons who are currently hired as a chauffeur either full time, part time, or in an intermittent hire capacity in Washington State on June 5, 1996, but do not meet the criteria listed in Chapter 87, Laws of 1996, have until December 31, 1996 to meet this criteria. Such persons must have met all requirements of Chapter 87, Laws of 1996, in order to be qualified as a chauffeur on or after January 1, 1997.

**WSR 96-11-010**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed May 6, 1996, 12:43 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-024 [96-07-024].

Title of Rule: Chapter 388-96 WAC, Nursing home accounting and reimbursement system.

Purpose: To clarify intent of statute in regulations by codifying current policies and practices; editing previous codification for substances and form; and update regulations that are affected by other agencies' laws and rules.

Statutory Authority for Adoption: Chapter 74.46 RCW.  
Statute Being Implemented: Chapter 74.46 RCW.

Summary: WAC 388-96-221 deletes policy that is no longer followed; WAC 388-96-534 clarifies when ICAD costs are allowable; WAC 388-96-585 corrects reference and adds new certificate of need category; WAC 388-96-708 is new for calculating the prospective rate when beds are brought back on line after having been banked under chapter 70.38 RCW; WAC 388-96-735 adds reference; WAC 388-96-745 adds new certificate of need category; WAC 388-96-762 changes a conjunction from "or" to "and"; WAC 388-96-774 clarifies that quarterly reporting required during the entire time current funding is received; WAC 388-96-776 adds new certificate of need category and removes outdated survey language; WAC 388-96-810 codifies the department's policy on "for settlement only" rates; and WAC 388-96-904 uses current terminology and clarifies timeliness and jurisdiction.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Patricia E. Hague, Aging and Adult Services, Mailstop 45600, (360) 493-2969; Implementation and Enforcement: Paul Montgomery, Aging and Adult Services, Mailstop 45600, (360) 493-2587.

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: See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required. Address: no business with fifty or fewer employees.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut, Supervisor, by June 11, 1996, (360) 664-2954, or TDD (360) 753-0625.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules Coordinator, Rules and

Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118, by June 18, 1996.

Date of Intended Adoption: June 26, 1996.

May 6, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3896, filed 9/12/95, effective 10/13/95)

**WAC 388-96-221 Preliminary settlement.** (1) In the proposed preliminary settlement submitted under WAC 388-96-220(2), a contractor shall compare the prospective rates at which the contractor was paid during the report period, weighted by the number of patient days reported for the period each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis.

(2) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall:

(a) Review proposed preliminary settlement for accuracy, and

(b) Either accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(3) A contractor shall have twenty-eight days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the twenty-eight-day period, the department shall not review or adjust a preliminary settlement report. Any administrative review of a preliminary settlement shall be limited to calculation of the settlement or the application of settlement principles and rules, or both, and shall not examine or reexamine rate or audit issues.

~~(4) (If no audit is scheduled by the department or if a scheduled audit is not performed within two years of the scheduled date, the department shall perform the preliminary settlement review described in this section with the following exceptions:~~

~~(a) For cost centers, the department shall:~~

~~(i) Use desk reviewed costs as the contractor's allowable costs for the reporting period;~~

~~(ii) Disallow all costs in excess of the nursing facility's peer group median cost limit as described under WAC 388-96-210; and~~

~~(iii) For 1992 and 1993 settlements only, nursing facilities qualifying for the nursing services exception described in WAC 388-96-722(9) will have their 1992 and 1993 nursing services costs limited by the product of their 1992 or 1993 total days, respectively, times their June 30, 1993 nursing services rate.~~

~~(b) The department shall calculate the variable portion of return on investment as calculated in the prospective rate;~~

~~(c) The department shall base the financing allowance portion of return on investment on audited costs in compliance with provisions contained in this chapter. If audited costs are not available, the department shall use the financing~~

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~~allowance used for rate setting. If an audited financing allowance is later determined, the department shall revise the final settlement to reflect audited financing allowance if payment is changed by \$1,000 or more; and~~

~~(d) When a complete audit was not performed and audited information is needed for purposes of calculating return on investment, the department may do a partial audit of current or prior year cost report.~~

~~(5) Beginning with preliminary settlements for report year 1988, if the department intends to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon reported costs. If the department does not intend to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon desk reviewed costs utilizing the procedure under subsection (4) of this section.~~

~~(6)) If the facility prevents, hinders, or otherwise delays completion of a full field audit, that facility's preliminary settlement issued on reported costs may be reopened to substitute desk-reviewed costs.~~

AMENDATORY SECTION (Amending Order 3737, filed 5/26/94, effective 6/26/94)

**WAC 388-96-534 Joint cost allocation disclosure (JCAD).** (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs representing allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) The contractor shall demonstrate in such disclosure:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) The contractor shall make such disclosure not later than September 30th for ~~((each))~~ the following year; except, a new contractor shall submit the first year's disclosure together with the submissions required by WAC 388-96-026.

(4) The department shall determine the acceptability of the JCAD methodology not later than December 31, of each year for all timely received JCADs. Costs disclosed, allocated, and reported in conformity with a department-approved JCAD methodology must undergo review and be determined allowable costs for the purposes of rate setting and audit.

(5) An amendment or revision to an approved methodology shall be submitted to the department for approval at least ninety days prior to the effective date of the amendment or revision. For amendments or revisions received less than ninety days before the proposed effective date, the effective date of approval will be ninety days from the date the amendment or revision is received by the department.

(6) Where a contractor will begin to incur joint facility costs at some time other than the beginning of the calendar year, the contractor shall provide the information required in subsections (1) and (2) of this section at least ninety days prior to the date the cost will first be incurred. If the JCAD is not received ninety days before the proposed effective date, the effective date of the approval will be ninety days from the date the amendment or revision is received by the department.

(7) Joint facility costs not disclosed, allocated, and reported in conformity with this section are nonallowable costs. Joint facility costs incurred before the effective dates of subsection (3), (5), and (6) of this section are unallowable.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

**WAC 388-96-585 Unallowable costs.** (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items covered by the Medicaid program but not included in the Medicaid nursing facility daily payment rate. Items and services covered by the Medicaid nursing facility daily payment rate are listed in chapters 388-86 and ~~((388-88))~~ 388-97 WAC;

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval or exemption from the requirements for certificate of need for the replacement of existing nursing home beds pursuant to ~~((chapter 70.38))~~ RCW 70.38.115 (13)(a) if such approval or exemption was not obtained;

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space);

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care;

(r) Fund-raising expenses, except expenses directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of any employee benefit not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs, e.g., key-man insurance, other insurance, or retirement plans;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses for membership in professional organizations and all expenses of maintaining professional licenses, e.g., nursing home administrator's license;

(bb) Costs related to agreements not to compete;

(cc) Goodwill and amortization of goodwill;

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and

economic provision of transportation needs related to patient care;

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds;

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs;

(jj) Beginning January 1, 1985, interest costs;

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care;

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year;

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia;

(nn) For rates effective after June 30, 1993, depreciation expense in excess of four thousand dollars per year for each passenger car or other vehicles primarily used for the administrator, facility staff, or central office staff;

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of health at the time of such pool personnel use;

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel;

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;

(rr) For all partial or whole rate periods after July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA;

(ss) Effective for July 1, 1991, and all following rates, compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensations which would have been paid for such hours of nursing care services had they been paid at the combined regular and overtime average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification of registered nurse, licensed practical nurse, or nursing assistant at the same nursing facility, as reported on the facility's filed cost report for the most recent cost report period;

(tt) Outside consultation expenses required pursuant to WAC (~~388-88-135~~) 388-97-275;

(uu) Fees associated with filing a bankruptcy petition under chapters VII, XI, and XIII, pursuant to the Bankruptcy Reform Act of 1978, Public Law 95-598;

(vv) All advertising or promotional costs of any kind, except reasonable costs of classified advertising in trade journals, local newspapers, or similar publications for employment of necessary staff;

(ww) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate.

#### NEW SECTION

**WAC 388-96-708 Reinstatement of beds previously removed from service under chapter 70.38 RCW—Effect on prospective rate.** (1) After removing beds from service (banked) under the provisions of chapter 70.38 RCW the contractor may bring back into service beds that were previously banked.

(2) When the contractor returns to service beds banked under the provisions of chapter 70.38 RCW, the department will recalculate the contractor's prospective rate based on the increased bed capacity.

(3) The effective date of the recalculated prospective rate for beds returned to service:

(a) Between the first and the fifteenth of a month, shall be the first of the month in which the banked beds returned to service; or

(b) Between the sixteenth and the end of a month, shall be the first of the month following the month in which the banked beds returned to service.

(4) The recalculated prospective rate shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums unless otherwise specified in this section. All recalculated prospective Medicaid payment rates from July 1, 1995 through June 30, 1998 shall remain in effect until an adjustment can be made for economic trends and conditions as authorized by chapter 74.46 RCW and this chapter.

**AMENDATORY SECTION** (Amending Order 3896, filed 9/12/95, effective 10/13/95)

**WAC 388-96-735 Administrative cost area rate.** (1) The administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs, whether incurred at the facility or allocated in accordance with a department-approved joint cost allocation methodology.

(2) For July 1, 1995 rate setting only, the department shall determine peer group median cost plus limits for the administrative cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per resident day adjusted administrative cost from the 1994 cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the 1994 cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. The department shall include costs current-funded by means of rate add-ons, granted under the authority of WAC 388-96-777 and commencing in the 1994 cost report year in costs arrayed. The department shall exclude costs current-funded by rate add-ons granted under the authority of WAC 388-96-777 and commencing January 1 through June 30, 1995 from costs arrayed.

(c) The median or fiftieth percentile nursing facility administrative cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted administrative cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the administrative cost area prior to issuing new July 1 rates.

(3) For July 1, 1995 rate setting only, administrative component rates for facilities within each peer group shall be set for the at the lower of:

(a) The facility's adjusted per patient day administrative cost from the 1994 report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility administrative cost for the facility's peer group using the 1994 calendar year report data plus ten percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Rate add-ons made to current fund administrative costs, pursuant to WAC 388-96-777 and commencing in the 1994 cost report year, shall be reflected in July 1, 1995

prospective rates only by their inclusion in the costs arrayed. A facility shall not receive, based on the calculation or consideration of any such 1994 report year adjustment, a July 1, 1995 administrative rate higher than that provided in subsection (3) of this section.

(5) For all rate setting beginning July 1, 1995 and following, the department shall add administrative rate add-ons, granted under authority of WAC 388-96-533 and 388-96-777 to a facility's administrative rate, but only up to the facility's peer group median cost plus ten percent limit as follows:

(a) For July 1, 1995, add-ons commencing in the preceding six months;

(b) For July 1, 1996, add-ons commencing in the preceding eighteen months; and

(c) For July 1, 1997, add-ons commencing in the preceding thirty months.

(6) Subsequent to issuing July 1, 1995 rates, the department shall recalculate the median costs of each peer group based on the most recent adjusted administrative cost report information in departmental records as of October 31, 1995. For any facility which would have received a higher or lower July 1, 1995 administrative component rate based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's administrative rate reflecting the recalculation, retroactive to July 1, 1995.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31, 1995 the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs, once calculated utilizing October 31, 1995 adjusted cost information, shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) For rates effective July 1, 1996, a nursing facility's noncost-rebased administrative component rate shall be that facility's administrative component rate existing on June 30, 1996, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1996, administrative component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective administrative component rate as of June 30, 1996, excluding any rate increases granted from January 1, 1996 to June 30, 1996 pursuant to RCW 74.46.460 and WAC 388-96-777.

(9) For rates effective July 1, 1997, a nursing facility's noncost-rebased administrative component rate shall be that facility's administrative component rate existing on June 30, 1997, reduced or inflated as authorized by RCW 74.46.420 and WAC 388-96-719. The July 1, 1997, administrative component rate used to calculate the return on investment (ROI) component rate shall be the inflated prospective administrative component rate as of June 30, 1997, excluding any rate increases granted from January 1, 1997 to June 30, 1997 pursuant to RCW 74.46.460 and WAC 388-96-777.

AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

**WAC 388-96-745 Property cost area reimbursement rate.** (1) The department shall determine the property cost area component rate for each facility annually, to be effective July 1, 1995, 1996, and 1997 in accordance with this section and any other applicable provisions of this chapter. For July 1, 1995, July 1, 1996, and July 1, 1997 rates, funding granted under the authority of WAC 388-96-776 shall be annualized and subsumed in each of these July 1 prospective rates.

(2) The department shall divide the allowable prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

(a) The retained savings from the property cost center as provided in WAC 388-96-228, by

(b) The greater of:

(i) Total resident days for the facility in the calendar year cost report period ending six months prior to each July 1, property component rate commencement date; or

(ii) Resident days for the facility as calculated on ninety or eight-five percent facility occupancy, as applicable in accordance with the provisions of this chapter and chapter 74.46 RCW.

(3) Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. The department shall not reimburse depreciation of leased office equipment.

(4) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the calendar year following the capitalized addition or replacement, resident days from the cost report for the calendar year immediately prior to the capitalized addition or replacement that were used in computing the property component rate will be adjusted to the product of the occupancy level derived from the cost report used to compute the property component rate at the time of the increased licensed bed capacity multiplied by the number of calendar days in the calendar year following the increased licensed bed capacity multiplied by the number of licensed beds on the new license. For rate computation purposes the minimum occupancy for the initial property component rate period following the increase in licensed bed capacity shall be eighty-five percent; and for each rate period thereafter that will be rebased, commencing July 1, it shall be ninety percent. If a capitalized addition, replacement, or retirement results in a decreased licensed bed capacity, WAC 388-96-709 will apply.

(5) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need or exemption from the requirements for certificate of need for the replacement of existing nursing home beds pursuant to RCW 70.38.115 (13)(a), the department shall determine actual and allocated allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4), (5), and (6) of this section. The department shall determine construction class and types through examination

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of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall and Swift Valuation Service* published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(6) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

- (a) Architect's fees;
- (b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);
- (c) Interest on building funds during period of construction and processing fee or service charge;
- (d) Sales tax on labor and materials;
- (e) Site preparation (including excavation for foundation and backfill);
- (f) Utilities from structure to lot line;
- (g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);
- (h) Allocations of costs which increase the net book value of the project for purposes of Medicaid reimbursement;
- (i) Other items included by the *Marshall and Swift Valuation Service* when deriving the calculator method costs.

(7) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from one of the three tables which follow. The department shall derive the limit from the accompanying table which corresponds to the number of total nursing home beds for the proposed new construction, remodel or expansion. The limit will be the sum of the basic construction cost limit plus the common use area limit which corresponds to the type and class of the new construction, remodel or expansion. The limits calculated using the tables shall be adjusted forward from September 1990 to the average date of construction, to reflect the change in average construction costs. The department shall base the adjustment on the change shown by relevant cost indexes published by Marshall and Swift Publication Company. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

**BASE CONSTRUCTION COST LIMITS**

**COMMON-USE AREA COST LIMITS**

**74 BEDS & UNDER**

Building Class	Base per Bed Limit	Base Limit
A-Good	\$50,433	\$278,847
A-Avg	\$41,141	\$227,469
B-Good	\$48,421	\$267,718
B-Avg	\$40,042	\$221,392
C-Good	\$35,887	\$198,421
C-Avg	\$27,698	\$153,143
C-Low	\$21,750	\$120,258
D-Good	\$33,237	\$183,765
D-Avg	\$25,716	\$142,182
D-Low	\$20,298	\$112,227

**BASE CONSTRUCTION COST LIMITS**

**COMMON-USE AREA COST LIMITS**

**75 TO 120 BEDS**

Building Class	Base Limit	Add per Bed Over 74	Base Limit	Add per Bed Over 74
A-Good	\$3,732,076	\$48,210	\$278,847	\$2,808
A-Avg	\$3,044,442	\$39,327	\$227,469	\$2,291
B-Good	\$3,583,131	\$46,286	\$267,718	\$2,696
B-Avg	\$2,963,112	\$38,277	\$221,392	\$2,230
C-Good	\$2,655,654	\$34,305	\$198,421	\$1,998
C-Avg	\$2,049,668	\$26,477	\$153,143	\$1,542
C-Low	\$1,609,531	\$20,792	\$120,258	\$1,211
D-Good	\$2,459,506	\$31,771	\$183,765	\$1,851
D-Avg	\$1,902,956	\$24,582	\$142,182	\$1,442
D-Low	\$1,502,048	\$19,403	\$112,227	\$1,130

**BASE CONSTRUCTION COST LIMITS**

**COMMON-USE AREA COST LIMITS**

**121 BEDS AND OVER**

Building Class	Base Limit	Add per Bed Over 120	Base Limit	Add per Bed Over 120
A-Good	\$5,949,745	\$42,359	\$408,015	\$2,106
A-Avg	\$4,853,505	\$34,555	\$332,855	\$1,718
B-Good	\$5,712,287	\$40,669	\$391,734	\$2,022
B-Avg	\$4,723,848	\$30,142	\$323,972	\$1,672
C-Good	\$4,233,692	\$23,264	\$290,329	\$1,499
C-Avg	\$3,267,618	\$18,268	\$224,092	\$1,157
C-Low	\$2,565,943	\$27,916	\$175,971	\$ 908
D-Good	\$3,920,989	\$21,599	\$268,911	\$1,388
D-Avg	\$3,033,727	\$17,048	\$208,493	\$1,081
D-Low	\$2,394,592	\$19,403	\$164,220	\$ 848

(8) When some or all of a nursing home's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance shown in the attached tables for common-use areas to derive the construction cost lid for the facility. The amount excluded will be equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limit in the table. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes from the Marshall and Swift Publication.

(9) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

- (a) Actual cost per square foot, including allocations; or
- (b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the assessed land values which have been calculated for the purpose of county tax assessments.

(10) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section

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for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

**AMENDATORY SECTION** (Amending Order 3634, filed 9/14/93, effective 10/15/93)

**WAC 388-96-762 Allowable land.** (1) Beginning January 1, 1985, land associated with a nursing facility which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a Metropolitan Statistical Area (MSA), as defined and determined by the United States Office of Management and Budget or other applicable federal office, and three acres for nursing facilities located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use; ~~((or))~~ and

(f) Other reasons exist which are deemed sufficient by the department.

**AMENDATORY SECTION** (Amending Order 3737 and 3737A, filed 5/26/94 and 6/23/94, effective 6/26/94 and 7/24/94)

**WAC 388-96-774 Add-ons to the prospective rate—Staffing.** (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st.

(a) The department may grant a rate add-on to a nursing service (NS) or operational (OP) prospective reimbursement rate for:

(i) Variations in the distribution of patient classifications for the total resident population or changes in patient characteristics for the total resident population from:

(A) The Medicaid cost report for the calendar year immediately prior to the first fiscal year of a state biennium; or

(B) Those used to set the rate for a new contractor; or

(ii) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.

(b) The department shall not grant and the contractor shall not use rate add-ons for:

(i) Compensation increases for existing, newly hired or promoted staff;

(ii) The use of temporary employment services providing direct patient care;

(iii) Any purpose if the nursing facility has a pending bankruptcy; *unless*, it is under chapter 11 and the nursing facility can provide a written evaluation from the trustee in bankruptcy stating the reorganization will be approved and implemented;

(iv) Correction of survey citations; or

(v) Staffing increases to resolve complaints.

(c) The department shall not grant a rate add-on to a cost center if that cost center is at or above the median cost limit for the facility's peer group reduced or increased under WAC 388-96-719.

(2) Per state fiscal year, the contractor may submit no more than two requests under this section. If a request has been previously submitted and denied because it was not complete, then it will not count as a request for this subsection; *provided*, the resubmitted request is complete and exactly the same as the previous request, e.g., type of request, positions and full-time equivalencies.

(3) Contractors requesting a rate add-on shall submit a written request to the office of rates management, aging and adult services administration, separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). The written request shall only be submitted after the hire date of the new staff and shall include the following:

(a) A financial analysis showing:

(i) The increased cost; and

(ii) An estimate of the rate increase, computed according to allowable methods, necessary to fund the cost.

(b) A written justification for granting the rate increase;

(c) A certification and supporting documentation showing the changes in staffing have commenced;

(d) Two proofs of hire, e.g., payroll document, W-4, and appointment letter;

(e) A written narrative describing the contractor's efforts to provide alternative solutions prior to submitting a request under this section; and

(f) A written plan specifying:

(i) Additional staff to be added;

(ii) Changes in all patient characteristics requiring the additional staff; and

(iii) The predicted improvements in patient care services that will result.

(4) Contractors receiving rate add-ons per this section shall submit quarterly reports. The quarterly reports shall cover the first day the rate add-on is effective and show how the additional rate funds and hours were utilized. The contractor shall submit quarterly reports as long as it receives the rate add-on. If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

(5) In reviewing a request made under subsection (3) of this section, the department shall consider but is not limited to one or more of the following:

(a) Whether additional staff requested by a contractor is necessary to meet patient care needs;

(b) Comparisons of staffing patterns of nursing facilities from either the latest statewide metropolitan statistical area (MSA) peer group or non-MSA peer group to which the nursing facility belongs and calculated on a per patient day

basis. The department shall use the latest MSA and non-MSA designations received from the office of management and budget or the appropriate federal agency;

- (c) The physical layout of the facility;
- (d) Nursing service planning and management for maximum efficiency;
- (e) Historic trends in underspending of a facility's nursing services and operational component rates;
- (f) Numbers, positions, and scheduling of existing staff;
- (g) Increases in acuity (debility) levels of all residents in the facility;
- (h) Survey, complaint resolution reports, and quality assurance data; and
- (i) The facility's ability to fund its staffing request through the facility's existing total Medicaid reimbursement rate.

(6) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:

- (a) Compensation of the receiver;
- (b) Reasonable expenses of receivership and transition of control; and
- (c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.

(7) The department shall not grant a rate add-on effective earlier than sixty days prior to receipt of the initial written request by the office of rates management subject to the requirements of subsection (3) of this section, the department shall grant a rate add-on for an approved request as follows:

(a) If the request is received between the first day and fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the request is received between the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(8) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor must submit the requested information within fifteen days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the rate add-on request by providing all the requested documentation and information within the fifteen days from the date of receipt of notification, the department will deny the request for failure to complete.

(9) If, after the denial for failure to complete the request, the contractor submits a written request for the same need, the date of receipt for the purposes of applying subsection (7) will depend upon whether the subsequent request for the same need is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same need is:

(a) Complete, then the date of the initial incomplete request may be used when applying subsection (7) of this section; or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (7) of this section.

(10) The department shall respond, in writing, not later than sixty days after receipt of a complete request.

**AMENDATORY SECTION** (Amending Order 3896, filed 9/12/95, effective 10/13/95)

**WAC 388-96-776 Add-ons to the prospective rate—Capital improvements.** (1) The department shall grant an add-on to a prospective rate for any capitalized additions or replacements made as a condition for licensure or certification; *provided*, the net rate effect is ten cents per patient day or greater.

(2) The department shall grant an add-on to a prospective rate for capitalized improvements done under RCW 74.46.465; *provided*, the legislature specifically appropriates funds for capital improvements for the biennium in which the request is made and the net rate effect is ten cents per patient day or greater. Physical plant capital improvements include, but are not limited to, capitalized additions, replacements or renovations made as a result of an approved certificate of need or exemption from the requirements for certificate of need for the replacement of existing nursing home beds pursuant to RCW 70.38.115 (13)(a) or capitalized additions or renovations for the removal of physical plant waivers.

(3) When physical plant improvements made under subsection (1) or (2) are completed in phases, the department shall not grant a rate add-on for any addition, replacement or improvement until each phase is completed and fully utilized for which it was intended. The department shall limit rate add-on to only the actual cost of the depreciable tangible assets meeting the criteria of WAC 388-96-557 and as applicable to that specific completed and fully utilized phase.

(4) When the construction class of any portion of a newly constructed building will improve as the result of any addition, replacement or improvement occurring in a later, but not yet completed and fully utilized phase of the project, the most appropriate construction class, as applicable to that completed and fully utilized phase, will be assigned for purposes of calculating the rate add-on. The department shall not revise the rate add-on retroactively after completion of the portion of the project that provides the improved construction class. Rather, the department shall calculate a new rate add-on when the improved construction class phase is completed and fully utilized and the rate add-on will be effective in accordance with subsection (8) of this section using the date the class was improved.

(5) The department shall not add on construction fees as defined in WAC 388-96-745(6) and other capitalized allowable fees and costs as related to the completion of all phases of the project to the rate until all phases of the entire project are completed and fully utilized for the purpose it was made. At that time, the department shall add on these fees and costs to the rate, effective no earlier than the earliest date a rate add-on was established specifically for any phase of this project. If the fees and costs are incurred in a later phase of the project, the add-on to the rate will be effective on the same date as the rate add-on for the actual cost of the tangible assets for that phase.

(6) The contractor requesting an adjustment under subsection (1) or (2) shall submit a written request to the office of rates management separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). A complete written request shall include the following:

(a) A copy of documentation (~~((i.e., survey level "A" deficiency)))~~ requiring completion of the addition or replacements to maintain licensure or certification for adjustments requested under subsection (1) of this section;

(b) A copy of the new bed license, whether the number of licensed beds increases or decreases, if applicable;

(c) All documentation, e.g., copies of paid invoices showing actual final cost of assets and/or service, e.g., labor purchased as part of the capitalized addition or replacements;

(d) Certification showing the completion date of the capitalized additions or replacements and the date the assets were placed in service per WAC 388-96-559(2);

(e) A properly completed depreciation schedule for the capitalized additions or replacement as provided in this chapter;

(f) A written justification for granting the rate increase; and

(g) For capitalized additions or replacements requiring certificate of need approval, a copy of the approval and description of the project.

(7) The department's criteria used to evaluate the request may include, but is not limited to:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of the renovation or remodel to the facility and whether the facility will be better able to serve the needs of its residents;

(c) Whether the improvement improves the quality of living conditions of the residents;

(d) Whether the improvement might eliminate life safety, building code, or construction standard waivers;

(e) Prior survey results; and

(f) A review of the copy of the approval and description of the project.

(8) The department shall not grant a rate add-on effective earlier than sixty days prior to the receipt of the initial written request by the office of rates management and not earlier than the date the physical plant improvements are completed and fully utilized. The department shall grant a rate add-on for an approved request as follows:

(a) If the physical plant improvements are completed and fully utilized during the period from the first day to the fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the physical plant improvements are completed and fully utilized during the period from the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(9) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor shall submit the requested information within fifteen days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the add-on request by providing all the requested documentation and information within the fifteen days from the date of receipt of notification, the department shall deny the request for failure to complete.

(10) If, after the denial for failure to complete, the contractor submits a written request for the same project, the date of receipt for the purpose of applying subsection (8)

will depend upon whether the subsequent request for the same project is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same project is:

(a) Complete, then the date of the first request may be used when applying subsection (8); or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (8) even though the physical plant improvements may be completed and fully utilized prior to that date.

(11) The department shall respond, in writing, not later than sixty days after receipt of a complete request.

(12) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

(13) When any physical plant improvements made under subsection (1) or (2) results in a change in licensed beds, any rate add-on granted will be subject to the provisions regarding the number of licensed beds, patient days, occupancy, etc., included in this chapter.

(14) All rate components to fund the Medicaid share of nursing facility new construction or refurbishing projects costing in excess of one million two hundred thousand dollars, or projects requiring state or federal certificate of need approval, shall be based upon a minimum facility occupancy of eight-five percent for the nursing services, food, administrative, operational and property cost centers, and the return on investment (ROI) rate component, during the initial rate period in which the adjustment is granted. These same component rates shall be based upon a minimum facility occupancy of ninety percent for all rate periods after the initial rate period.

#### AMENDATORY SECTION (Amending Order 1262, filed 12/30/77)

**WAC 388-96-810 Payment.** (1) The department will reimburse a contractor for service rendered under the nursing home contract and billed for in accordance with WAC 388-96-804.

(2) The amount paid will be computed using the appropriate rate assigned to the contractor.

(3) The special rate assigned to a contractor by the department for the care of an exceptional care recipient will be used in computing the amount paid for care of such recipient.

(4) For each recipient, the department will pay an amount equal to the appropriate rate or rates, multiplied by the number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care (see WAC 388-96-807).

(5) A rate revision issued after the end of the calendar year in which the rate revision is effective will not result in payment but will be used for settlement purposes only.

#### AMENDATORY SECTION (Amending Order 3896, filed 9/12/95, effective 10/13/95)

**WAC 388-96-904 Administrative review—Adjudicative proceeding.** (1) The provisions of this section shall apply to administrative review of all nursing facility payment rates effective on and after July 1, 1995, and to administra-

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tive review of all audits and settlements issued on or after this date, regardless of what payment period the audit or settlement may cover. Contractors seeking to appeal or take exception to an action or determination of the department relating to the contractor's payment rate, audit or settlement, or otherwise affecting the level of payment to the contractor, shall request an administrative review conference in writing within twenty-eight calendar days after receiving notice of the department's action or determination. The contractor shall be deemed to have received notice five calendar days after the date of the notification letter, unless ~~((the contractor can provide proof of later receipt))~~ proof of the date of receipt of the department's notification letter exists, then the actual date of receipt shall be used to determine timeliness of the contractor's request for an administrative review conference. The contractor's request for administrative review shall be signed by the contractor or by a partner, officer or authorized employee of the contractor, shall state the particular issues raised and include all necessary supporting documentation or other information.

(2) After receiving a request for administrative review ~~((meeting))~~ conference that meets the criteria in subsection (1) of this section, the department shall schedule an administrative review conference to be held within ninety calendar days after receiving the contractor's request. By agreement this time may be extended up to sixty additional days, but a conference shall not be scheduled or held beyond one hundred fifty calendar days after the department receives the contractor's request for administrative review. The conference may be conducted by telephone.

(3) At least fourteen calendar days prior to the scheduled date of the administrative review conference, the contractor must supply the additional documentation or information upon which the contractor intends to rely in presenting its case. In addition, the department may request at any time prior to issuing a decision any documentation or information needed to decide the issues raised and the contractor must comply with such a request within fourteen calendar days after it is received. This period may be extended up to fourteen additional calendar days for good cause shown if the contractor requests an extension in writing received by the department before expiration of the initial fourteen day period. Issues which cannot be decided or resolved due to a contractor's failure to provide requested documentation or information within the required period shall be dismissed.

(4) The department shall, within sixty calendar days after the conclusion of the conference, render a decision in writing addressing the issues raised, unless the department is waiting for additional documentation or information requested from the contractor pursuant to subsection (3) of this section, in which case the sixty-day period shall not commence until the department's receipt of such documentation or information or until expiration of the time allowed to provide it. The decision letter shall include a notice of dismissal of all issues which cannot be decided due to missing documentation or information requested.

(5) A contractor seeking further review of a decision issued pursuant to subsection (4) of this section:

(a) Shall request, in writing, signed by one of the individuals authorized by subsection (1) of this section, within twenty-eight calendar days after receiving the

department's ~~((decision))~~ administrative review conference determination letter, an adjudicative proceeding to be conducted by a presiding officer employed by the department's office of appeals; or

(b) Shall file, in the event the parties are able to stipulate to a record that can serve as the record for judicial review, a petition for judicial review pursuant to RCW 34.05.570(4).

The contractor shall be deemed to have received notice of the department's administrative review conference ~~((decision))~~ determination five calendar days after the date of the ~~((decision))~~ administrative review determination letter, unless ~~((the contractor can provide proof of later receipt))~~ proof of the date of receipt of the department's administrative review determination letter exists, then the actual date of receipt shall be used to determine timeliness of the contractor's request for adjudicative proceeding. The contractor shall attach to its request for an adjudicative proceeding the department's administrative review determination letter.

(6) The scope of an adjudicative proceeding shall be limited to the issues specifically raised by the contractor at the administrative review conference ~~((and))~~; addressed in the department's ~~((decision))~~ administrative review conference determination letter and stated in the contractor's request for adjudicative proceeding. The contractor shall be deemed to have waived all issues which could have been raised by the contractor relating to the challenged determination or action, but which were not pursued at the conference ~~((and))~~; addressed in the department's ~~((decision))~~ administrative review conference determination letter; and stated in the contractor's request for adjudicative proceeding.

(7) If the contractor wishes to have further review of any issue dismissed by the department for failure to supply needed or requested information or documentation, the issue shall be considered by the presiding officer for the purpose of upholding the department's dismissal, reinstating the issue and remanding for further agency staff action or reinstating the issue and rendering a decision on the merits.

(8) An adjudicative proceeding shall be conducted in accordance with this chapter, chapter 388-08 WAC and chapter 34.05 RCW. In the event of a conflict between the provisions of this chapter and chapter 388-08 WAC, the provisions of this chapter shall prevail. The presiding officer assigned by the department's office of appeals to conduct an adjudicative proceeding and who conducts the proceeding shall render the final agency decision.

(9) The office of appeals shall issue an order dismissing an adjudicative proceeding requested under subsection (5)(a), unless within two hundred seventy days after the office of appeals receives the application or request for an adjudicative proceeding:

(a) All issues have been resolved by a written settlement agreement between the contractor and the department signed by both and filed with the office of appeals; or

(b) An adjudicative proceeding has been held for all issues not resolved and the evidentiary record, including all rebuttal evidence and post-hearing or other briefing, is closed.

This time limit may be extended thirty additional days for good cause shown upon the motion of either party made prior to the expiration of the initial two hundred seventy day

period. It shall be the responsibility of the contractor to request that hearings be scheduled and ensure that settlement agreements are signed and filed with the office of appeals in order to comply with the time limit set forth in this subsection.

(10) Any party dissatisfied with a decision or an order of dismissal of the office of appeals may file a petition for reconsideration within ten days after the decision or order of dismissal is served on such party. The petition shall state the specific grounds upon which relief is sought. The time for seeking reconsideration may be extended by the presiding officer for good cause upon motion of either party. The presiding officer shall rule on a petition for reconsideration and may seek additional argument, briefing, testimony or other evidence if deemed necessary. Filing a petition for reconsideration shall not be a requisite for seeking judicial review; however, if a petition is filed by either party, the agency decision shall not be deemed final until a ruling is made by the presiding officer.

(11) A contractor dissatisfied with a decision or an order of dismissal of the office of appeals may file a petition for judicial review pursuant to RCW 34.05.570(3).

**WSR 96-11-011**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed May 6, 1996, 12:44 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-04-056.

Title of Rule: WAC 388-519-1910 Allowable income deductions and exemptions and 388-519-1930 Computing spenddown; allowable spenddown expenses.

Purpose: Administrative changes.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: This proposed amendment is necessary to provide rules to clarify public program policy. Corrects cross-references. Clarifies the child's allowance to one-half of the federal benefit rate (FBR) minus the child's income.

Reasons Supporting Proposal: To certify the client as eligible for the medically needy program when a person meets the criteria described under WAC 388-503-0320, and when countable income is equal to or less than the appropriate medically needy income level (MNIL).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 617 8th S.E., Olympia, (360) 753-7462.

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

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

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

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not regulate or have an economic impact on any small business. This rule impacts only department staff and clients.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E, Olympia, WA 98504, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut, Supervisor, by June 11, 1996, (360) 664-2954 or TDD (360) 753-0625.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118, June 18, 1996.

Date of Intended Adoption: June 26, 1996.

May 6, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-519-1910 Allowable income deductions and exemptions.** (1) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining eligibility for:

(a) AFDC, for families and children. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for persons applying solely for medical assistance except as described under WAC 388-507-0740(1); or

(b) SSI/SSP for aged, blind or disabled clients.

(2) When more than one assistance unit exists, the department shall determine income for the:

(a) AFDC-related assistance unit according to subsections (1)(a) and (3) of this section; and

(b) SSI-related assistance unit according to subsections (1)(b) and (3) of this section.

(3) The department shall allow the following income exemptions:

(a) Health insurance premiums, except Medicare, the person expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse of an SSI-related client not to exceed the one-person medically needy income level (MNIL);

(c) A child's allowance up to one-half of the Federal Benefit Rate (FBR) minus the child's income for each SSI-ineligible child of an SSI-related client;

(d) Child care payment amounts allowed as if the person was an AFDC client; and

(e) When the spouse of a client applying for medically needy receives a home-based and community-based waived service program, the department shall allow the medically needy client an income exemption equal to the one-person MNIL minus the income of the institutionalized spouse.

PROPOSED

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-519-1930 Computing spenddown; allowable spenddown expenses.** (1) The department shall certify the client as eligible for the medically needy program when:

(a) A person meets the criteria described under WAC 388-503-0320; and

(b) Countable income is equal to or less than the appropriate medically needy income level (MNIL(, the department shall certify the client eligible)).

(2) When countable income for any month of the base period is less than the appropriate (~~medically needy income level~~) MNIL(3)) but above the categorically needy income level (CNIL), the department shall deduct the difference between the countable income and the MNIL from the total excess countable income for the base period.

(3) When countable income is greater than the appropriate MNIL, the department shall require the client to spenddown the excess countable income for the base period.

(4) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the client's excess countable income subject to the following restrictions:

(a) At the time of application, the medical expense shall be a (current) liability:

(i) Of the client or other family member who is legally or blood-related and living in the same household; or

(ii) Subject to payment during or (after) before the base period, by a public program as defined under subsection ((2)) (5) of this section.

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall consider toward spenddown a medical expense incurred and paid during the base period:

(i) By the client; or  
(ii) Subject to payment by a public program as defined under subsection (5) of this section.

(d) The department shall not consider the portion of the medical expense paid or covered by a third-party resource toward spenddown.

(i) The department shall disregard the possible payment by a third party as a resource and allow the entire expense for spenddown when a third party fails to send either payment or notice of the portion of a medical services bill covered within forty-five calendar days of the date of service or thirty calendar days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available, the department shall allow the Medicare deductible toward the spenddown when the client:

(A) Still owes the bill; and  
(B) Is hospitalized for the first time in a sixty-day period.

~~((d) The department shall consider toward spenddown a medical expense incurred and paid during the base period:~~

~~(i) By the client; or~~  
~~(ii) Subject to payment by a public program as defined under subsection (2) of this section.~~

(e) The department shall consider only medical services provided by practitioners recognized by state law.

(5) For the purposes of this section, a public program is one administered (~~and funded, except for deductibles and coinsurance amounts,~~) by a state, county, city, or territory. The department shall ensure the public program has funding (for a public program is):

(a) From a source other than federally matched or funded; and

(b) Appropriated by a state, county, city, or territory; or

(c) Transferred from state, county, city, or territory to the administering agency.

(6) When the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the client's eligibility.

(7) When the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the client to spenddown the remaining excess countable income. The department shall only certify the client eligible when excess countable income has been completely spent down. The department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance (~~premiums,~~) deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the medically needy program and provided by a practitioner recognized under state law;

~~(c) (~~Expenses for necessary medical and remedial care covered by the medically needy program which a public program as defined under subsection (2) of this section has paid;~~~~

~~(d)) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered by the medically needy program, but remaining a client's liability;~~

(d) Expenses incurred for necessary medical and remedial care covered by the medically needy program under a public program as defined under subsection (5) of this section; and

(e) Expenses for necessary medical or remedial care other than inpatient or outpatient hospital expenses covered by the medically needy program.

(8) The client shall provide the department with documentation of incurred medical expenses (~~(with)) no later than thirty calendar days ((F)) from the end of the base period. Once the client's medical eligibility is approved, the department shall not consider expenses the client omits or does not list. The client may use such expenses to reduce excess countable income on a subsequent application provided:~~

(a) The expenses incurred before the certification date meet the conditions in subsection ((F)) (4) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsection ((F)) (4)(b), (c), (d), and (e) of this section.

(9) The client shall be liable for any expenses incurred before the first day of eligibility.

PROPOSED

**WSR 96-11-012**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed May 6, 1996, 12:45 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-03-098.

Title of Rule: WAC 388-515-1505 COPES.

Purpose: Administrative changes.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: This proposed amendment is necessary to delete obsolete subsection (2) of WAC 388-515-1505. This proposal also deletes incorrect cross-references under subsections (1)(c) and (3)(a).

Reasons Supporting Proposal: The SSI-related client residing in a CCF, AFH, or LBH shall retain from a maintenance needs amount, a personal needs allowable [allowance] of fifty dollars.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 617 8th S.E., Olympia, (360) 753-7462.

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

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

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

Proposal Changes the Following Existing Rules: See Summary above.

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Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut, Supervisor, by June 11, 1996, (360) 664-2594, or TDD (360) 753-0625.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118, by June 18, 1996.

Date of Intended Adoption: June 26, 1996.

May 6, 1996  
Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3899, filed 9/27/95, effective 10/28/95)

**WAC 388-515-1505 Community options program entry system (COPES).** (1) The department shall determine

a person eligible for COPES when a person is eighteen years of age or over and:

(a) Meets the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of COPES, a person is considered institutionalized as of the date all eligibility criteria, except institutionalized status, is met;

(b) Requires the level of care provided in a nursing facility;

(c) Has a department-approved plan of care that meets the eligibility requirements for COPES personal care as described under WAC 388-15-610 ~~((1)(f))~~; and

(d) Is able and chooses to reside at home with community support services, in a:

(i) Congregate care facility (CCF);

(ii) Licensed adult family home (AFH); or

(iii) Licensed boarding home (LBH).

(e) Is institutionalized, or the department determines is likely to be institutionalized within the next thirty days in the absence of waived services under WAC 388-15-615.

~~(2) ((The department shall not require participation in the cost of COPES care by a person:~~

~~(a) Receiving SSI; or~~

~~(b) Remaining eligible for SSI under 1619(b) of the Social Security Act, but not receiving a cash grant.~~

~~(3))~~ The department shall allocate available income of the SSI-related COPES client as described under WAC 388-513-1380 (1), (2), (3), (4)(b), (c), (d), (e), (f), (g), and (h), (5), and (6). The client shall retain an amount for maintenance needs as follows:

(a) For a single person or a married person not living with a community spouse, one hundred percent of the one-person Federal Poverty Level (FPL);

(b) For a married couple who are both receiving COPES, one hundred percent of the one-person FPL for each person; or

(c) For a married person living with a community spouse, the one-person MNIL.

~~((4))~~ (3) The SSI-related client residing in a CCF, AFH, or LBH shall:

(a) Retain from a maintenance needs amount, a ~~((specified))~~ personal needs allowance ~~((as described under WAC 388-250-1600 and 388-250-1650))~~ of fifty dollars; and

(b) Pay the remaining maintenance needs amount to the facility for the cost of board and room.

~~((5))~~ (4) The department shall include the remaining income after allocations as the participation amount for COPES services as described under WAC 388-15-620.

**WSR 96-11-041**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed May 8, 1996, 9:05 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-03-012.

Title of Rule: WAC 246-883-020 Identification of legend drugs.

Purpose: This rule updates the official listing of the 1996 edition of the American Druggist Blue Book.

PROPOSED

Statutory Authority for Adoption: RCW 69.41.075.

Statute Being Implemented: RCW 69.41.075.

Reasons Supporting Proposal: This will update the most current edition available as well as the price per copy. Because law enforcement agencies and prosecuting attorneys rely on this listing to charge individuals who have violated the law, it is important to update this rule to the most current version.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Donald H. Williams, 1300 S.E. Quince, Olympia, WA, (360) 753-6834.

Name of Proponent: [Department of Health], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board has elected to reference the American Druggist Blue Book as the official listing of legend drugs for Washington state. This amendment will update the date of the official listing from the 1991-92 edition to the 1996 edition. The rule also reflects the current price of the blue book for those who would like to purchase the book from the board.

Proposal Changes the Following Existing Rules: It changes the most current edition year available as well as the price of the book.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This does not affect any small business in Washington state.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule does not subject a person to a penalty or sanction; does not establish, alter or revoke a qualification or standard for (profession) licensure; and does not make significant amendments to a policy or regulatory program. This rule only updates the current edition as well as price charged.

Hearing Location: Shilo Inn, 401 East 13th, Vancouver, WA 98660, on August 7, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Lisa Salmi by July 15, 1996, TDD (800) 833-6388, or (360) 753-6834.

Submit Written Comments to: Donald H. Williams, FAX (360) 586-4359, by July 1, 1996.

Date of Intended Adoption: August 7, 1996.

April 24, 1996  
Donald H. Williams  
Executive Director

**AMENDATORY SECTION** (Amending Order 264B, filed 4/14/92, effective 5/15/92)

**WAC 246-883-020 Identification of legend drugs for purposes of chapter 69.41 RCW.** (1) In accordance with chapter 69.41 RCW, the board of pharmacy hereby finds that those drugs which have been determined by the Food and Drug Administration, pursuant to the Federal Food, Drug and Cosmetic Act, to require a prescription under federal law should also be classified as legend drugs under state law for the reasons that their toxicity or other potentiality for harmful effect, the methods of their use and the collateral safeguards necessary to their use, indicate that they are not safe for use except under the supervision of a practitioner.

(2) The board of pharmacy hereby specifically identifies as legend drugs, for purposes of chapter 69.41 RCW, those drugs which have been designated as legend drugs under federal law and are listed as such in the ((1991-92)) 1995-96 edition of the American Druggist Blue Book. For the period May 31, 1995, through June 1, 1996, the board adopts the 1995 edition of the Blue Book. For the period May 31, 1996, through June 1, 1997, the board adopts the 1996 edition of the Blue Book. For the period May 31, 1997, through June 1, 1998, the board adopts the 1997 edition of the Blue Book. Copies of the list of legend drugs as contained in the *American Druggist Blue Book* shall be available for public inspection at the headquarters office of the State Board of Pharmacy, 1300 Quince Street S.E., P.O. BOX 47863, Olympia, Washington 98504-7863. Copies of this list shall be available from the board of pharmacy at the above address upon request made and upon payment of a fee in the amount of ((fifty-five)) seventy-six dollars per copy.

(3) There may be changes in the marketing status of drugs after the publication of the above reference. Upon application of a manufacturer or distributor, the board may grant authority for the over the counter distribution of certain drugs which had been designated as legend drugs in this reference. Such determinations will be made after public hearing and will be published as an amendment to this chapter.

**WSR 96-11-046**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER'S OFFICE**  
[Filed May 8, 1996, 11:39 a.m.]

Continuance of WSR 96-05-091.

Preproposal statement of inquiry was filed as WSR 95-24-099.

Title of Rule: Annual statement instructions and statements to be filed in electronic form.

Other Identifying Information: Insurance Commissioner Matter No. R 95-18.

Summary: Continuation of adoption date.

Date of Intended Adoption: August 15, 1996.

May 8, 1996  
Belle Taylor-McGhee  
Deputy Commissioner

**WSR 96-11-051**  
**PROPOSED RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**  
[Filed May 9, 1996, 10:40 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Chapter 136-163 WAC, Allocation of RATA funds to emergent and emergency projects.

Purpose: Defines and codifies procedures under which the County Road Administration Board will evaluate and act on emergent and emergency requests.

Other Identifying Information: This is a new rule and replaces WAC 136-161-100.

Statutory Authority for Adoption: RCW 36.79.060.

Summary: Codifies procedures and conditions related to allocation of trust account funds to emergent and emergency projects.

Reasons Supporting Proposal: Current process is not sufficiently defined.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, 2404 Chandler Court S.W., Suite 240, (360) 753-5989; Implementation and Enforcement: Eric Berger, 2404 Chandler Court S.W., Suite 240, (360) 753-5989.

Name of Proponent: County Road Administration Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Current WAC 136-161-100 is insufficient for effective management and will be repealed and replaced with new chapter 136-163 WAC. The new section is explicit as to definition, procedures and conditions associated with requests for trust account funds related to emergent and emergency projects.

Proposal Changes the Following Existing Rules: Repeals WAC 136-161-100 and adds new, explicit chapter 136-163 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Relates only to internal government operations that are not subject to violation by a nongovernmental party.

Hearing Location: Cottontree Inn, Mt. Vernon, on July 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 8, 1996, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Olympia, WA 98504, FAX (360) 586-0386, by July 8, 1996.

Date of Intended Adoption: July 12, 1996.

April 22, 1996  
Eric Berger  
Executive Director

### Chapter 136-163 WAC ALLOCATION OF RATA FUNDS TO EMERGENT AND EMERGENCY PROJECTS

#### NEW SECTION

**WAC 136-163-010 Purpose.** RCW 36.79.140 provides for the authorization of RATA funds for projects of an emergent nature. This chapter describes the manner in which counties may request RATA funds for such projects and the manner in which the CRABoard will respond to such requests.

#### NEW SECTION

**WAC 136-163-020 Definitions.** For the purposes of this chapter, the term "emergent nature" as used in RCW 36.79.140 shall mean both "emergent" and "emergency" projects as follows:

(1) **Emergency project:** Work of both a temporary and permanent nature which restores roads and bridges to the predisaster condition and may include reconstruction to current design standards. This work is the result of a sudden natural or man-made event which results in the destruction or severe damage to RATA-eligible roadway sections or structures such that, in the consideration of public safety and use, the roadway sections or structures must be immediately closed or substantially restricted to normal traffic. Work of an emergency nature is also beyond the scope of work done by a county in repairing damages normally or reasonably expected from seasonal or other natural conditions, and is beyond what would be considered maintenance, regardless of how extensive the maintenance may be.

(2) **Emergent project:** RATA-eligible work necessitated by sudden and unanticipated development, growth, access needs, or legal decisions. This work is not the result of an emergency situation as previously defined. This work, in consideration of good transportation capital facilities management, will also require a county to commit resources beyond its current six-year transportation program and prior to the next six-year transportation program annual update as provided for in RCW 36.81.121.

#### NEW SECTION

**WAC 136-163-030 Limitations and conditions—Emergency projects.** To be eligible for emergency project approval, the county must declare an emergency as provided for in RCW 36.04.180. If there is not yet a state declaration of emergency, the county must also, in consultation with the state military department, emergency management division and the WSDOT, evaluate the probability of receiving a state declaration of emergency. A state declaration of emergency is required as a condition of receiving federal funding for road-related damages via the Emergency Relief Program or FEMA. If such federal funding has been approved or is likely to be approved, the CRABoard may provide up to 100% of a county's required matching funds for such federal funding but only after the approval of the federal funds.

Should such federal funding not be forthcoming, or if the emergency is of such a scope and size that federal funding is clearly improbable, the CRABoard may provide up to 80% or 90% of the estimated eligible damages depending upon the regional limitations as provided for in WAC 136-161-090, with the total project cost limited to the actual expenditures by the county.

#### NEW SECTION

**WAC 136-163-040 Limitations and conditions—Emergent projects.** To be eligible for emergent project approval, the project shall be evaluated by the CRAB grant programs engineer, with the participation of the county road engineer, on the same point system as all other projects within the region. The proposed emergent project must rank at or above the regional funding cut off line on the current

regional array based upon 100% of the current estimated regional allocation as determined by CRAB.

#### NEW SECTION

**WAC 136-163-050 Limitations and conditions—Emergency and emergent projects.** All projects for which RATA funding is being requested under this chapter are subject to the following:

(1) The requesting county has the sole burden of making a clear and conclusive showing that the project is either emergent or emergency as described in WAC 136-163-020 through 136-163-040; and

(2) The requesting county shall clearly demonstrate that the need for the project was unable to be anticipated at the time the current six-year transportation program was developed; and

(3) The requesting county agrees to a reduction in the next biennium's maximum RATA eligibility to the county equal to the RATA that may be provided; however, should that region not have a maximum RATA eligibility for each county, the requesting county agrees to withdraw, amend or delay an existing approved project or portion thereof in an amount equal to the RATA that may be provided for the project.

#### NEW SECTION

**WAC 136-163-060 Action by the CRABoard.** Counties may request consideration and action by the CRABoard at any time, however, the CRABoard will address all such requests at its next regular quarterly meeting. A county may request, and the CRABoard chairperson convene, a special meeting to consider such a request as provided for in WAC 136-01-030.

**WSR 96-11-052  
PROPOSED RULES  
COUNTY ROAD  
ADMINISTRATION BOARD**

[Filed May 9, 1996, 10:43 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Title 136 WAC, County Road Administration Board.

Purpose: Language clarification, updating of references, deletion of unnecessary sections.

Other Identifying Information: These are amendments to existing Title 136 WAC.

Statutory Authority for Adoption: RCW 36.78.070, 36.79.060.

Summary: Staff review suggests numerous language clarifications and reference updates.

Reasons Supporting Proposal: Current language is incorrect, out-of-date, or uses antiquated reference. These "housekeeping" measures are necessary to insure this WAC title remains both relevant and useful.

Name of Agency Personnel Responsible for Drafting: Reid Wheeler, 2404 Chandler Court S.W., Suite 240, (360)

753-5989; Implementation and Enforcement: Eric Berger, 2404 Chandler Court S.W., Suite 240, (360) 753-5989.

Name of Proponent: County Road Administration Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Corrections, deletions, and minor modifications are necessary to maintain the accuracy and effectiveness of agency's WAC title. Does not change the effect of any rules.

Proposal Changes the Following Existing Rules: "Housekeeping" corrections, updates, deletions only.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Relates only to internal government operation that are not subject to violation by a nongovernmental party.

Hearing Location: Cottontree Inn, Mt. Vernon, on July 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by July 8, 1996, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Olympia, WA 98504, FAX (360) 586-0386, by July 8, 1996.

Date of Intended Adoption: July 12, 1996.

April 22, 1996

Eric Berger

Executive Director

**Chapter 136-01 WAC  
(~~STANDARD OF GOOD PRACTICE~~) ORGANI-  
ZATION AND OPERATION OF COUNTY ROAD  
ADMINISTRATION BOARD**

AMENDATORY SECTION (Amending Order 86, filed 6/10/92, effective 7/11/92)

**WAC 136-01-010 Purpose and membership.** The county road administration board is a nine member board, organized under the provision of RCW 36.78.010 through 36.78.110 for the purpose of establishing and administering:

(1) Standards of good practice for county road administration within the counties of the state;

(2) The rural arterial program established by chapter 36.79 RCW; (~~and~~)

(3) The county arterial preservation program established by RCW 46.68.095(4); and

(4) The ferry capital improvement program established by RCW 47.56.725(4).

**Chapter 136-02 WAC  
IMPLEMENTATION OF (~~SEPA AND CEP GUIDE-  
LINES~~) STATE ENVIRONMENTAL POLICY ACT**

AMENDATORY SECTION (Amending Order 30, filed 8/3/76)

**WAC 136-02-010 Purpose.** This chapter is promulgated pursuant to the directions of chapter 43.21C RCW (SEPA) and chapter (~~197-10~~) 197-11 WAC (~~CEP~~)

~~guidelines interpreting and implementing SEPA)) (SEPA rules). The adoption of this chapter is deemed to be in compliance with the requirements of chapter 43.21C RCW and chapter ((197-10)) 197-11 WAC.~~

AMENDATORY SECTION (Amending Order 30, filed 8/3/76)

**WAC 136-02-020 Statement of exempt activities.** The county road administration board has reviewed its authorized activities and found them all to be exempt under chapter 43.21C RCW and ~~((CEP guidelines))~~ SEPA rules, WAC ((197-10-170 (4), (7), (8), (11), (12), and (17))) 197-11-800 (13), (15), (18), (19) and (20). This statement is adopted in accordance with ~~((WAC 197-10-800(4)))~~ RCW 43.21C.135 (1)(a).

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 136-02-030 Implementation of SEPA and CEP guidelines.

#### Chapter 136-04 WAC ANNUAL CERTIFICATION OF GOOD PRACTICE

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

**WAC 136-04-010 Purpose.** The county road administration board, hereinafter referred to as the ~~((board))~~ CRABoard, is authorized by RCW 36.78.090 through 36.78.100 to transmit to the state treasurer certificates of good practice, hereinafter referred to as certificates, on behalf of the counties which during the preceding calendar year have reasonably complied with provisions of law relating to county road administration and with the standards of good practice as formulated and adopted by the ~~((board))~~ CRABoard or to issue conditional certificates. This ~~((standard of good practice))~~ section sets forth ~~((a))~~ the procedure to be followed by the ~~((board))~~ CRABoard in the issuance and revocation of such certificates.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-020 Inquiry by the ~~((board))~~ CRABoard.** The ~~((county road administration engineer))~~ executive director shall formulate a questionnaire for use by the counties designed to demonstrate to the ~~((board-their))~~ CRABoard each county's level of compliance with pertinent laws and regulations. The proposed questionnaire shall be reviewed and approved by the ~~((board))~~ CRABoard at its first meeting of each calendar year and may be revised and modified from year to year to reflect changes in statutory and regulatory requirements. The approved questionnaire shall be distributed to all counties no later than fifteen days after said meeting.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-030 Response by the county.** Each county engineer shall complete the questionnaire, certify as to its accuracy, have it approved by the county legislative authority or the county executive, and shall return it to the ~~((board))~~ executive director no later than April ~~((40))~~ 1st.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-040 Review by the ~~((board))~~ CRABoard.** The ~~((county road administration engineer))~~ executive director shall receive the completed questionnaires and prepare a report for the ~~((board))~~ CRABoard regarding the level of each county's compliance with pertinent laws and regulations. The ~~((board))~~ CRABoard shall review the ~~((engineer's))~~ executive director's report at its second regular meeting of each calendar year.

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

**WAC 136-04-050 Certificate of good practice.** The ~~((board))~~ CRABoard shall transmit a certificate to the state treasurer prior to May 1st of each year on behalf of those counties found to be in reasonable compliance with provisions of law relating to county road administration and with the standards of good practice as formulated and adopted by the ~~((board))~~ CRABoard.

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

**WAC 136-04-055 Revocation of certificate of good practice.** Whenever the ~~((board))~~ CRABoard finds that after issuance of a certificate a county fails to meet the requirements of such certification, the ~~((board))~~ CRABoard may revoke the previously issued certificate, or substitute a conditional certificate therefor, in the manner provided in WAC 136-04-080 and 136-04-090.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-060 Conditional certificate of good practice.** Whenever the ~~((board))~~ CRABoard finds that a county has failed to be in reasonable compliance with provisions of law or standards of good practice, the ~~((board))~~ CRABoard may transmit to the state treasurer on behalf of such county a conditional certificate, in the manner provided in WAC 136-04-080 and 136-04-090. Any such conditional certificate shall be issued subject to terms and conditions as deemed by the ~~((board))~~ CRABoard to be appropriate, and will authorize continued distribution to such county of all or a designated portion of its share of motor vehicle fuel taxes. A copy of such conditional certificate shall be sent to the legislative authority of the county on whose behalf it was issued. One of the conditions of such conditional certificate shall be a review by the ~~((board))~~ CRABoard at a subsequent meeting of the situation which caused its issuance.

AMENDATORY SECTION (Amending Order 31, filed 12/16/77)

**WAC 136-04-070 Review of conditional certificates.** At a designated subsequent meeting, the ((~~board~~)) CRABoard shall receive a report from the ((~~county road administration engineer~~)) executive director pursuant to each conditional certificate. The ((~~board~~)) CRABoard shall issue a certificate upon finding that the county has complied or is diligently attempting to comply with the terms and conditions of the conditional certificate. If the ((~~board~~)) CRABoard finds that the county has not satisfied or diligently attempted to satisfy the terms and conditions of the conditional certificate, it may, in the manner provided in WAC 136-04-080 and 136-04-090:

- ((~~a~~)) (1) Continue such conditional certificate for further review((~~r~~));  
 ((~~b~~)) (2) Modify such conditional certificate((~~r~~)); or  
 ((~~c~~)) (3) Revoke such conditional certificate.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-080 Notice of pending revocation or substitution.** The ((~~board~~)) CRABoard shall not consider revocation of a certificate or substitution of a conditional certificate or adverse modification of a conditional certificate for any county unless written notice of hearing thereon shall have been given to the legislative authority or county executive at least two weeks prior to the ((~~board~~)) CRABoard meeting at which such revocation, substitution or modification is to be considered. Such notice shall include an invitation for representation by the county at such hearing.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-090 Hearing on revocation or substitution.** At the time appointed for the hearing, the ((~~board~~)) CRABoard shall receive a report from the ((~~county road administration engineer~~)) executive director detailing those laws or regulations with which the county is not in reasonable compliance, or those terms and conditions of the conditional certificate which the county has failed to meet. The ((~~board~~)) CRABoard shall provide opportunity for presentation of written and/or oral testimony on behalf of the county and may thereupon:

- ((~~a~~)) (1) Continue or modify a conditional certificate;  
 ((~~b~~)) (2) Substitute a conditional certificate for a certificate; or  
 ((~~c~~)) (3) Revoke either the certificate or conditional certificate.

AMENDATORY SECTION (Amending Order 72, filed 3/21/90, effective 4/21/90)

**WAC 136-04-100 Revocation of certificate.** Upon revocation of a certificate or a conditional certificate by the ((~~board~~)) CRABoard, notice thereof shall be given to the state treasurer and to the legislative authority or county executive of the affected county. If any certificate is revoked without a conditional certificate being substituted therefore, the ((~~board~~)) CRABoard shall review the affected

county's(ies') compliance with pertinent laws and regulations at each subsequent regularly scheduled ((~~board~~)) meeting until such time as the ((~~board~~)) CRABoard finds that the county has reasonably complied or is diligently attempting to comply with such laws and regulations.

NEW SECTION

**WAC 136-04-110 Effect of noncompliance with standards of good practice.** Failure of a county to receive and maintain a certificate of good practice or a conditional certificate of good practice will, upon notification to the state treasurer by the CRABoard, result in the withholding from the county of a part of or its entire share of motor vehicle fuel tax distributable pursuant to RCW 46.68.120.

**Chapter 136-10 WAC**  
**DUTIES OF COUNTY ROAD ENGINEER—**  
**((~~COMMISSIONERS~~)) COUNTY LEGISLATIVE**  
**AUTHORITY**

AMENDATORY SECTION (Amending Order 73, filed 3/21/90, effective 4/21/90)

**WAC 136-10-020 Duties of county legislative authority.** Certain specific powers and duties are set forth in RCW 36.75.040, 36.75.050, 36.80.010, 36.81.121 and 36.81.130. In addition to specific statutory duties the legislative authority shall have the duty to develop written policies regarding county road department operation for the information and guidance of the county road engineer.

AMENDATORY SECTION (Amending Order 73, filed 3/21/90, effective 4/21/90)

**WAC 136-10-030 Duties of the county road engineer.** The various duties and responsibilities of the county road engineer are set forth in chapter 36.80 RCW. In addition to these specifically defined duties the county road engineer shall be guided by written policies regarding county road department operation as promulgated by the county legislative authority.

AMENDATORY SECTION (Amending Order 37, filed 1/24/80)

**WAC 136-11-010 Purpose.** The laws of the state of Washington specify in RCW 36.80.030 that the county road engineer shall have supervision, under the direction of the county legislative authority, of maintaining all county roads of the county. The purpose of ((~~this standard of good practice~~)) maintenance management is to recognize that the majority of road maintenance activities can be planned, scheduled and accomplished in a predetermined manner which will result in improved economics of operation, public safety and welfare, and preservation of investment of county roads: *Provided, however,* That ((~~this standard of good practice~~)) maintenance management shall not be mandatory and shall not be considered in the issuance of certificates of good practice.

AMENDATORY SECTION (Amending Order 37, filed 1/24/80)

**WAC 136-11-020 Goal.** This ~~((standard of good practice))~~ chapter is intended to encourage each county road engineer to apply basic management principles to road maintenance activities and to set forth specific goals and objectives relative to the results to be achieved.

AMENDATORY SECTION (Amending Order 37, filed 1/24/80)

**WAC 136-11-030 Objectives.** For the guidance and information of the county road engineer developing a maintenance management program the following objectives merit serious consideration:

(1) To provide, annually, opportunities for key personnel to receive initial training or refresher training in the principles of maintenance management.

(2) To develop countywide maintenance standards or levels of service for each major maintenance activity.

(3) To develop standards of performance for individuals and work crews setting forth both the quality and quantity of results anticipated.

(4) To prepare an annual maintenance program for adoption coincident with the annual budget and construction program which is to identify resource requirements in terms of manpower, equipment and materials, and the costs of each.

(5) To schedule, on an annual basis, major maintenance activities based on available budgeted maintenance funds so as to achieve an optimum balance of resources in the available time.

(6) To develop, and annually update, a long range equipment replacement program encompassing all major road department equipment so as to meet the equipment demands of the maintenance program.

(7) To establish an information reporting system capable of compiling data needed to allow comparison of actual performance with established performance standards and budgetary constraints.

(8) To discuss, at least biennially, with appropriate supervisory personnel the data regarding utilization of manpower, equipment and materials so as to assure the lowest attainable unit cost for each maintenance activity.

(9) To provide adequate information to all maintenance personnel regarding goals and objectives of the county's maintenance management program.

(10) To explore and evaluate new techniques, products, equipment and ideas which show promise of significantly improving performance or decreasing cost in any segment of the maintenance management effort.

**Chapter 136-12 WAC  
STANDARD(S) OF GOOD PRACTICE—VACANCY  
IN POSITION OF COUNTY ROAD ENGINEER**

AMENDATORY SECTION (Amending Order 74, filed 3/21/90, effective 4/21/90)

**WAC 136-12-010 Purpose.** The laws of the state of Washington make detailed provisions in chapter 36.80 RCW, for the employment of a county road engineer in each

county. This chapter specifies that he shall be employed full time: *Provided*, That in ~~((eighth and ninth class counties))~~ counties with a population of less than eight thousand he may be employed on a part-time basis and may be the county engineer of another county; that he shall be a registered and licensed professional civil engineer under the laws of this state; that he shall have supervision, under the direction of the county legislative authority, of all activities related to the county roads of the county, including maintenance; that he shall certify to the legislative authority all bills with respect to county roads; that he shall keep complete public records of all road department activities; that he shall prepare plans and specifications for all construction work on the county road system. Since it is unavoidable that vacancies will occur from time to time in the position of county road engineer, the following policy has been formulated to cover an interim period.

AMENDATORY SECTION (Amending Order 74, filed 3/21/90, effective 4/21/90)

**WAC 136-12-070 County engineer in ~~((eighth and ninth class))~~ counties with a population of less than eight thousand.** When the legislative authority of ~~((an eighth or ninth class county))~~ a county with a population of less than eight thousand chooses to employ a county road engineer on a part-time basis the terms of such employment shall be set forth in a contract adopted by resolution of the legislative authority. Such contract shall specify, but need not be limited to: Statement of legal responsibility, salary or wage arrangements, meetings with the legislative authority, travel expenses and relationship with regular employees. A copy of such resolution and contract shall be forwarded to the office of the county road administration board.

When the legislative authority chooses to contract with another county for services such contract shall be approved by resolution of both legislative authorities. Such contract shall specify, but need not be limited to: Statement of legal responsibility, salary or wage arrangements, meetings with the legislative authority, travel expenses and relationship with regular employees. A copy of the contract and both resolutions shall be forwarded to the office of the county road administration board. Any such contract shall be in accordance with the procedures of the Interlocal Cooperation Act, chapter 39.34 RCW.

AMENDATORY SECTION (Amending Order 74, filed 3/21/90, effective 4/21/90)

**WAC 136-12-080 Assistant county engineer in ~~((eighth and ninth class))~~ counties with a population of less than eight thousand.** When a legislative authority of ~~((an eighth or ninth class county))~~ a county with a population of less than eight thousand chooses to employ a licensed professional civil engineer on a part-time basis or contract with another county for the services of its licensed professional civil engineer, it shall designate by resolution a full-time employee as assistant county engineer. In such cases, the designated assistant county engineer shall perform the day to day supervision of the road department under the county engineer in accordance with policies established by the legislative authority.

AMENDATORY SECTION (Amending Order 75, filed 3/21/90, effective 4/21/90)

**WAC 136-14-030** (~~((Technique-))~~) **Process.** Each county engineer will be required to develop a priority programming (~~((technique))~~) process tailored to meet the overall roadway system development policy determined by his legislative authority. Items to be included and considered in the technique for roads shall include, but need not be limited to the following:

- (1) Traffic volumes;
- (2) Roadway condition;
- (3) Geometrics;
- (4) Matters of significant local importance.

The manner in which these various items are treated may vary from county to county. ~~((A number of acceptable priority programming techniques have been developed and may be used in whole or in part as a county technique.))~~

Examples are:

- 1. ~~Advance road programs manual—National Association of County Engineers.~~
- 2. ~~Administrative guide to priority programming for county roads—Automotive Safety Foundation, 1962.~~
- 3. ~~Priority array for urban arterials—Transportation improvement board.~~
- 4. ~~A study of the road system of Benton County—WSU, 1969.)~~

Bridge priorities shall be established in accordance with WAC 136-20-060. Accident records may be considered where their use will make a legitimate contribution. A description of the priority programming technique to be used shall be submitted by each county engineer to the county road administration board.

The county road administration board, upon request, will provide assistance to counties in the development, evaluation or modification of their priority programming process in order to meet the requirements of this rule.

AMENDATORY SECTION (Amending Order 75, filed 3/21/90, effective 4/21/90)

**WAC 136-14-040** **Application of** (~~((technique))~~) **process.** The (~~((technique))~~) priority programming process for roads shall be applied by the county engineer to all potential arterial projects in the county, and to local access road projects if directed by the legislative authority. The resulting priority array shall be updated not later than June 1 of each odd-numbered year and shall be consulted together with bridge priorities by the legislative authority and county engineer during the preparation of the proposed six-year transportation program as described in chapter 136-15 WAC.

AMENDATORY SECTION (Amending Order 75, filed 3/21/90, effective 4/21/90)

**WAC 136-14-050** **Certification.** In order to assure that priority arrays were available and were consulted during the preparation of the proposed six-year transportation program each year, the resolution of adoption of such program by each legislative authority shall include assurances to this effect. A copy of the adopting resolution shall be forwarded to the county road administration board together with the six-year transportation program.

AMENDATORY SECTION (Amending Order 75, filed 3/21/90, effective 4/21/90)

**WAC 136-14-060** **Inventory records.** Each priority programming (~~((technique))~~) process will be based, at least in part, on existing road conditions. It is required, therefore, that in each county an adequate road inventory system be maintained. The inventory system shall be updated no later than May 1 of each year to reflect work done and (~~((for))~~) improvements made during the previous year(~~(s)~~) in accordance with requirements of chapter 136-60 WAC.

**Chapter 136-15 WAC**  
**PROCEDURES FOR PREPARATION OF SIX-YEAR**  
**(~~((ROAD))~~) TRANSPORTATION PROGRAMS**

AMENDATORY SECTION (Amending Order 68, filed 7/25/88)

**WAC 136-15-010** **Purpose.** The laws of the state of Washington (RCW 36.81.121) require the preparation and annual updating of a six-year comprehensive (~~((road))~~) transportation program. The program shall be adopted by the county legislative authority before July 1 of each year and shall include all anticipated road and bridge construction projects, capital ferry expenditures, paths and trails projects and any other specified capital outlays for the following six-year period. The purpose of this chapter is to implement these statutory requirements with assurance that the program is based on a realistic assessment of available funding during the program period.

AMENDATORY SECTION (Amending Order 68, filed 7/25/88)

**WAC 136-15-020** **Contents of six-year program.** Each adopted (~~((six-year))~~) program shall designate the six-year time period included, the name of the county, the (~~((OFM assigned))~~) county number as assigned by the state office of financial management, the date(s) of the public hearing held to provide public input to the program, the date of the adoption by the legislative authority and the adopting resolution number. The adopted (~~((six-year))~~) program for submittal to CRAB shall consist of two parts:

- (1) A road fund revenue and expenditure analysis for the six-year time period; and
- (2) A program listing of specific projects.

**Chapter 136-16 WAC**  
**(~~((PROCEDURES FOR THE ANNUAL ROAD PRO-~~)**  
**~~GRAMMING FOR COUNTY ROAD PROJECTS))~~**  
**STANDARD OF GOOD PRACTICE—ANNUAL**  
**ROAD PROGRAM, CONSTRUCTION REPORT,**  
**AND DAY LABOR LIMITS**

AMENDATORY SECTION (Amending Order 76, filed 3/21/90, effective 4/21/90)

**WAC 136-16-010** **Submission of recommended annual road program.** As provided for in RCW 36.81.130, the county road engineer shall submit a recommended annual road program, hereinafter referred to as the annual program, to the county legislative authority on the first meeting in July or at such other time as may be specified pursuant to RCW

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36.40.071. The annual program shall include recommendations for all road and bridge construction projects and all road equipment purchases for the ensuing year. The legislative authority shall consider the recommended program and make any revisions deemed necessary.

**AMENDATORY SECTION** (Amending Order 38, filed 7/22/80)

**WAC 136-16-020 Contents of annual program.** The adopted annual program shall include, but not be limited to:

(1) A line item for estimated preliminary engineering costs~~(s)~~;

(2) A line item for estimated right of way acquisition costs; and

(3) A listing of all proposed construction ~~((work))~~ projects for the year ~~((giving))~~ including a ~~((very))~~ brief description of the work, the name, number and functional classification of the road, an estimate of the total cost of each project, including construction engineering but excluding preliminary engineering and right of way acquisition, and a notation as to whether construction work on each project is to be done by contract or day labor or both.

When a project involves both contract and day labor work the estimate shall be divided to show the estimated cost of each type of work. The sum of all construction costs shall be approximately equal to the amount included in the road fund construction budget for construction work. All construction projects shall be shown, regardless of funding source, including ~~((any))~~ all projects previously authorized and under way on which expenditures are anticipated during the program year. Projects previously authorized on which construction work is contemplated within the program year shall also be listed showing the estimated costs of work during the program year. In all cases, the total amount of proposed day labor construction costs, including construction administration and engineering, shall not exceed the day labor limit as computed in WAC 136-16-022.

**AMENDATORY SECTION** (Amending Order 76, filed 3/21/90, effective 4/21/90)

**WAC 136-16-022 Day labor limit.** The statutory day labor limit shall be computed in accordance with RCW 36.77.065 in the following manner:

(1) When the sum of all construction costs is in excess of four million dollars the day labor limit is eight hundred thousand dollars or fifteen percent of said sum, whichever is greater.

(2) When the sum of all construction costs is in excess of one million five hundred thousand dollars and less than four million dollars the day labor limit is five hundred twenty five thousand dollars or twenty percent of said sum, whichever is greater.

(3) When the sum of all construction costs is in excess of five hundred thousand dollars and less than one million five hundred thousand dollars the day labor limit is two hundred and fifty thousand dollars or thirty-five percent of said sum, whichever is greater.

(4) When the sum of all construction costs is less than five hundred thousand dollars the day labor limit shall be two hundred and fifty thousand dollars, unless the legislative authority, by resolution, elects the alternate procedure.

When such alternate procedure is chosen, an individual project limit of thirty-five thousand dollars shall apply, and each project shall be administered in accordance with chapter 136-18 WAC.

Determination by the county road administration board that a violation of RCW 36.77.065 has occurred shall be cause for issuance of a conditional certificate of good practice by the board as specified in WAC 136-04-060 on behalf of the county in which the violation occurred. The first condition of such a conditional certificate of good practice shall be that the county be required, at the next regular or special meeting of the county road administration board, to show cause why a certificate of good practice should not be denied to that county.

**AMENDATORY SECTION** (Amending Regulation 2, filed 12/13/67)

**WAC 136-16-030 Requirements of listing equipment.**

The annual program shall also include a list of all major road equipment purchases contemplated for the year, together with the estimated costs thereof. The total estimated cost of all equipment listed shall be approximately equal to the amount budgeted for equipment purchase in the annual equipment rental and revolving fund budget. The equipment list may include an item for miscellaneous minor equipment in any amount up to 10% of the estimated total cost. The list may also include a list of alternate or additional items of equipment ~~((totalling))~~ totaling up to 15% of the basic list cost to allow for unforeseen conditions.

**AMENDATORY SECTION** (Amending Order 76, filed 3/21/90, effective 4/21/90)

**WAC 136-16-042 Modification of program.** The adopted ~~((final))~~ annual program may not be changed, revised or increased except by unanimous vote of the members of the legislative authority who are present when the vote is taken. Such modifications shall be by resolution of the legislative authority listing each changed, revised or added project. A copy of each such resolution shall be forwarded to the county road administration board within thirty-days of its adoption.

**AMENDATORY SECTION** (Amending Order 76, filed 3/21/90, effective 4/21/90)

**WAC 136-16-050 Annual construction report.** At any time prior to April 1 of the year following the annual program year, the county road engineer shall submit an annual construction report to the county road administration board in accordance with forms and instructions provided by the county road administration board. The construction report shall show actual expenditures for all construction work including construction administration and engineering done during the previous budget year. Upon receipt of each county's annual construction report, the day labor limit as described in WAC 136-16-022 will again be calculated based upon the actual accomplishments as set forth in the annual construction report. A county which exceeds the day labor limit as computed as part of the annual program or as computed as part of the annual construction report shall be in violation of this standard of good practice.

**Chapter 136-18 WAC**  
**~~((ADMINISTRATION OF COUNTY CONSTRUCTED PROJECTS))~~ STANDARD OF GOOD PRACTICE—**  
**DAY LABOR CONSTRUCTION**

**AMENDATORY SECTION** (Amending Order 39, filed 10/29/80)

**WAC 136-18-010 Purpose.** ~~((The laws of the state of Washington ((RCW 36.77.065)) provide that))~~ RCW 36.77.065 provides for the construction ~~((of))~~ and improvement of county roads ~~((may be done))~~ by contract ~~((and/or day labor))~~, by day labor or a combination of day labor and contract. The purpose of this standard of good practice is to assure that all day labor construction work is accomplished within statutory limitations.

**AMENDATORY SECTION** (Amending Order 39, filed 10/29/80)

**WAC 136-18-020 Definitions.** For purposes of implementing ~~((the))~~ statutory requirements ~~((of RCW))~~ relative to day labor construction work, the following definitions shall apply:

(1) Construction - the building of a new road facility or improvement of an existing facility to a higher geometric or structural standard.

(2) Day labor construction - construction work performed by personnel carried on the county payroll using county owned, leased or rented equipment.

(3) Authorization date - the date that construction is authorized.

(4) Start of construction - the date that construction work commences.

~~((5))~~ (5) End of construction - the date that construction work is completed~~((+))~~.

~~((6))~~ (6) Completion date - the date on which a county road project is closed in the accounting records~~((+))~~.

~~((7))~~ (7) Estimated construction costs - the county engineer's estimate of the cost of contemplated construction work, not including preliminary engineering and right of way acquisition costs~~((+))~~.

~~((8))~~ (8) Estimated project costs - the county engineer's estimate of the cost of engineering, right of way acquisition, and construction~~((+))~~.

~~((9))~~ (9) True and complete construction costs - the accounting record of all construction costs attributed to a county road project from the authorization date to the completion date~~((+))~~.

~~((10))~~ (10) True and complete project costs - the accounting record of all engineering, right of way acquisition, and construction costs attributed to a county road project from the authorization date to the completion date~~((+))~~.

~~((11))~~ (11) Day labor county road project - day labor construction authorized by action of the county legislative authority in those counties where a cumulative dollar limit applies to all day labor construction.

~~((12))~~ (12) Special day labor county road project - day labor construction which will result in a facility with independent utility, authorized by action of the county legislative authority in those counties where the total construction budget is less than five hundred thousand

dollars and the legislative authority has by resolution elected to perform day labor construction in an amount not to exceed thirty-five thousand dollars including labor, equipment and materials on any one project. ~~((The following types of construction will normally have sufficient independent utility to constitute separate projects within the meaning of RCW 36.77.065))~~

~~Type I~~—Roadway construction—a project which includes units of work or classes of work such as clearing, grading, drainage, base, gravel surfacing, traffic and pedestrian services (except street lighting and electrical traffic control devices), roadside development and ancillary operations.

~~Type II~~—High type surfacing—a project which includes units of work or classes of work such as surfaces of light bituminous, road mix, ~~(travel)~~ gravel plant mix, pug mill mix, hot plant mix and concrete.

~~Type III~~—Structures—bridges over 20 feet in length, tunnels, sea walls, irrigation canals, and livestock crossings.

~~Type IV~~—Street lighting and electrical traffic control devices.

**AMENDATORY SECTION** (Amending Order 39, filed 10/29/80)

**WAC 136-18-030 ~~((Authorization of projects))~~ Authorization of day labor projects.** Every proposed day labor county road project and special day labor county road project shall be a part of the county's annual construction program as defined in RCW 36.81.130 and WAC 136-16-020. Additions to the program, and/or substitutions in the program, may be made by unanimous action of the county legislative authority at any time as provided in RCW 36.81.130. No construction work shall be done on any project until it has been authorized by resolution of said authority. The resolution shall include ~~((a))~~ ~~((a))~~:

(1) A brief description of the project~~((+))~~;

(2) A vicinity map showing the location of the project and its limits, provided that in lieu of individual vicinity maps, a single vicinity map showing the location of all projects may be included with the resolution adopting the annual program~~((+))~~;

(3) Identification of the project in terms of the officially adopted annual program~~((+))~~;

(4) The county road engineer's estimate of construction costs prepared pursuant to the completion of such preliminary engineering; and

(5) Construction plans as shall be necessary and sufficient.

**AMENDATORY SECTION** (Amending Order 35, filed 1/3/79)

**WAC 136-18-060 Day labor project records.** All day labor and special day labor project cost records shall be kept in the manner prescribed by the BARS manual. Records of quantities shall be kept in a manner consistent with original project estimates. The project records shall contain, but shall not be limited to, the following: ~~((a))~~

- (1) Dated authorizing resolution(~~(-b))~~;
- (2) Vicinity map showing project location and limits(~~(-e))~~;
- (3) County road engineer's estimate(~~(-d))~~;
- (4) Affidavit of preconstruction publication required by RCW 36.77.070(~~(-e))~~;
- (5) Documentation of start and end of construction dates(~~(-f))~~;
- (6) Affidavit of post-construction publication showing true and complete project cost as required by RCW 36.77.-070.

AMENDATORY SECTION (Amending Order 39, filed 10/29/80)

**WAC 136-18-070 ((Records)) Special day labor project reporting to CRAB.** Each county engineer shall submit to CRAB a copy of each resolution authorizing a special day labor county road project whose estimated construction cost exceeds 75 percent of the day labor limit. Upon completion of each of these projects, or no later than March 1 of the succeeding year, the county engineer shall furnish to CRAB a copy of the record of true and complete construction costs. On any project where true and complete construction costs have exceeded the statutory day labor limit, the county engineer shall also provide to CRAB an explanation of the circumstances resulting in such over-expenditure.

AMENDATORY SECTION (Amending Order 39, filed 10/29/80)

**WAC 136-18-080 Review of day labor compliance by CRAB.** The ~~((CRAB engineer))~~ executive director of the county road administration board shall have authority to investigate cases of apparent violations of day labor limits and ~~((shall))~~, for special day labor projects, prepare a listing of all ~~((special day labor))~~ such projects for which actual expenditures have exceeded the statutory day labor limit during the previous calendar year for review by the county road administration board at its ~~((quarterly))~~ second regular meeting ~~((in April))~~ of each calendar year.

AMENDATORY SECTION (Amending Order 27, filed 1/27/76)

**WAC 136-18-090 Action on day labor compliance by CRAB.** Determination by the county road administration board that a violation of RCW ~~((36.77.060))~~ 36.77.065 has occurred shall be cause for issuance of a conditional certificate of good practice by the board as specified in WAC 136-04-060 on behalf of the county in which the violation occurred. The first condition of such a conditional certificate of good practice shall be that the county be required, at the next regular or special meeting of the county road administration board, to show cause why a certificate of good practice should not be denied to that county. ~~((Immediate notification of the board's findings shall be given to the highway commission for further possible action pursuant to RCW 47.08.100.))~~

**Chapter 136-20 WAC**  
**STANDARD OF GOOD PRACTICE—INSPECTION**  
**OF BRIDGES ON COUNTY ROADS**

AMENDATORY SECTION (Amending Order 83, filed 10/23/91, effective 11/23/91)

**WAC 136-20-020 Inventory.** Each county road engineer shall have available in his office a complete inventory of all bridges on the county road system. The inventory shall list the location of each bridge by the state road log number and appropriate milepoint, and shall include such other information as the engineer deems necessary. In addition, all data required for the state of Washington inventory of bridges and structures (SWIBS) data base system as maintained by the Washington state department of transportation (WSDOT) shall be submitted to the WSDOT ~~((local programs))~~ TransAid Service Center bridge engineer on appropriate ~~((forms))~~ media furnished or otherwise approved by the WSDOT.

AMENDATORY SECTION (Amending Order 83, filed 10/23/91, effective 11/23/91)

**WAC 136-20-030 Inspection.** Each county road engineer shall be responsible for all routine and special inspections of all bridges on the county road system in accordance with the National Bridge Inspection Standards (NBIS) as promulgated and periodically revised by the WSDOT ~~((local programs))~~ TransAid Service Center office. The county road engineer shall note the date of all inspections and any changes since the previous inspection on the SWIBS form and submit all such forms to the WSDOT ~~((local programs))~~ TransAid Service Center bridge engineer within ninety days of each inspection.

AMENDATORY SECTION (Amending Order 83, filed 10/23/91, effective 11/23/91)

**WAC 136-20-040 Certification.** Prior to April 1 of each calendar year, WSDOT assistant secretary for ~~((local programs))~~ the TransAid Service Center will provide ~~((CRAB))~~ the following to the CRAB board:

- (1) A listing on a county-by-county basis of all county bridges which have not had a regular SWIBS inspection report submitted within the previous thirty months; and
- (2) A listing on a county-by-county basis of all county bridges which have not had a required special inspection report submitted within six months after the required inspection date; and
- (3) A listing of all counties which are not in compliance with the requirements of the National Bridge Inspection Standards and the status of efforts toward achieving such compliance.

Any county which is not in compliance with the NBIS or has a bridge or bridges on any of the above listings shall be assumed to be not in compliance with bridge inspection procedures.

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AMENDATORY SECTION (Amending Order 36, filed 1/3/79)

**WAC 136-20-050 Failure to comply.** Failure of a county to be shown in compliance with required bridge inspection procedures may be cause for the county road administration board to withhold a certificate of good practice on behalf of that county in accordance with the procedures of chapter 136-04 WAC.

AMENDATORY SECTION (Amending Order 83, filed 10/23/91, effective 11/23/91)

**WAC 136-20-060 Engineer's report.** Each county road engineer shall furnish the county legislative authority with a written resume of the findings of the bridge inspection effort. This resume shall be made available to said authority and shall be consulted during the preparation of the proposed six-year transportation program revision. The resume shall include the county road engineer's recommendations as to replacement, repair or load restriction for each deficient bridge. The resolution of adoption of the six-year transportation program shall include assurances to the effect that the county road engineer's report with respect to deficient bridges was available to said authority during the preparation of the program.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 136-24-010 Budget and accounting system.

AMENDATORY SECTION (Amending Order 79, filed 8/16/90, effective 9/16/90)

**WAC 136-28-010 Purpose.** The National Highway Safety Act of 1966 requires that all states, in cooperation with their various local governments, collect, compile and make reports to the National Highway Safety Bureau of Accident Statistics in each state. In order to implement this requirement the county road administration board has acted to coordinate the activities of the county road engineers and the state patrol. Each county road engineer is (~~now requested~~) to cooperate in this effort by following the procedure outlined below.

AMENDATORY SECTION (Amending Order 79, filed 8/16/90, effective 9/16/90)

**WAC 136-28-020 Procedure.** The state patrol collects accident reports from all law enforcement agencies and receives accident reports from individual drivers. Periodically, the state patrol will send or deliver to the county engineer's office in each county reports concerning accidents occurring on county roads in that county.

The county engineer will analyze each report and indicate within the appropriate spaces on the report the county number, the county road number, the milepoint and, if applicable, the road number of the intersecting county road at which the accident occurred. The county engineer shall also indicate in the appropriate space as to whether the location is rural or urban.

The coded reports will be returned to the records section of the state patrol within two weeks of receipt.

Should the county engineer determine any accident report location is not on a road contained within the latest county road log, he/she shall return the accident report, uncoded, with a transmittal letter indicating to the best of his/her knowledge the appropriate jurisdiction such as private road, state highway, city street, other state agency, federal agency, etc.

AMENDATORY SECTION (Amending Order 79, filed 8/16/90, effective 9/16/90)

**WAC 136-28-030 Coding detail.** (1) The county number shall be that particular number assigned to each county by the state office of financial management for county identification purposes.

(2) The county road number shall be that particular five-digit number, including both leading and trailing zeros if applicable, assigned to each county road according to the county's latest county road log. No local names or numbers or (~~FAS numbers~~) other nomenclature shall be used in coding.

(3) The milepoint shall be determined as accurately as practicable from a comparison of information on the accident report with the latest county road log.

(4) Accidents at an intersection with a state highway will be coded by the state department of transportation.

(5) To ensure uniformity, accidents at the intersection of any two county roads shall be coded to a road in the following priority order:

- (a) The road with the higher functional class;
- (b) The road that is the through route;
- (c) The road with the lowest road number.

(6) Accidents on roads and/or intersections with dual city-county or county-county responsibilities shall be coded in general accordance with the procedures outlined herein based on a mutual understanding between the several jurisdictions involved.

AMENDATORY SECTION (Amending Order 84, filed 10/23/91, effective 11/23/91)

**WAC 136-40-030 Adoption and submittal.** Each county legislative authority shall formally adopt (~~no later than December 31, 1992,~~) a utility policy regarding accommodation of utilities on county road rights of way that includes all the requirements enumerated in WAC 136-40-020. A copy of such utility policy, including all updates, amendments and modifications as they may from time to time become necessary, shall be forwarded to the county road administration board (~~by January 31, 1993~~) within thirty days of adoption.

AMENDATORY SECTION (Amending Order 80, filed 11/6/90, effective 12/7/90)

**WAC 136-40-040 (~~Existing policies~~) Conflicts with state and federal requirements.** (~~Counties with existing utility policies shall not be required to meet the requirements of WAC 136-40-030 unless the existing utility policy (1) has not been formally adopted by the county legislative authority, and/or (2) is not in substantial conformance with the~~)

~~content requirements of WAC 136-40-020.)~~ Nothing in this section shall eliminate or modify any requirements, procedures, or authorities of the Washington state department of transportation, the Washington utilities and transportation commission, the Federal Highway Administration or any other state or federal agency.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |  |
|----------------|--|
| WAC 136-40-050 | Updates, amendments, and modifications.        |
| WAC 136-40-060 | Conflicts with state and federal requirements. |

#### **Chapter 136-60 WAC STANDARD OF GOOD PRACTICE— MAINTENANCE OF COUNTY ROAD LOGS**

AMENDATORY SECTION (Amending Order 64-P, filed 11/19/86)

**WAC 136-60-010 Purpose.** ~~((Section 1(2) chapter 120, Laws of 1985.))~~ RCW 46.68.124(2) provides that the county road administration board (CRABoard) shall maintain the county road log for the purpose of computing estimated county road replacement costs and estimated annual maintenance costs for county fuel tax allocations. It further provides that each county shall submit changes, corrections and deletions (i.e., "updates") to the CRABoard which in turn are subject to validation prior to inclusion in the road log maintained by the CRABoard. This WAC chapter describes the manner in which the CRABoard will administer this responsibility.

AMENDATORY SECTION (Amending Order 64-P, filed 11/19/86)

**WAC 136-60-030 Submittal of annual updates.** Each county shall be responsible for maintaining current information regarding its road log and, no later than May 1 of each year, submit an updated road log ~~((as of January 1))~~ for its complete road system with all data elements as of December 31st of the preceding year. This annual update must be on the computer-readable medium written in the computer data base program format as prescribed by the CRABoard. All updates involving changes in control fields must include supporting documentation as required in WAC 136-60-050.

AMENDATORY SECTION (Amending Order 64-P, filed 11/19/86)

**WAC 136-60-060 Utilization of common computer data base.** Each county shall utilize a common computer data base for the maintenance and updating of its county road log. This data base shall be prescribed by the CRABoard and each county shall be responsible for the purchase and installation of the requisite software on its own ~~((IBM or IBM compatible))~~ DOS-compatible microcomputer.

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

**WAC 136-100-010 Purpose.** ~~((Section 19(5), chapter 49, Laws of 1983 1st ex. sess. (the act).))~~ RCW 36.79.060 provides that the county road administration board (CRABoard) shall administer the rural arterial program (RAP) established by chapter 36.79 RCW. This chapter describes the manner in which the CRABoard will implement the several provisions of ~~((the act))~~ chapter 36.79 RCW.

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

**WAC 136-100-020 Adoption of rules.** The CRABoard shall adopt rules ~~((in accordance with the provisions of the act))~~ for purposes of administering the RAP regarding the following:

- (1) Apportionment of rural arterial trust account (RATA) funds to regions.
- (2) RAP projects in the six-year program.
- (3) Regional prioritization of RAP projects.
- (4) Preparation of RAP budget and program.
- (5) Eligibility for RATA funds.
- (6) Allocation of RATA funds to approved RAP projects.
- (7) CRAB/County contract.
- (8) Processing of vouchers.
- (9) Audit responsibilities.
- (10) Functional classification.
- (11) Design standards for RAP projects.
- (12) Matching requirements.
- (13) Joint county RAP/Rural UAB projects.
- (14) Emergent projects.
- (15) Reports to the legislature.
- (16) Other matters deemed necessary by the CRABoard.

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

**WAC 136-100-030 Major collectors and minor collectors.** The ~~((act))~~ statute specifies that rural arterials classified as major collectors and rural arterials classified as minor collectors shall be eligible for RATA funding. In developing project priorities and in approving RAP projects the CRABoard shall prioritize all prospectus applications to determine the priority rating of each proposed project in each region in relation to all other proposed projects in each region ~~((without regard to their classification as major and minor collectors)).~~

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

**WAC 136-100-040 Delegation of authority.** In order to assure effective and timely administration of the RAP, the CRABoard may delegate authority in specific matters to its executive director. Delegation may be relative to signing of contracts, approval of RAP project vouchers, approval of change of scope of a project and other matters as may be determined by the CRABoard.

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

**WAC 136-110-010 Purpose.** ~~((Sections 4 and 5, chapter 49, Laws of 1983 1st ex. sess.))~~ RCW 36.79.030 and 36.79.040 provides that rural arterial trust account (RATA) funds available for expenditure by the CRABoard shall be apportioned to the five regions for expenditure upon county arterials in rural areas in the following manner:

(1) One-third in the ratio which the land area of the rural areas of each region bears to the total land area of all rural areas of the state;

(2) Two-thirds in the ratio which the mileage of county major and minor collectors in rural areas of each region bears to the total mileage of county major and minor collectors in all rural areas of the state.

This chapter describes how this statutory language will be implemented by the CRABoard.

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

**WAC 136-110-030 Computation of road mileage ratio.** The ratio which the mileage of county major and minor collectors in rural areas of each region bears to the total mileage of county major and minor collectors in all rural areas of the state shall be computed from information shown in the county road log maintained by the ~~((secretary of transportation))~~ CRABoard as of July 1 ~~((, 1985 and each two years thereafter))~~ of each odd-numbered year.

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

**WAC 136-110-040 Apportionment percentages established.** At the first CRABoard meeting of each biennium the CRABoard shall establish apportionment percentages for the five RAP regions based on the computations described in WAC 136-110-010 ~~((and))~~ through 136-110-030. The apportionments so established shall remain in effect for the remainder of the biennium.

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

**WAC 136-110-050 Apportionment to regions.** The apportionment percentages established in accordance with WAC 136-110-040 shall be used once each quarter by the ~~((board))~~ CRABoard to apportion funds credited to the rural arterial trust account (RATA) to the five regions. The funds so apportioned shall be allocated as described in chapter 136-160 WAC by the CRABoard to counties for construction of approved rural arterial projects.

**Chapter 136-120 WAC  
RAP PROJECTS IN THE SIX-YEAR TRANSPORTATION PROGRAM**

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

**WAC 136-120-010 Purpose.** ~~((Sections 8 and 10, chapter 49, Laws of 1983 ex. sess.))~~ RCW 36.79.080 and 36.79.090 require that counties list prospective RAP projects

in their respective six-year transportation programs and that the CRABoard review such programs. This WAC chapter describes the manner in which the CRABoard will implement these provisions in its administration of the RAP program.

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

**WAC 136-120-020 Six-year program adoption.** ~~((The))~~ Each county's six-year transportation program shall be prepared and adopted in accordance with RCW 36.81.121, and one copy forwarded to the CRAB office no later than August 1st of each year.

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

**WAC 136-120-030 RAP projects in six-year program.** ~~((The))~~ Each county's six-year transportation program in each even-numbered year shall include all projects for which the county may request RATA funds during the succeeding biennium. Project cost estimates for prospective RAP projects shall be considered preliminary ~~((;))~~ and subject to revision until a project application is submitted.

**Chapter 136-130 WAC  
REGIONAL PRIORITIZATION OF RAP PROJECTS  
(~~(TO BE APPROVED IN 1984))~~)**

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

**WAC 136-130-010 Purpose.** ~~((Sections 8 and 10, chapter 49, Laws of 1983 1st ex. sess.))~~ RCW 36.79.080 and 36.79.090 provide that the CRABoard shall determine the priority of specific improvement projects based upon the rating of each proposed improvement in relation to all other proposed improvements within each region, taking into account, but not limited to, the following five factors:

- (1) Its structural ability to carry loads upon it;
- (2) Its capacity to move traffic at reasonable speeds;
- (3) Its adequacy of alignment and related geometrics;
- (4) Its accident experience; and
- (5) Its fatal accident experience.

This chapter describes how this statutory language will be implemented by the CRABoard.

AMENDATORY SECTION (Amending WSR 94-10-022, filed 4/27/94, effective 5/28/94)

**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))~~ \$500,000 per project and ~~((fifty percent))~~ 50% 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))~~ 40 points for structural condition, ~~((forty))~~ 40 points for geometrics, ~~((ten))~~ 10 points for traffic volume ~~((and ten))~~, 10 points for traffic accidents and ~~((five))~~ 5 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 66, filed 10/15/87)

**WAC 136-150-010 Purpose.** ~~((Language in section 14, chapter 49, Laws of 1983 [1st] ex. sess.)) RCW 36.79.140 provides that only those counties that ~~((1))~~, during the preceding twelve months ~~((1))~~, have spent all revenues collected for road purposes only for such purposes, including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution are eligible to receive funds from the rural arterial trust account (RATA); provided, however, that counties ~~((of the 7th class))~~ with a population of 5,000 or more but less than 8,000 shall be exempt from this requirement. This ~~((WAC))~~ chapter describes how this statutory language will be implemented by the CRABoard ~~((beginning with the 1988 county budget year)).~~~~

AMENDATORY SECTION (Amending Order 66, filed 10/15/87)

**WAC 136-150-020 Implementing the eligibility requirement.** ~~((The CRABoard will approve RAP projects, and allocate RATA funds to projects, only in eligible counties.))~~ The CRABoard will ascertain the amount of the total road levy fixed in each county and the amount diverted, if any, for any services to be provided in the unincorporated area of the county in accordance with RCW 36.33.220. The CRABoard will compare the amount actually spent each year for traffic law enforcement with the amount diverted to determine whether or not the county is eligible to receive RATA funds.

AMENDATORY SECTION (Amending Order 66, filed 10/15/87)

**WAC 136-150-022 Ascertaining the expenditures for traffic law enforcement.** In those counties where diverted road levy has been budgeted for traffic law enforcement, and which have a RAP project awaiting approval by the CRABoard, the county sheriff will be required to submit a certification showing the actual expenditure for traffic law enforcement in the previous budget year, provided that counties ~~((of the 7th class))~~ with a population of 5,000 or more but less than 8,000 shall be exempt from this requirement.

AMENDATORY SECTION (Amending Order 66, filed 10/15/87)

**WAC 136-150-023 Identifying eligible counties.** Counties eligible to receive RATA funds shall be:

(1) Those in which there has been no diversion of the county road levy ~~((;))~~;

(2) Those in which the actual expenditures for traffic law enforcement have been equal to, or greater than, the amount of diverted road levy budgeted for traffic law enforcement ~~((, and))~~;

(3) Those ~~((of the 7th class))~~ with a population of 5,000 or more but less than 8,000; and

(4) Those expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050.

AMENDATORY SECTION (Amending WSR 94-16-111, filed 8/2/94, effective 9/2/94)

**WAC 136-161-060 RAP program cycle—Total project rating and priority array.** CRAB staff will review all final prospectuses and ensure that:

(1) All necessary information is included;

(2) The project is from the pool of preliminary prospectuses;

(3) The project is eligible for RATA funding;

(4) The project is on the current, adopted six-year transportation program;

(5) The project schedule indicates that the construction of the project will begin not later than six years from the date of project approval by the CRABoard; and

(6) The total project priority rating is mathematically correct and the visual rating scores determined during the CRAB field review are included.

After CRAB staff review, all accepted final prospectuses within each region will be placed in a declining total project rating array in accordance with procedures specified in chapter 136-130 WAC. After review by the CRABoard at its next regular meeting, the priority array for each region will be provided to each county in the region. These arrays will be preliminary only and will be provided to the counties to assist them in their internal budgeting and programming. No notations as to whether a particular project will or will not be funded will be included.

AMENDATORY SECTION (Amending WSR 94-16-111, filed 8/2/94, effective 9/2/94)

**WAC 136-161-070 RAP program cycle—Selection and approval of projects for RATA funding.** (1) At its last regular meeting before the beginning of each biennium, the ~~((CRABoard))~~ CRABoard will select projects and allocate anticipated RATA funds to projects in each region. The preliminary priority arrays as developed in WAC 136-161-060 will be updated to exclude any county which is ineligible under chapter 136-150 WAC, and projects will be selected from these arrays. Selections will be made in each region in declining priority rank order, provided that:

(a) No county shall be allocated RATA funds in excess of its regional county limit as specified in WAC 136-161-080 ~~((;))~~; and

(b) Any projects which were partially funded in the prior biennium shall, unless otherwise requested by the county, be fully funded before new projects are selected. Ties in total rating points will be broken by the CRABoard in favor of the county having the lesser total amount of previously allocated RATA funds.

(2) The state-wide net amount of RATA funds available for allocation to projects in the project program period will be based on the most recent state fuel tax revenue forecast prepared quarterly by the department of transportation, less estimated administrative costs, and less any amounts set aside for emergent projects as described in WAC 136-161-100. The total amount of RATA funds available for allocation to projects in a region (i.e., "forecasted regional

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apportionment amount") will be based on the regional apportionment percentages of the statewide net amount as determined in chapter 136-110 WAC.

(3) For the biennium beginning July 1, 1995, the project program period will be the next four state fiscal years (1996, 1997, 1998 and 1999, beginning July 1, 1995, and ending June 30, 1999). For the biennium beginning July 1, 1997, the project program period will begin July 1, 1999 and end June 30, 2001. For each biennium thereafter, the project program period will be two years in length, beginning and ending two years later than the preceding project program period.

(4) The RATA amounts allocated to projects in the first year of the biennium are limited to 90% of the net amount estimated to be available to each region for the project program period, with the remaining 10% allocated at such time as deemed appropriate by the CRABoard.

(5) Acceptance of the RATA allocation for a project by the full execution of a CRAB/county contract as described in chapter 136-170 WAC constitutes agreement to complete the project in compliance with the scope, design and project limits in the final prospectus. All material changes to the scope, design or project limits must be approved by the CRABoard prior to the commencement of construction.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 136-161-100 Use of RATA funds for emergent projects.

AMENDATORY SECTION (Amending WSR 94-16-112, filed 8/2/94, effective 9/2/94)

**WAC 136-170-010 Purpose.** RCW 36.79.050 and 36.79.060 provide for CRABoard administration of the rural arterial program (RAP). This chapter describes the individual project contract between the CRABoard and a county ~~((f))~~(CRAB/county contract~~((f)))~~ to be used to administer each approved RAP project.

AMENDATORY SECTION (Amending WSR 94-16-112, filed 8/2/94, effective 9/2/94)

**WAC 136-170-030 Terms of CRAB/county contract.**

(1) For projects for which RATA funds are allocated before July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding (and the county shall be entitled to receive RATA funds) only if such contract is signed and returned to the CRABoard within forty-five days of its mailing ~~((by))~~ ~~((to))~~ by the CRABoard.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer.

(d) The county will notify the CRABoard when a construction contract has been awarded and/or when con-

struction has commenced, and when the project has been completed.

(e) The CRABoard will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the CRAB office, subject to the availability of RATA funds apportioned to the region; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.

(f) The county will reimburse the RATA in the event a project postaudit reveals improper expenditure of RATA funds.

(2) For projects for which RATA funds are allocated on or after July 1, 1995, the CRAB/county contract shall include, but not be limited to, the following provisions:

(a) The contract shall be valid and binding, and the county shall be entitled to receive RATA funding in accordance with the vouchering/payment process as described in chapter 136-180 WAC, only if the contract is properly signed and returned to the CRABoard within 45 calendar days of its mailing by the CRABoard.

(b) The county certifies that it is in compliance with the provisions of chapter 136-150 WAC.

(c) The project will be constructed in accordance with the scope, design and project limits as described in the final prospectus and in accordance with the plans and specifications approved by the county engineer.

(d) The county will notify the CRABoard when a construction contract has been awarded and/or when construction has commenced, and when the project has been completed.

(e) The CRABoard will reimburse counties on the basis of monthly progress payment vouchers received and approved on individual projects in the order in which they are received in the CRAB office, subject to the availability of RATA funds apportioned to the region; provided however, that if insufficient RATA funds are available or the legislature fails to appropriate sufficient RATA funds, payment of vouchers may be delayed or denied.

(f) The county will reimburse the RATA in the event a project postaudit reveals improper expenditures of RATA funds.

(g) The county may be required to reimburse the RATA in the event of early termination in accordance with the provisions of chapter 136-167 WAC.

(h) The county agrees to amend the contract in cases where:

~~((a))~~ (i) Additional RATA funds have been requested and approved under chapter 136-165 WAC;

~~((b))~~ (ii) Other relief from the original scope, design or project limits has been approved by the CRABoard under chapter 136-165 WAC; or

~~((c))~~ (iii) A project has been terminated without full RATA reimbursement under WAC 136-167-030(2).

(i) The county agrees to provide periodic project development progress reports as requested by the CRABoard.

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

**WAC 136-180-010 Purpose.** (~~Section 17, chapter 49, Laws of 1983 ex. sess.~~) RCW 36.79.160 provides that counties shall submit vouchers for payment of the RATA share of the cost of work completed on each RAP project. This (~~WAC~~) chapter describes the manner in which the CRABoard will implement the provisions (~~of the act~~) related to payment of vouchers.

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

**WAC 136-180-030 Voucher approval.** The county constructing each RAP project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each RAP project for the payment of the RATA share of the project cost. The (~~chairman~~) chairperson of the CRABoard or his/her designated agent(s) shall approve such vouchers for payment to the county submitting the voucher.

AMENDATORY SECTION (Amending WSR 94-10-021, filed 4/27/94, effective 5/28/94)

**WAC 136-180-040 Payment of vouchers.** Upon approval of each RAP project voucher by the (~~chairman~~) chairperson of the CRABoard or his/her designated agent(s), it shall be transmitted to the 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.

AMENDATORY SECTION (Amending Order 60, filed 5/17/85)

**WAC 136-190-010 Purpose.** (~~Chapter 49, Laws of 1983, extraordinary session (the act),~~) RCW 36.79.060 provides that the county road administration board (CRABoard) shall administer the rural arterial program (RAP). This WAC chapter describes the provisions for audit of those RAP projects approved by the CRABoard.

**Chapter 136-200 WAC  
FUNCTIONAL CLASSIFICATION FOR THE RAP  
PROGRAM**

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

**WAC 136-200-010 Purpose.** (~~Section 2, chapter 49, Laws of 1983 ex. sess.,~~) RCW 36.79.020 provides that rural arterial trust account (RATA) funds shall be expended for the construction and improvement of county major and minor collectors in rural areas. This (~~WAC~~) chapter describes (~~that~~) the manner in which the major and minor collector designations are made. The source document is entitled: *Guidelines: For Amending Urban Boundaries, Functional Classification, and/or Federal Aid Systems*, (~~December 1982~~) August 1990, by WSDOT, and includes all subsequent amendments.

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

**WAC 136-200-020 Functional classification.** The Federal Highway Administration (FHWA) has developed a system of functional classification for highways, roads and streets which divides these facilities into groups having similar characteristics of providing mobility and/or land access. All rural roads are presently categorized into (~~four~~) the following functional classifications: Principal arterials, minor arterials, major and minor collectors, and local roads.

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

**WAC 136-210-010 Purpose.** (~~Section 6, chapter 49, Laws of 1983 1st ex. sess.~~) RCW 36.79.060(2) provides that the CRABoard shall adopt (~~reasonable~~) reasonably uniform design standards for county major and minor collectors that meet the requirements for trucks transporting commodities. This chapter describes how this statutory requirement will be implemented by the CRABoard.

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

**WAC 136-210-020 Applicable design standards.** Geometric design of all RAP projects including all bridges shall, unless otherwise approved by the CRABoard, be in accordance with the (~~local agency guidelines (LAG) manual published by the WSDOT, Division 13, Rural Area Design Standards~~) city and county design standards for the construction of urban and rural arterials and collectors as adopted November 30, 1994, in accordance with RCW 35.78.030 and 43.32.020.

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

**WAC 136-210-030 Deviations from design standards.** Deviation from the specified design standards may be requested by the county engineer in responsible charge of the project when circumstances exist which would make application of adopted standards exceedingly difficult. Whenever a deviation request is to be made on a project, it shall be so noted on the project application submitted in accordance with WAC (~~136-160-020~~) 136-161-020. Request for deviation shall be made to the (~~state aid engineer in accordance with the LAG manual~~) WSDOT assistant secretary for transaid.

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

**WAC 136-210-040 Report of (~~state aid engineer~~) assistant secretary for transaid.** Whenever the CRABoard meets to approve RAP projects the (~~state aid engineer~~) assistant secretary for transaid shall provide a written report on his action in response to deviation requests, if any, made on individual projects. Failure of the (~~state aid engineer~~) assistant secretary for transaid to report in response to a deviation request within thirty days of receipt of such request shall be considered as approval.

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

**WAC 136-210-050 Project approval with deviation.** After having received the report of the ~~((state aid engineer))~~ assistant secretary for transaid in response to deviation requests, the CRABoard shall proceed with RAP project approval in accordance with WAC ~~((136-160-050))~~ 136-161-050. Proposed projects for which the deviation request has been denied shall not be approved.

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

**WAC 136-220-010 Purpose.** ~~((Section 12, chapter 49, Laws of 1983 1st ex. sess.))~~ RCW 36.79.120 provides that the CRABoard shall establish matching requirements for counties receiving funds from the rural arterial trust account (RATA). This chapter describes how this statutory requirement will be implemented by the CRABoard.

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

**WAC 136-220-030 Use of ~~((RATA funds))~~ other funds to match ~~((other))~~ RATA funds.** A county with an approved RAP project may use ~~((RATA funds to match))~~ any ~~((applicable))~~ other funds available for such project including federal, other state, private and local funds, provided that the county will be required to use such other funds to match any RATA funds allocated to the project with a minimum of 20% ~~((matching))~~ other funds in the PSR and NWR and 10% ~~((matching))~~ other funds in the SWR, NER and SER. ~~((Projects involving federal highway program funds will be administered through the state aid division of WSDOT except that reimbursement of RATA funds will be through the CRABoard.))~~

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 136-250-010 Purpose.
- WAC 136-250-020 Report of road levy revenues.
- WAC 136-250-030 Report of expenditures.
- WAC 136-250-040 Report of road levy expenditures.
- WAC 136-250-050 Report to the legislative transportation committee.

**Chapter 136-300 WAC  
~~((GENERAL))~~ ADMINISTRATION ~~((PROCEDURES))~~  
OF THE COUNTY ARTERIAL PRESERVATION PROGRAM**

AMENDATORY SECTION (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-300-010 Purpose and authority.** ~~((Section 103(4), chapter 42, Laws of 1990 (the act.))~~ RCW 46.68.095(4) provides that the county road administration board (CRABoard) shall administer the county arterial preservation program (CAPP) and the county arterial

preservation account (CAPA) established by this ~~((act))~~ statute. This chapter describes the manner in which the CRABoard will implement the several provisions of the ~~((act))~~ statute.

AMENDATORY SECTION (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-300-020 Adoption of rules.** The CRABoard shall adopt rules in accordance with the provisions of the ~~((act))~~ statute for purposes of administering the CAPP regarding the following:

- (1) Distribution of county arterial preservation account (CAPA) funds.
- (2) Pavement management systems.
- (3) Preparation of annual county arterial preservation programs.
- (4) Allowable activities for CAPA funding.
- (5) Accounting and audit provisions.
- (6) Annual CAPP report.

AMENDATORY SECTION (Amending WSR 94-01-116, filed 12/17/93, effective 1/17/94)

**WAC 136-310-010 Certification of county arterial mileage.** (1) Classification. The ~~((act))~~ statute specifies that expenditure of CAPA funds is restricted to paved arterials in the unincorporated area of each county. Arterials are defined as being those county roads:

- (a) In urban areas, classified within the federal functional classification system as arterials ~~((Federal Functional Classes 12, 13, 14, 15, and 16) or classified as))~~ or collectors ~~((Federal Functional Class 17))~~;
- (b) In rural areas, classified within the federal functional classification system as arterials ~~((Federal Functional Classes 02 and 06) or classified as))~~, major collectors ~~((Federal Functional Class 07))~~ or minor collectors ~~((Federal Functional Class 08))~~.

Paved roads are defined as those roads which, at the time of CAPA allocation determination, are hard-surfaced through the application of a bituminous surface treatment (BST), asphaltic concrete pavement (ACP), or portland cement concrete (PCC). Brick or block surfaces shall also be considered as paved.

- (2) Source of information. The master county road log as maintained by the CRABoard in accordance with chapter 136-60 WAC shall be the source of official paved road mileages to be used for CAPA distribution.

AMENDATORY SECTION (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-310-020 Establishment of allocation percentages.** At its first regular meeting after July 1 of each year, the CRABoard shall establish the next calendar year's allocation percentages for the individual counties based on information contained in the most recently certified master county road log. Each county's allocation percentage shall be computed by the CRABoard as its percentage of paved arterial lane miles of the total state-wide paved county arterial lane miles ~~((in the state))~~.

**AMENDATORY SECTION** (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-310-050 Eligibility.** (~~Beginning May 1, 1990,~~) All arterial preservation work and related activities done by each county shall be eligible for CAPA funding provided that:

(1) The county (~~road engineer submits the description of~~) is determined to be in compliance with the pavement management system (as required) requirements as set forth in chapter 136-320 WAC; and

(2) The county road engineer submits the annual CAPA program as required in chapter 136-325 WAC; and

(3) The work is in conformance with the allowable activities as specified in chapter 136-330 WAC.

**Chapter 136-340 WAC**  
**COUNTY ARTERIAL PRESERVATION PROGRAM**  
**ACCOUNTING AND AUDIT PROVISIONS**

**AMENDATORY SECTION** (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-340-020 Audit provisions.** (~~CAPP~~) CAPA audits may be conducted by the state auditor's office and will normally be conducted in conjunction with the audits required by RCW 43.09.260 and 36.80.080. Special audits of specific CAPP activities or projects may be accomplished at the request of the CRABoard. The costs of such special audits shall be the responsibility of the CRABoard.

**AMENDATORY SECTION** (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-340-030 Scope of audits.** The audit of any (~~CAPP~~) CAPP project or activity shall include but not be limited to the review of the county's compliance with:

(1) The provisions of the (act) enabling legislation; and

(2) The rules in Title 136 WAC regarding implementation and administration (of the act,) with detailed review of the application of CAPA funds and the various reporting requirements. The audit shall also include a review of the financial accounting and reporting of all CAPA funds.

**AMENDATORY SECTION** (Amending Order 81, filed 11/6/90, effective 12/7/90)

**WAC 136-340-040 Noncompliance and questioned costs.** If the audit of a (~~CAPP~~) CAPP activity or project reveals any area of noncompliance and/or questioned costs, then such exceptions shall be subject to comment by the examiner within the audit report.

**AMENDATORY SECTION** (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-010 Purpose.** (~~Section 1(4), chapter 310, Laws of 1991 (the act),~~) RCW 47.56.725(4) provides that the county road administration board (CRABoard) may evaluate requests for ferry capital improvement funds by Pierce, Skagit, Wahkiakum, and Whatcom counties, and, if approved by the board, submit said requests to the legislature

for funding. This chapter describes the manner in which the CRABoard will implement the provisions of the act.

**AMENDATORY SECTION** (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-060 Technical review committee.** A technical review committee shall be created to review project applications for ferry capital improvement funds composed of the following members or their designees: Executive director of the CRABoard, WSDOT assistant secretary (~~WSDOT local programs~~) for transaid, a WSDOT marine division engineer, and public works department representatives from each of the four participating counties. The county representatives shall serve as ex officio, nonvoting members of the technical review committee. The technical review committee shall recommend approval of projects that have been submitted in a timely manner and that:

(1) Meet the applicable statutes and the standards of this chapter; and

(2) Adhere to commonly held engineering practices and cost effectiveness.

The technical review committee shall recommend an appropriate local match on a project-by-project basis based upon the availability of local matching funds. Written reports on each project recommended for approval shall be submitted to the (~~board~~) CRABoard no later than thirty days prior to its regularly (~~schedules~~) scheduled spring meeting. Technical review committee meetings shall be convened on an "as needed" basis by the executive director of the CRABoard, who shall serve as chairperson.

**AMENDATORY SECTION** (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-100 Terms of CRAB/county contract.** The CRAB/county contract shall include, but not be limited to, the following provisions:

(1) Such contract shall be valid and binding (and the county shall be entitled to receive ferry capital improvement funds) only if such contract is signed and returned to the CRABoard within forty-five days of its mailing by the CRABoard.

(2) The project will be constructed in accordance with:

(a) The information furnished to the CRABoard(,); and

(b) The plans and specifications prepared under the supervision of the county engineer.

(3) The county will notify the CRABoard when a contract has been awarded and when construction has started, and when the project has been completed.

(4) The CRABoard will reimburse counties on the basis of (~~monthly~~) progress vouchers received and approved on individual projects, subject to the availability of ferry capital improvement funds appropriated by the legislature.

(5) The county will reimburse the CRABoard in the event that a project post audit reveals improper expenditure of ferry capital improvement funds. Said funds will be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

PROPOSED

AMENDATORY SECTION (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-110 Voucher approval and payment.** The CRABoard shall prepare and distribute to all counties with approved ferry capital improvement projects, voucher forms for use in requesting progress and final payments for each approved ferry capital improvement project.

The county constructing each ferry capital improvement project may submit vouchers monthly as the work progresses and shall submit a final voucher after completion of each project for payment of the approved and funded share of the project cost.

The CRABoard shall approve such vouchers for payment to the county submitting the voucher. ~~((Upon approval of each ferry capital improvement voucher by the CRABoard it shall be transmitted to the department of transportation for payment to the county submitting the voucher.))~~ Ferry capital improvement fund warrants shall be transmitted directly to each county submitting a voucher. In the event that project funds remain unspent after the final project payment has been made, the unspent balance will be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

AMENDATORY SECTION (Amending Order 85, filed 10/23/91, effective 11/23/91)

**WAC 136-400-120 Audit requirements.** Audits of county ferry capital improvement projects may be conducted by the state auditor's office and will normally be conducted in conjunction with the county audits required by RCW 43.09.260 and 36.80.080. Special audits of specific ferry capital improvement projects not required by these statutes may be accomplished at the request, and at the expense, of the CRABoard.

An audit of any county ferry capital improvement project shall include, but not be limited to, a review of the county's compliance with: The provisions of the ~~((act))~~ statute; and these rules. The audit shall also include a review of the financial accounting and reporting of those funds associated with and received for the ferry capital improvement project.

In the event that an exception is noted in the audit report the CRABoard shall evaluate the noted discrepancy. Discrepancies may be cause for the CRABoard to order the payback of improperly expended ferry capital improvement funds as provided in the CRAB/county contract ~~((WAC 136-400-110))~~. Any such funds returned by a county to the CRABoard shall be returned to the county-wide fuel tax account for distribution in accordance with RCW 46.68.120.

#### WSR 96-11-057

##### PROPOSED RULES

#### PERSONNEL RESOURCES BOARD

[Filed May 10, 1996, 9:41 a.m.]

Continuance of WSR 96-09-054.

Title of Rule: WAC 356-42-020 Determination of bargaining unit.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on June 13, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by June 6, 1996, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, FAX (360) 586-4694, by June 11, 1996.

Date of Intended Adoption: June 13, 1996.

May 9, 1996  
Dennis Karras  
Secretary

#### WSR 96-11-074 PROPOSED RULES GAMBLING COMMISSION

[Filed May 13, 1996, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-21-026.

Title of Rule: WAC 230-20-247 Keno bingo.

Purpose: To authorize an additional type of bingo player selection game similar to keno, but with a more limited scope.

Statutory Authority for Adoption: RCW 9.46.0205, 9.46.070 (1), (8), (9), (11), (14), (20).

Summary: Keno bingo would be played similar to traditional keno, but with seventy-five bingo numbers rather than eighty numbers. Players will also be limited to the number of bingo numbers they may choose.

Reasons Supporting Proposal: Charitable/nonprofit licensees requested this rule adoption.

Name of Agency Personnel Responsible for Drafting: Michael Aoki-Kramer, Lacey, (360) 438-7654, ext. 310; Implementation: Sherri Winslow, Lynnwood, (206) 776-6751; and Enforcement: Frank Miller, Lacey, (360) 438-7654, ext. 302.

Name of Proponent: Washington Civic and Charitable Gaming Association, Public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Title of Rule and Summary above. The rule is anticipated to help charitable and nonprofit bingo licensees to increase their revenue through offering keno bingo as another type of bingo player selection game.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. New rule authorizes additional bingo game which is expected to increase licensee revenues.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The agency does not choose to make section 201, chapter 403, Laws of 1995 apply to this rule adoption.

Hearing Location: Red Lion Inn, 2525 North 20th, Pasco, WA 99301, on July 12, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by July 8, 1996, TDD (360) 438-7638 or (360) 438-7654, ext. 302.

Submit Written Comments to: Michael Aoki-Kramer, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by July 7, 1996.

Date of Intended Adoption: July 12, 1996.

May 10, 1996

Michael Aoki-Kramer  
Rules and Policy Coordinator

## NEW SECTION

**WAC 230-20-247 Keno bingo—Definitions and requirements.** Bingo licensees may play "keno bingo" games in which the players compete for portions of a prize pool based on matching the player selected bingo numbers with a specified number of balls called. The following definitions and requirements apply to keno bingo games:

(1) **Definitions:**

(a) A "way" is defined as a grouping of the numbers selected by players and documented on a single keno bingo card. Each "way" is a different possible winning combination;

(b) "Low tier prizes" are prizes worth fifty dollars or less;

(c) "Middle tier prizes" are prizes worth more than fifty dollars, but not more than \$1,000; and

(d) "High tier prizes" are prizes worth more than one thousand dollars.

(e) A "player selection form" is a single copy of a keno bingo card which displays all seventy-five numbers. The player utilizes this form to select their numbers. In no case shall the player selection form be substituted for a completed keno bingo card.

(2) **Keno bingo card requirements:**

(a) Keno bingo cards must be printed on two-part, self-duplicating paper that provides for an original and a duplicate copy;

(b) The standards for disposable bingo cards as defined in WAC 230-20-192 are followed; and

(c) Cards must have seventy-five spaces numbered one to seventy-five.

(3) **Operational restrictions:**

(a) Licensees may offer a maximum of five different priced keno bingo card sets for play at any one time;

(b) Keno bingo players may play a maximum of five "ways" per card. Each way must be clearly distinguishable and noted by an alphabetical reference. Each number picked can not be used in more than two ways.

(c) Players must pick a minimum of two and a maximum of eight numbers per card;

(d) Maximum price per way is three dollars; and

(e) Maximum total price per keno bingo card is fifteen dollars.

(4) **Receipting requirements.** The licensee must use combination receipting as set forth in WAC 230-20-108 (3) and (4), in addition to the following requirements:

(a) The time and date of sale must be recorded on the cash register receipt;

(b) Voided keno bingo cards must have the word "void" stamped or written on the bingo card and must be signed by

a bingo worker and the bingo manager and retained with the daily keno bingo records for that keno bingo session; and

(c) If electronically-generated bingo cards are used, the electronic bingo card must include the time and date the card was issued.

(d) All receipting records shall be totaled and closed out before starting sales for the next keno bingo game.

(5) **Manner of conducting keno bingo:**

(a) Players shall mark the numbers they select on a player selection form. The player selection form shall be given to a bingo worker along with the dollar amount of the card purchased. A bingo worker shall complete a keno bingo card using the numbers selected on the player selection form. The original bingo card shall then be placed in a separate lock box designated for that series. The duplicate copy shall be returned to the player along with the corresponding cash register receipt. Upon receiving the keno bingo card from the bingo worker, the player shall be responsible for determining the accuracy of the card.

(b) At least five minutes before the drawing of the keno bingo number, card sales shall cease and cash registers shall be subtotaled. The bingo licensee shall make an announcement notifying players when sales have been closed for each game. The time sales are closed and the cash register subtotals shall be recorded immediately on the daily keno bingo record for each keno bingo game.

(c) All keno bingo cards shall be placed in a lock box before the first keno bingo number is drawn. The gambling manager shall then close the box and record the time on the daily bingo record for the keno bingo session.

(d) Operators shall draw twenty of the seventy-five bingo balls.

(e) Refunds shall not be allowed: *Provided*, that a one-for-one exchange may be made by the operator in cases where errors are discovered before the lock box is closed. The procedures to be followed when making such exchanges include:

(i) The player must initial the card; and

(ii) The operator must follow the voided card requirements.

(6) **Determining winners, awarding and receipting prizes:** Upon determination of a winning card, the player shall present their duplicate copy of the original winning card and the cash register receipt to a bingo worker. The original bingo card shall be retrieved from the lock box and reviewed to determine if it is a winner. Upon determination of a winner, the prize shall be computed and the winner positively identified as set forth under WAC 230-20-246 (14)(b). Winning cards must be presented and prizes paid as follows:

(a) Low tier prizes shall be paid before the end of the keno bingo session. An announcement shall be made notifying players of their last opportunity to turn in winning low tier cards.

(b) All middle and high tier prizes shall be paid before the start of the next game. The licensee shall set a time limit for middle and high tier winners to present their winning cards and cash register receipts in order to determine whether the maximum total prize pool will be exceeded. An announcement shall be made notifying players of their last opportunity to turn in winning middle and high tier cards.

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(c) The maximum total middle and high tier prizes that may be awarded per game is twenty thousand dollars. If this limit is exceeded, middle and high tier winners shall divide the prize as provided by WAC 230-20-246(9).

(d) A prize receipt shall be prepared and issued for all prizes awarded over ten dollars.

(e) Prize winners shall print their name and date of birth on all winning cards and the bingo worker shall initial the card.

(f) All high tier winning cards shall be verified by a neutral player and a licensed gambling manager. Upon verification, the manager and neutral player shall sign the winning card.

(7) **Keno bingo record keeping requirements:** A separate bingo daily record shall be maintained for keno bingo games. In addition to the requirements of WAC 230-08-080, the licensee must also:

(a) Maintain a call record for every game which includes the time the first number was drawn, the numbers called, and the sequence numbers were called;

(b) Make a separate deposit. The deposit receipt shall be maintained with keno bingo session records;

(c) Use a separate series of prize receipts that indicate keno bingo and meet the requirements of WAC 230-20-102;

(d) Retain all winning cards and cash register receipts for middle and high tier prizes; and

(e) If a shift change is made during a keno bingo session, a bank reconciliation must be performed and signed by the workers.

(8) **Required disclosures to players:** Operators shall develop and post house rules that disclose at a minimum the following information:

(a) A keno bingo schedule, including when the keno bingo session begins and ends;

(b) Time limits on claiming prizes, including what constitutes the end of the session;

(c) That the player is responsible to ensure the accuracy of the numbers recorded on their card;

(d) That the player is responsible to ensure cards are purchased before the start of the game; and

(e) Prizes offered and prize limitations.

(f) The player selection forms shall include the players' responsibility to ensure the accuracy of the numbers recorded on the bingo card and all house rules relating to keno bingo.

**WSR 96-11-075**  
**WITHDRAWAL OF PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed May 13, 1996, 10:54 a.m.]

The Washington State Liquor Control Board has voted unanimously to withdraw the proposed changes to WAC 314-20-100 and 314-24-190, pertaining to beer and wine price postings as per WSR 96-07-101 filed March 20, 1996. The decision was based upon concerns voiced by many retailers and consumers who indicated the proposed action would have an adverse impact upon wine and beer prices in San Juan County. The board's action was taken in public session in Olympia on May 1, 1996.

Nathan S. Ford, Jr.  
Chairman

**WSR 96-11-080**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Filed May 14, 1996, 11:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-072.

Title of Rule: WAC 388-49-535 Income budgeting—Special circumstances.

Purpose: Recodify portions of WAC 388-49-530 and repeal WAC 388-49-530.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Moves some language from WAC 388-49-520 into this section; renames this section to "Income budgeting—Special circumstances.

Reasons Supporting Proposal: This will consolidate special circumstances budgeting WAC into one section.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, (360) 438-8325.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Moves some language from WAC 388-49-520 into this section [WAC 388-49-535] so that all language pertaining to special circumstances income budgeting is in one place.

Proposal Does not Change Existing Rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The department is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504-5800, on August 27, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by August 13, 1996, TDD (360) 753-0625, or (360) 664-2954.

Submit Written Comments to: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118 by August 20, 1996.

Date of Intended Adoption: August 28, 1996.

May 14, 1996

Philip A. Wozniak

for Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3611, filed 8/11/93, effective 9/11/93)

**WAC 388-49-535 Income budgeting—Special circumstances**(—~~Income budgeting~~). The department shall:

(1) Budget additional public assistance payments either prospectively or retrospectively, using only the amount authorized for the month the income is received.

~~(2) ((Budget countable student financial aid retrospectively.~~

~~(3))~~ When a household receives self-employment income other than monthly or receives contract income in less than one year:

~~(a) Annualize and then prorate ((the following)) such income to determine eligibility and benefit levels in the beginning months ((if:~~

~~(a) Self-employment income is received other than monthly; or~~

~~(b) Contract income is received in less than one year.~~

~~(e)); and~~

~~(b) After the ((first)) beginning months, ((the department shall)) use actual income received during budget months to determine benefit levels in the corresponding ((budget)) payment months.~~

~~((4))~~ (3) When a participating household member establishes a new household:

(a) Remove that member from the prior household; and

(b) Use the method of income budgeting that was in effect in the prior household.

~~((5) Consider either prospectively or retrospectively over the period the expense is intended to cover, expenses that have been averaged if the household:~~

~~(a) Has expenses that fluctuate or are billed less often than monthly; and~~

~~(b) Chooses to have the expenses averaged.~~

~~(6))~~ (4) When adding or deleting a household member, add or delete that person's income, following change of circumstance rules in WAC 388-49-610.

~~((7) Consider income exclusions and deductions retrospectively in households having income budgeted both))~~

(5) Average expenses either prospectively ((and)) or retrospectively over the period the expense is intended to cover if the household:

(a) Has expenses that fluctuate or are billed less often than monthly; and

(b) Chooses to have the expense averaged.

(6) Retrospectively disregard income received;

(a) In a beginning month when the income was:

(i) From a source no longer providing income to the household; and

(ii) Included in the household's prospective budget.

(b) From a discontinued source when the household reports the discontinued income at least ten days before the start of the payment month for:

(i) A nonassistance household member who applies for and begins to receive a public assistance grant; or

(ii) A household receiving both public assistance and food stamps, when the discontinued income results in an increase in the public assistance grant.

**WSR 96-11-081**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed May 14, 1996, 11:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-070.

Title of Rule: WAC 388-49-530 Retrospective income budgeting.

Purpose: Repeal.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: This repeals WAC 388-49-530. All language formerly in this section is moved to WAC 388-49-520 or 388-49-535.

Reasons Supporting Proposal: Simplify finding certain references to prospective and retrospective budgeting in the food stamp program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, (360) 438-8325.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Moves all language from this section to WAC 388-49-520 and 388-49-535. Repeals this section.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The department is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504-5800, on August 27, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by August 13, 1996, TDD (360) 753-0625, or (360) 664-2954.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118, by August 20, 1996.

Date of Intended Adoption: August 28, 1996.

May 14, 1996

Philip A. Wozniak  
 for Merry A. Kogut, Supervisor  
 Rules and Policies Assistance Unit

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-49-530 Retrospective income budgeting.

PROPOSED

**WSR 96-11-082  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed May 14, 1996, 11:23 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-01-069.

Title of Rule: WAC 388-49-520 Income budgeting—General circumstances.

Purpose: Recodify portions of WAC 388-49-535 and repeal WAC 388-49-530. WAC 388-49-535, information added to WAC 388-49-520 to simplify finding certain references to prospective and retrospective budgeting in the food stamp program.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Moves all of the language at WAC 388-49-530 into this section; renames this section to "Income budgeting—General circumstances."

Reasons Supporting Proposal: This will consolidate prospective budgeting and retrospective budgeting WAC into one section.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Charles Henderson, Division of Income Assistance, (360) 438-8325.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule moves language from WAC 388-49-530 and 388-49-535 to this section for ease of administration of the food stamp program.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not affect small businesses, it only affects the administration of the food stamp program.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504-5800, on August 27, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by August 13, 1996, TDD (360) 753-0625, or (360) 664-2954.

Submit Written Comments to Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118 by August 20, 1996.

Date of Intended Adoption: August 28, 1996.

May 14, 1996  
Philip A. Wozniak  
for Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3611, filed 8/11/93, effective 9/11/93)

WAC 388-49-520 ((Prospective)) Income budgeting—General circumstances. ~~((+))~~ The department shall:

(1) Budget income(~~(- income deductions, and income exclusions)~~) prospectively for the first two beginning months(~~(- except for student financial aid)~~).

(2) ~~((The department shall))~~ Budget income(~~(- income deductions, and income exclusions)~~) prospectively for the entire certification period for:

(a) Households with no earned income in which all adult members are elderly or disabled (~~(and do not have earned income)~~);

(b) Migrant households;

(c) Seasonal farmworker households; and

(d) Households in which all members are homeless individuals.

(3) ~~((The department shall))~~ Budget ~~((the following))~~ income(~~(- income deductions, and income exclusions)~~ prospectively, except as provided under WAC 388-49-535(7):

~~(a) Public assistance as defined under WAC 388-22-030 except for Supplemental Security Income (SSI); and~~

~~(b) Income~~) from a new household member prospectively for the first two months of participation when:

(a) The~~(+)~~

~~(+))~~ household timely reports the new member; and

~~((+))~~ The new member has not received benefits within the last calendar month.

(4) Budget public assistance prospectively.

(5) Budget income retrospectively in months other than beginning months for all households except those described in subsection (2) of this section.

(6) Budget allowable medical expenses prospectively for the entire certification period.

(7) Budget income exclusions and deductions other than allowable medical expenses:

(a) Prospectively when all household income is budgeted prospectively;

(b) Retrospectively when all household income is budgeted retrospectively; or

(c) Retrospectively when part of the household income is budgeted prospectively and part budgeted retrospectively.

(8) Use the household composition as of the last day of the budget month unless a member leaves or enters the household during the process month.

**WSR 96-11-083  
WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

(Wildlife)

(By the Code Reviser's Office)

[Filed May 14, 1996, 4:00 p.m.]

WAC 232-12-144 and 232-12-147, proposed by the Department of Fish and Wildlife in WSR 95-22-113, appearing in issue 95-22 of the State Register, which was distributed on November 15, 1995, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not

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adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
by Kathy Williams  
Washington State Register

**WSR 96-11-084**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

(By the Code Reviser's Office)  
[Filed May 14, 1996, 4:01 p.m.]

WAC 220-16-320, 220-56-115, 220-56-116, 220-56-189, 220-56-192, 220-56-225, 220-56-250, 220-56-310, 220-56-420, 220-57-140, 220-57-160, 220-57-170, 220-57-187, 220-57-190, 220-57-205, 220-57-210, 220-57-220, 220-57-230, 220-57-250, 220-57-260, 220-57-265, 220-57-270, 220-57-280, 220-57-285, 220-57-300, 220-57-340, 220-57-345, 220-57-410, 220-57-415, 220-57-430, 220-57-480, 220-57-520, 220-57-525, 220-57A-175 and 220-57A-180, proposed by the Department of Fish and Wildlife in WSR 95-22-111, appearing in issue 95-22 of the State Register, which was distributed on November 15, 1995, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
by Kathy Williams  
Washington State Register

**WSR 96-11-090**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**COORDINATING BOARD**  
[Filed May 15, 1996, 9:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-07-095.

Title of Rule: Chapter 250-65 WAC, Future teacher conditional scholarship provides conditional loans to prospective teachers.

Purpose: To amend WAC 250-65-020 and 250-65-060 to implement HB 2913, Laws of 1996.

Statutory Authority for Adoption: Chapter 53, Laws of 1996 (HB 2913).

Statute Being Implemented: Chapter 28B.102 RCW.

Summary: Amends program regulations by revising length and areas for teaching forgiveness.

Reasons Supporting Proposal: Implements new statutory requirements.

Name of Agency Personnel Responsible for Drafting and Implementation: Barbara Theiss, 917 Lakeridge Way, Olympia, (360) 753-7845; and Enforcement: John Klacik, 917 Lakeridge Way, Olympia, (360) 753-7851.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: HB 2913 requires that the recipients' teaching obligation be changed from a straight ten years to two years for each year of award from the Future Teacher Conditional Scholarship. The new statutory language also expands the areas in which teaching service may be credited from K-12 schools to also include various other teaching situations, such as Headstart, tribal schools, alternative schools, private schools, and ECEAP programs.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules change required by new statutory language.

Hearing Location: Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, on June 25, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Karen Moton-Tate by June 25, 1996, TDD (360) 753-7809, or (360) 753-7810.

Submit Written Comments to: Barb Theiss, Higher Education Coordinating Board, P.O. Box 43430, 917 Lakeridge Way, Olympia, WA 98504-3430, FAX (360) 753-7808, by June 25, 1996.

Date of Intended Adoption: July 31, 1996.

May 14, 1996

John Klacik  
Associate Director  
for SFA

AMENDATORY SECTION (Amending Order 1/88, Resolution No. 87-81, filed 1/8/88)

WAC 250-65-020 Program definitions. (1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in ~~((the public schools of))~~ an approved education program in this state. A student's acceptance of ~~((one or more disbursements of))~~ a scholarship ~~((, regardless of its value,))~~ creates a contractual obligation on the part of the student to teach for a period of ~~((ten))~~ two years in ~~((a qualifying school,))~~ an approved education program for each year of scholarship received or incur an obligation to repay all or part of the scholarship.

(2) "Institution of higher education" or "institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of the Northwest Association of Schools and Colleges and, if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of the above named accrediting association.

(3) "Board" means the higher education coordinating board. When a duty or responsibility of the board is referenced in these regulations, the authority needed to discharge that responsibility lies with the executive director or his or her designee.

(4) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state constitution.

(5) "Forgiven" or "to forgive" or "forgiveness" means that a portion of the student's loan is reduced through the rendering of service as a teacher ~~((at a public school))~~ in an approved education program in the state of Washington in lieu of monetary repayment.

(6) "Approved education program" means an education program in the state of Washington for knowledge and skills generally learned in preschool through twelfth grade. Approved education programs may include but are not limited to:

(a) K-12 schools under Title 28A RCW;

(b) Early childhood education and assistance programs under RCW 28A.215.100 through 28A.215.200 or the Federal Head Start Program;

(c) An approved school under chapter 28A.195 RCW;

(d) Education centers under chapter 28A.205 RCW;

(e) English as a second language program and programs leading to high school graduation or the equivalency operated by community or technical colleges; and

(f) Tribal schools in Washington approved by the Federal Bureau of Indian Affairs.

(7) "Satisfied" means paid-in-full either through the rendering of service or monetary repayment in fulfillment of the student's contractual obligation.

~~((7))~~ (8) "Participant" means an eligible student who has received one or more disbursements under this program.

~~((8))~~ (9) "Targeted ethnic minority" means a group of Americans with a common ethnic or racial heritage selected by the board for program consideration due to societal concerns such as high drop out rates or low rates of college participation by members of this group. Wherever possible students selected for participation in the conditional scholarship program should be able to serve as role models for children and youth from targeted ethnic minorities.

~~((9))~~ (10) "Washington resident" or "resident student" means an individual who satisfies the requirements of RCW 28B.15.012 through 28B.15.015 and board-adopted rules and regulations pertaining to the determination of residency.

~~((10))~~ (11) "Needy student" shall mean a post-high school student of an institution of higher learning as defined in RCW 28B.10.802(1) who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books and tuition and incidental fees for any semester or quarter.

~~((11))~~ (12) "Financial need" shall be the difference between the budgetary cost to the student attending an institution of postsecondary education and the total applicant resources which the institutional financial aid officer determines can reasonably be expected to be available to the student for meeting such costs.

~~((12))~~ (13) "Budgetary cost" of attending an institution shall consist of that amount required to support the individu-

al and his or her dependents during the period in which that individual is enrolled as a student. Budgets will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses, and other cost factors deemed necessary for consideration, consistent with WAC 250-65-040 (3)~~((a))~~.

~~((13))~~ (14) "Total applicant resources" for the dependent student shall mean the sum of the amounts which reasonably may be expected from the student and his or her spouse ~~((inclusive of expected summer savings))~~ to meet the student's cost of education, and the amount which reasonably may be expected to be made available to the student by his or her parents for such purpose. For the ~~((self-supporting))~~ independent student total applicant resources shall mean the amount which reasonably may be expected from the student and his or her spouse ~~((inclusive of expected summer savings))~~ to meet the student's cost of education.

~~((14))~~ (15) "Dependent student" ~~((shall mean any post-high school student attending an eligible institution of post-secondary education who does not qualify as a self-supporting student in accordance with subsection (15) of this section.~~

(15) "Self-supporting student" shall be one who has established a bona fide independent relationship and who demonstrates compliance with criteria for determining self-supporting status as contained in the program guidelines) definition shall be consistent with the definition used for determining dependence for federal student aid programs.

(16) "Independent student" definition shall be consistent with the definition used for determining independence for federal student aid programs.

**AMENDATORY SECTION** (Amending WSR 93-19-022, filed 9/3/93, effective 10/4/93)

**WAC 250-65-060 Control of funds.** The higher education coordinating board may award conditional scholarships to eligible students from the funds appropriated to the board for this purpose, or from any private donations, or any funds given to the board for this program.

(1) Scholarship amounts:

The amount of the conditional scholarship awarded an individual shall not exceed three thousand dollars per academic year. Students are eligible to receive conditional scholarships for a maximum of five years. The total amount of such scholarships to an eligible student shall not exceed fifteen thousand dollars. The duration of service obligation ~~((does not vary with the value of the scholarship(s)))~~ shall be two years for each year of scholarship received.

(2) The scholarship recipient shall enter into an agreement with the higher education coordinating board agreeing to comply with the rules, regulations, and guidelines of the conditional scholarship program. The agreement shall serve as the legal document verifying the recipient's understanding of the obligation to repay the conditional scholarship if teaching service is not fulfilled.

(3) Repayment terms:

(a) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest, unless they teach for ~~((ten))~~ two years in ~~((the public schools of the state of Washington))~~ an approved

education program for each year of scholarship received, under rules adopted by the board.

(b) The interest rate shall be eight percent for the first four years of repayment and ten percent beginning with the fifth year of repayment.

(c) The period for repayment shall be ten years, with payments of principal and interest accruing quarterly commencing nine months from the date the participant completes or discontinues the course of study. Provisions for deferral of payment shall be determined by the board.

(d) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in ~~((a public school))~~ an approved education program until the entire repayment obligation is satisfied or the borrower ceases to teach ~~((at a public school in this state))~~ in an approved education program. Should the participant cease to teach ~~((at a public school in this state))~~ in an approved education program before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(4) Collection of repayments:

(a) The board is responsible for collection of repayments made and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made.

(b) The board is responsible to forgive all or parts of such repayments under the criteria established by the board and shall maintain all necessary records of forgiven payments.

(5) Receipts:

Receipts from the payment of the principal or interest or any other subsidies to which the board as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the board and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records and making collections. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

Reasons Supporting Proposal: The office's review of reasonably obtainable information indicates that current goal levels are consistent with the statutory mandate.

Name of Agency Personnel Responsible for Drafting: Juan Huey-Ray, 406 South Water, 586-1228; Implementation and Enforcement: James A. Medina, 406 South Water, 753-9697.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule implements chapter 39.19 RCW by establishing target levels for minority and women's business participation in state contracting and procurement. Overall annual goals are established to be administered on a contract-by-contract basis. Progress, levels, and availability of certified firms are continually reviewed. The anticipated effect is increased opportunities for minority and women's business enterprises to participate in state contracts and procurements.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule affects small business, as it is designed to assist small businesses seeking contracting opportunities with state agencies. However, any impact will be negligible, because the goals proposed for 1996-97 are the same as those implemented during 1995-96. Analysis is inappropriate under RCW 19.85.040, because the Office of Minority and Women's Business Enterprises does not have data from which to make comparison of costs, and because the effect, if any, is negligible.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rule does not fall under subsection (5)(a)(i) or (ii).

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504-1160, on June 25, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Tammi Hazlitt by June 18, 1996, (360) 753-9691.

Submit Written Comments to: Juan Huey-Ray, FAX (360) 586-7079, by June 25, 1996.

Date of Intended Adoption: June 28, 1996.

May 15, 1996

James A. Medina

Director

**WSR 96-11-100**

**PROPOSED RULES**

**OFFICE OF MINORITY AND**

**WOMEN'S BUSINESS ENTERPRISES**

[Filed May 17, 1996, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-07-089.

Title of Rule: WAC 326-30-041 Annual goals.

Purpose: To implement RCW 39.19.030(4) and encourage the MWBE participation in state contracting and procurement.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.030(4).

Summary: This proposal maintains goals at the 1996 levels for each class of contract. The state will continue to administer this rule flexibly.

AMENDATORY SECTION (Amending WSR 95-19-014, filed 9/7/95, effective 10/8/95)

**WAC 326-30-041 Annual goals.** The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, ~~((1995))~~ 1996, through June 30, ~~((1996))~~ 1997,

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE
Professional Services	10% MBE	4% WBE

PROPOSED

**WSR 96-11-101**  
**PROPOSED RULES**  
**HIGHER EDUCATION**  
**COORDINATING BOARD**  
 [Filed May 17, 1996, 11:15 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-07-096.

**Title of Rule:** State need grant. Serve students in order, from lowest-family incomes to highest-family incomes.

**Purpose:** Conform with legislative intent. Change board policy which otherwise treats all students whose family incomes are less than 65% of the state's median family income as equally eligible.

**Statutory Authority for Adoption:** Chapter 28B.80 RCW.

**Statute Being Implemented:** RCW 28B.10.800 - [28B.10.]822.

**Summary:** Eliminate language in WAC 250-20-021(11) which declares that the minimum eligibility cutoff will not be less than 65% of the state's median family income; permanently substitute language which requires the board and schools, to the best of their abilities, to serve state need grant eligible students, in order, from the lowest family income to the highest family income.

**Reasons Supporting Proposal:** In three out of the five years from 1992-93 to 1996-97, the legislature has, through budget provisos, overridden the board's existing policy on state need grant income cutoffs. This proposal will bring board policy into line with this continued expression of legislative intent.

**Name of Agency Personnel Responsible for Drafting and Implementation:** John Klacik, 917 Lakeridge Way, Olympia, WA 98504, 753-7851; and **Enforcement:** Shirley Ort, 917 Lakeridge Way, Olympia, WA 98504, 753-7840.

**Name of Proponent:** Higher Education Coordinating Board, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule change will conform with legislative budget provisos as expressed in three recent years. The change ensures that the effective income cutoff is always based on the funding available and is first directed to the lowest-income students.

**Proposal Changes the Following Existing Rules:** The cohort of students whose median family incomes are less than 65% will no longer be considered equally eligible.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Change does not affect businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

**Hearing Location:** Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, WA 98504, on June 25, 1996, at 1:00 p.m.

**Assistance for Persons with Disabilities:** Contact Karen Moton-Tate, TDD (360) 753-7809, or (360) 753-7810.

**Submit Written Comments to:** John Klacik, Higher Education Coordinating Board, P.O. Box 43430, 917

Lakeridge Way, Olympia, WA 98504-3430, FAX (360) 753-7808, by June 25, 1996.

Date of Intended Adoption: July 31, 1996.

May 17, 1996

John Klacik

Associate Director for  
Student Financial Aid

**AMENDATORY SECTION** (Amending WSR 96-04-019, filed 1/30/96, effective 3/1/96)

**WAC 250-20-021 Program definitions.** (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a student who by reasons of adverse cultural, educational, environmental, experiential, or familial circumstance is unlikely to aspire to, or enroll in, higher education. Generally, this shall mean a dependent student whose parents have not attained a college education and/or whose family income is substantially below the state's median.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Accrediting Bureau of Health Education Schools, the Accrediting Council for Continuing Education and Training, the Accrediting Commission of Career Schools and Colleges of Technology, the Accrediting Council for Independent Colleges and Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

- (a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,
- (b) Is a veteran of the U.S. Armed Forces; or,
- (c) Is an orphan or ward of the court; or,
- (d) Has legal dependents other than a spouse; or,

(e) Is a married student or a graduate/professional student; or,

(f) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is the standard student cost per sector, as developed by the board.

(a) The costs-of-attendance for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For example, in the 1992-93 academic year, the value of the statutory ceiling is \$13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of \$6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of \$2,274, plus the current average state appropriation per student for operating expenses in all public institutions of \$4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) "Family income" is the student's family income for the calendar year prior to the academic year for which aid is being requested.

(a) Income means adjusted gross income and nontaxable income as reported on the federally prescribed application for federal student aid.

(b) For the dependent student family income means parental income.

(c) For the independent student family income means the income of the student and any other adult, if any, reported as part of the student's family.

(d) The institutional aid administrator may adjust the family's income up or down to more accurately reflect the family's financial situation during the academic year. When

such adjustments are made they shall be consistent with guidelines for making changes to determine federal student aid eligibility.

(11) "Income cutoff" means the amount of family income below which a student is determined to be eligible for the state need grant. The cutoff shall be expressed as a percent of the state's median family income. The exact point of cutoff shall be determined each year by the board based on available funding. ~~((With the exception of the 1995-1996 academic year, in no case will the minimum income cutoff be less than sixty five percent of the state's median family income, regardless of program funding.))~~ The Board will endeavor to award students, in order, from the lowest income to the highest income, within the limits of available funding.

(12) "Median family income" is the median income for Washington state, adjusted by family size and reported annually in the federal register.

(13) "Maximum base grant" is a percentage of the state need grant costs-of-attendance for each sector. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding. The maximum base grant may be further adjusted according to the student's family income level and rate of enrollment as described in WAC 250-20-041.

For certain students who have completed board approved early awareness and preparation programs such as the Washington National Early Intervention Scholarship Program or a Trio program, the base grant will be an amount fixed annually by the board. Generally the base grant, in these cases, will be no less than the current value of the federal PELL grant program.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

(15) "State need grant award" is the maximum base grant adjusted according to level of family income, plus a dependent care allowance, if applicable.

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of creditor clock hours for each term in which the grant was received. Each school's policy for measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of creditor clock hours for which the aid was disbursed.

WSR 96-11-102  
PROPOSED RULES  
DEPARTMENT OF LICENSING  
[Filed May 17, 1996, 11:41 a.m.]

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half, but less than all of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

(20) The term "full institutional accreditation" shall mean the status of public recognition that an accrediting agency recognized by the U.S. Department of Education grants to an educational institution that meets the agency's established standards and requirements. Institutional accreditation applies to the entire institution, indicating that each of an institution's parts is contributing to the achievement of the institution's objectives.

(21) The term "eligible program" for a public or private nonprofit educational institution, shall mean an associate or baccalaureate degree program; at least a two-year program that is acceptable for full credit toward a bachelor's degree, or at least a one-year educational program that leads to a degree or certificate and prepares the student for gainful employment in a recognized occupation. The term "eligible program" for a for-profit or a postsecondary vocational institution shall mean a program which provides at least a 15-week undergraduate program of 600 clock hours, 16 semester hours, or 24 quarter hours. The program may admit students without an associate degree or equivalent. The term "eligible program" for a for-profit or a postsecondary vocational institution may also be a program that provides at least a 10-week program of 300 clock hours, 8 semester hours, or 12 quarter hours. A program in this category must be an undergraduate program that admits only students with an associate degree or equivalent. To be an "eligible program," a program must be encompassed within the institution's accreditation and be an eligible program for purposes of the federal Title IV student financial aid programs.

(22) A "for-profit institution" is a postsecondary educational institution other than a public or private nonprofit institution which provides training for gainful employment in a recognized profession.

(23) A "postsecondary vocational institution" is a public or private nonprofit institution which provides training for gainful employment in a recognized profession.

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-08-056.

Title of Rule: Sellers of travel.

Purpose: To adopt rules to carry out the purposes of chapter 19.138 RCW.

Statutory Authority for Adoption: RCW 19.138.170 and 43.24.086.

Statute Being Implemented: Chapter 19.138 RCW as amended by chapter 145, Laws of 1996, and RCW 43.24.086.

Summary: Adding new chapter to establish procedures required by chapter 19.138 RCW.

Reasons Supporting Proposal: The legislature passed and the governor signed chapter 19.138 RCW as amended by the laws of 1996 establishing registration requirements for sellers of travel.

Name of Agency Personnel Responsible for Drafting and Implementation: Pat Brown, Department of Licensing, 405 Black Lake Boulevard, Olympia, 664-2356; and Enforcement: Jon Clark, Department of Licensing, 405 Black Lake Boulevard, Olympia, 664-2356.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules relate to the process for registering as a seller of travel. They set fees and clarify conditions for making application and renewing a registration. They describe the responsibilities and office requirements of sellers of travel, including record keeping, complaint notifications, and maintenance of a trust account, or other approved account. The purpose is consumer protection.

Proposal does not change existing rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT

A.) Is the rule required by federal law or federal regulation? The proposed rules are not required by federal law or regulation.

Is this rule the product of completed "pilot rule making"? The proposed rules are not a product of "pilot rule making."

B.) What industries are affected by the proposed rule?

SIC	Standard Indust. Classification	Firms with Emp < 50	Firms with Emp => 50
4724	Travel Agency	1,165	14
4725	Tour Operator	130	8
4729	Arrangement of transportation not elsewhere classified	37	4

C.) List the specific parts of the proposed rules, based on the underlying statutory authority (chapter 19.138 RCW) which may impose a cost to business. The rules establish

PROPOSED

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the following procedures in support of statutory requirements:

a.) The law requires the seller to register with the Department of Licensing and pay fees annually. This will be done concurrently with the renewal of the master business license. The seller of travel must submit a list of people selling travel for the company, an affidavit providing the bank name and account number if the seller holds funds for more than five days, and a copy of any convictions of the registrant within the past five years.

b.) The seller of travel must maintain records of the bank account and client invoices for two years.

c.) All disbursements from the trust account or other approved account shall be identified to a specific transaction. If the financial institution charges service fees, the seller of travel shall reimburse the trust account or other approved account within ten banking days after receipt of the monthly statement.

D.) *What will be the compliance costs for industries affected?* In March of 1996, a survey was conducted to obtain anticipated costs of compliance data from the industry. Four hundred surveys were mailed to both large and small businesses representing a cross section of all three industrial classifications. Of the four hundred surveys mailed, eighty-eight (22%) were returned with the required data. The eighty-eight returned surveys represent 7% of the total Washington state firms comprising the three impacted industries (as reported by the Department of Employment Security).

Data from the survey shows the annual anticipated compliance costs for these rules range from \$234 to \$40,000. When compared to \$100 in sales, the total average costs for businesses with less than fifty employees is \$.62. Only two firms with over fifty employees responded to the survey. One of these two firms is a network that affects the annual income because part of the reported income is derived from the sale of memberships. This survey was not included. Also, one firm reported start-up costs of \$40,000 (unsubstantiated) for disbursements from the trust account or other approved account. This was an anomaly among the survey data and was not included. The data for the impact statement reflects only one firm with over fifty employees.

Identified Costs	Emp. <= 50	Emp. >50
Total	\$2,173. avg.	\$10,659.
Costs/\$100 in sales	\$.62 avg.	\$.02

E.) *What percentage of the industries in the four-digit standard classifications will be affected by the rules?* Approximately 97% of the industries will be affected.

F.) *Will the rules impose a proportionately higher economic burden on small businesses within the four-digit classification?* Although the data would indicate a disproportionate impact, the comparison data can only be based on the information provided by a single large business. For small businesses with less than fifty employees, the average cost per \$100 in sales is \$.62. The large business is \$.02 per \$100 in sales.

G.) *Can mitigation be used to reduce the economic impact of the rule on small businesses and still meet the stated objective of the statutes which are the basis of the proposed rule?* As described in question H below, mitigation steps were taken in the development of the rules to relieve financial burden on all businesses.

H.) *What steps will the department take to reduce the costs of the rule on small businesses?* The department will participate with small business to offer technical assistance to reduce costs. The department's assistance will reduce costs for training employees in new procedures and in how to operate a separate bank account according to the statute requirements. Assistance will be particularly significant in helping small business determine which of their current practices already meet the rule requirements. The department has mitigated WAC 308-129-300 to reduce specificity of required records. The rule would allow for other approval of accounts in place of the statute requirement of the trust account. The rule would allow for the seller of travel to sign the statute required report in place of the CPA/LPA or bank officer. The rule allows for business firms to register concurrently with the master license renewal and will not require any other additional forms.

I.) *Based upon the extent of disproportionate impact on small businesses, the department shall (where legal and feasible in meeting the stated objectives of the statute upon which the rules are based) reduce the costs imposed by rule on small businesses. Which methods to reduce costs on small businesses were incorporated?* The following steps have been taken by the Department of Licensing to reduce costs of regulation for the industries:

- The Department of Licensing will process registration through the existing master license system which reduces administrative costs. This factor decreases the estimated annual fee. The registrant will have a streamlined process without additional application/renewal forms to complete.
- RCW 19.138.140(1) states a seller of travel shall deposit all sums held for more than five business days in a trust account or other approved account. The proposed rule will allow for "other approved" bank accounts such as; a savings account, checking account, account pursuant to other state law, bank administered account, or an account individually approved of by the department. The small business can choose the least burdensome method for meeting the banking requirements.
- The statute requires that the application for registration be submitted with a report prepared by a bank officer, CPA or LPA. The Department of Licensing's response to lessen the impact has allowed for an affidavit in place of the report, thus reducing the cost to all businesses.
- The statute requires the seller of travel to display the office identification registration number. The master business license, after registration, will be both the registration number and business license number. Presently, the business license is required to be displayed at the business location. This requirement of the rule will have no impact to existing businesses.
- By statute, the profession is required to include the registration number in advertisements. By rule, institutional advertising is not required to include the registra-

tion number. This rule decreases any possible cost of changing institutional advertisements.

J.) Which mitigation techniques were considered for incorporation into the proposed rule but were rejected, and why? An alternative fee based on the size of the business was a mitigation technique considered but not incorporated into the proposed rule. This was rejected since fee amounts are based on department costs to administer the program (RCW 43.24.086). The same employee time, technical assistance, and overhead are involved in processing an application or conducting an investigation for a large company as it is for a small company.

K.) Briefly describe the reporting, record keeping, and other compliance requirements of the proposed rule (include references to sections or subsections of the proposed rule).

1. Annual registration fee of \$234 plus \$25 each branch. (WAC 308-129-030 and 308-129-110)

2. Affidavit (if not providing CPA/LPA/or bank officer report) stating the bank account number and name and address of the financial institution, or the affidavit stating that the firm is exempt from the banking requirements. (WAC 308-129-100)

3. Names and business addresses of all individuals selling travel for the firm. (WAC 308-129-100) Copies of any convictions or judgments against applicant within past five years. (WAC 308-129-100)

4. Maintain records of funds disbursed from the required account and identified to a specific transaction. (WAC 308-129-300)

5. Records retained for two years after completion of travel. (WAC 308-129-300)

6. A separate bank account for funds held for more than five days. (WAC 308-129-310)

L.) List the kinds of professional services that a small business is likely to need in order to comply with the reporting, record keeping, and other compliance requirements of the proposed rule. Some firms may choose to use a CPA and an attorney, but most indicated no additional professional services would be required. The rule does not require professional services.

M.) Analyze the cost of compliance, including, specifically:

Cost of equipment

Cost of supplies

Cost of labor

Cost of increased administration

Other

The rule does not require equipment for compliance. The cost of supplies may include purchasing checks if the business did not previously operate a separate bank account for client funds. The survey responses reflected that the majority of the impact is in labor and increased administration as a result of the separate bank account and record-keeping requirements for firms that hold client money for more than five days.

In April 1996, one hundred one firms received technical assistance visits. Ninety percent of the firms were maintaining bank records which would comply with the proposed rules. There were some differences in format; however, the basic information needed by the department was usually attainable.

N.) Compare the cost of compliance for small business with the cost of compliance for the 10% of businesses that are the largest businesses in the four-digit classification using one or more of the following:

cost per employee

cost per hour of labor

cost per \$100 of sales

Compliance costs for the singular large business that responded is \$.02 per \$100 in sales. Compliance costs for the eighty-seven small businesses that responded, averages \$.62 per \$100 in sales.

O.) Have businesses that will be affected been asked what the economic impact will be? Four hundred businesses were sent surveys to respond to the economic impact.

P.) How did the department involve small businesses in the development of the proposed rule?

- The Department of Licensing (DOL), has taken extraordinary care in writing the rules for implementing the Sellers of Travel Act. Prior to the amended statute, DOL participated in eighteen meetings since September 1995, with three hundred fifty-three sellers of travel participating. The meetings helped educate the public about the law. In this process, twenty-five changes were made to the original draft rules from input gathered from representatives of the Washington State Coalition of Travel and other industry members. Then in the 1996 legislative session, the statute was amended. The amendments that were made to the statute were specific items requested by the sellers of travel to make the requirements of the statute less burdensome. The amended statute went into effect immediately. The Department of Licensing held an informal workshop with ten key representative members of the industry to review the new rule under the amended statute. Each section of the WAC was reviewed and five changes were made to the draft rule. On May 29, 1996, the department is scheduled to bring information regarding the Sellers of Travel Registration Act, chapter 19.138 RCW as amended by the Laws of 1996, to a public meeting in Seattle. The meeting is hosted by the greater Seattle Better Business Bureau and anticipates over fifty attendees.

Q.) How and when were affected small businesses advised of the proposed rule? Prior to the amended statute, the Department of Licensing held the following meetings:

- On October 24, 1995, the Department of Licensing conducted a public education meeting followed by ninety minutes of questions, answers, and comments. The meeting was held via teleconference networking and included Seattle with eighty-eight attendees, Lacey with forty-four attendees, Pasco with five attendees, and Spokane with sixteen attendees. A notice of this meeting was sent to five hundred eighty-five sellers of travel, and published in two industry trade magazines, *Travel Age West*, and *Travel Agent*. The result of this forum was an alternate draft 8, and a video tape presentation of the law and the proposed rules.
- October 31, 1995, at the request of agency owners, a public education seminar was held at Pacific Travel's monthly meeting. Sixteen agents attended to view the training video regarding the proposed rule and a discussion followed.

PROPOSED

- On November 2, 1995, department staff attended the National Tour Operators meeting to explain the law and proposed rules. A notice of the meeting was published in the weekly newsletter, *Tuesday*. Twenty-eight people attended.
- On November 8, 1995, a public education meeting was held for Whatcom and Skagit County sellers of travel. Twenty-two businesses from those areas were faxed a notice of the meeting and nine people attended.
- On November 18, 1995, the department was invited to present the law and proposed rules at the Travel Agents International annual retreat in Blaine. Eighteen people attended.
- On November 21, 1995, the department held a rules hearing. The notice was sent out state-wide through the PR newswire on October 20, 1995. Sixty-five people attended.

On March 28, 1996, the amended statute was signed.

The Department of Licensing took the following actions to educate the public:

- On March 27, 1996, the department worked with an advisory committee made up of representatives from the industry in developing and reviewing the rules under the law as amended by the Laws of 1996. Five changes were made to the draft rule.
- In April 1996, the department sent 1700 sellers of travel information packets that included the emergency rule, the proposed rule, registration instructions and information that included explanations and an announcement of the date of the public rule hearing set for June 26, 1996. The address and phone number for the department program were included and invited public comment regarding the proposed rule.
- On May 29, 1996, the department is scheduled to bring information regarding the Sellers of Travel Registration Act, chapter 19.138 RCW as amended by the Laws of 1996, to a public meeting in Seattle. The meeting is hosted by the greater Seattle Better Business Bureau and anticipates over fifty attendees.

A copy of the statement may be obtained by writing to Department of Licensing, P.O. Box 9045, Olympia, WA 98507-9045, phone (360) 586-0396, FAX (360) 753-3747.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Labor and Industry Auditorium, 7273 Linderson Way S.W., Tumwater, WA, on June 26, 1996, at 9:30 a.m. - 12:00 noon.

Assistance for Persons with Disabilities: Contact Mary Haglund by June 19, 1996, TDD (360) 753-1966, or (360) 586-0396.

Submit Written Comments to: Pat Brown, P.O. Box 9045, Olympia, WA 98507-9045, FAX (360) 753-3747, by June 19, 1996.

Date of Intended Adoption: July 1, 1996.

April 17, 1996  
Pat Brown  
Administrator

## PART A GENERAL

### NEW SECTION

**WAC 308-129-010 Organization.** The sellers of travel program of the Department of Licensing administers the Washington Sellers of Travel Registration Act, chapter 19.138 RCW. Information regarding sellers of travel registrations or the sellers of travel program may be obtained by writing to the Program Manager, Sellers of Travel Program, Department of Licensing, P.O. Box 9045, Olympia, Washington 98507.

### NEW SECTION

**WAC 308-129-020 Definitions.** (1) "Registration number" means the unified business identifier number (UBI) assigned to the registered seller of travel.

(2) "Main office" means the first registered business location for a seller of travel.

(3) "Branch office" means each additional business location for a seller of travel after the first location has been registered.

(4) "Other approved account" means (a) bank administered account; (b) account pursuant to other state law; (c) checking account; (d) savings account; (e) an account individually approved of by the department.

### NEW SECTION

**WAC 308-129-030 Registration.** Registration as a seller of travel will be accomplished through the master license system under chapter 19.02 RCW. The fees established by or under chapter 19.138 RCW for registering as a seller of travel shall be paid to the Department of Licensing concurrently with an application for a master license or with the annual renewal of a master license under chapter 19.02 RCW.

A corporation, limited liability company, limited liability partnership, or a limited partnership, based in the state of Washington, must first be registered with the Office of the Secretary of State before registering as a seller of travel

## PART B REGISTRATION APPLICATION AND FEES

### NEW SECTION

**WAC 308-129-100 Applications—Conditions.** Any person desiring to be registered as a seller of travel shall submit with the application form:

(1) If the applicant, within the past five years, has been found guilty of a felony involving moral turpitude, a misdemeanor concerning fraud or conversion, or suffers a judgment in a civil action involving willful fraud, misrepresentation, or conversion, a copy of such conviction or judgment shall be included.

(2) In lieu of the CPA/LPA/bank officer report required by RCW 19.138.110(5), an applicant may submit an affidavit or declaration signed under penalty of perjury setting out the information required by RCW 19.138.110(5).

(3) Applicants who certify under penalty of perjury that they do not hold for more than five business days any non-

exempt funds received from any person or entity for retail travel services shall not be required to report or maintain a trust account or other approved account under RCW 19.138-110(5).

#### NEW SECTION

**WAC 308-129-110 Seller of travel registration fees.** The following fees shall be charged by the business and professions division of the Department of Licensing:

Title of Fee	Fee
Registration Fee	\$234.00
Registration renewal	234.00
Branch office registration fee	25.00
Branch office renewal	25.00
Service of process fee	20.00

#### NEW SECTION

**WAC 308-129-120 Dishonored checks.** Payment of any fee required under chapter 19.138 or 19.02 RCW by a check which is dishonored shall be considered a nonpayment and the registration action for which the dishonored check was tendered shall be considered invalid by the department.

#### NEW SECTION

**WAC 308-129-130 Expiration and renewal of registrations.** Registrations issued to sellers of travel shall expire concurrently with the master license expiration date. Registrations and fees will be prorated as necessary to match the master license expiration date. Registrations must be renewed each year on or before the expiration date and renewal registration fees as prescribed in WAC 308-129-110 and chapter 19.02 RCW shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the Master Licensing Service delinquency.

#### NEW SECTION

**WAC 308-129-230 Advertising.** Sellers of travel are not required to include registration numbers on "institutional" advertising. "Institutional" advertising is advertising which does not include prices, location, or dates for travel services.

### PART C REQUIRED RECORDS AND RECORDS PROCEDURES

#### NEW SECTION

**WAC 308-129-300 Required records.** The minimum records a seller of travel shall be required to keep are:

- (1) Bank trust account or other approved account records (unless exempt);
- (2) Client account information, which includes the client's name, amount and date payment was received and disbursed;
- (3) Unless a different period is specified by statute or rule, the required records shall be maintained and available

for inspection by representatives of the department for a period of two years after completion of the travel.

#### NEW SECTION

**WAC 308-129-310 Administration of non-exempt funds and records procedure.** Any seller of travel shall distribute non-exempt funds as authorized by statute and these regulations:

- (1) The trust account or other approved account shall be in the firm name of the seller of travel as registered;
- (2) All disbursements from the trust account or other approved account shall be identified to a specific transaction
- (3) If the financial institution charges service fees, the seller of travel shall reimburse the trust account or other approved account within 10 banking days after receipt of the monthly statement.

#### NEW SECTION

**WAC 308-129-320 Brief adjudicative proceedings-Denials based on failure to meet prerequisites for registration.** The Department of Licensing adopts RCW 34.05.482 and 34.05.485 through 34.05.494 for adjudicative proceedings requested by applicants who are denied registration under chapter 19.138 RCW, because of failure to meet the prerequisites for said registration. The sole issue at the adjudicative proceeding shall be whether the applicant meets the prerequisites for the registration.

### WSR 96-11-106 PROPOSED RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed May 20, 1996, 9:58 a.m.]

Continuance of WSR 96-06-040.

Preproposal statement of inquiry was filed as WSR 95-17-025.

Title of Rule: Chapter 388-76 WAC, Adult family homes minimum licensing requirements.

Purpose: To establish in rule minimum licensing requirements for adult family homes (AFH).

Date of Intended Adoption: June 7, 1996.

May 20, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

### WSR 96-11-112 PROPOSED RULES INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

[Filed May 20, 1996, 4:17 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule: Retroactive development costs.

Purpose: In relation to projects on the FY 1997 recommended list of projects for the Washington wildlife

PROPOSED

and recreation program (WWRP), provide option for development costs' waiver. Without amendment, the standard rule would prohibit reimbursement for certain local governments' expenditures in 1996-97 on proposed FY 1997 WWRP grant projects.

Statutory Authority for Adoption: RCW 43.98A.060(1), 43.98A.070(5), 43.99.080(2), 46.09.240(1), 77.12.720(4).

Summary: Amend the existing rule for one year, to provide option for waiver of retroactivity for development costs, in relation to projects on the FY 1997 recommended list of projects for WWRP.

Reasons Supporting Proposal: For certain local governments, amendment will alleviate impacts from lack of adoption of 1996 supplemental capital budget.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Laura Eckert Johnson, 1111 Washington Street S.E., Olympia, 902-3000.

Name of Proponent: Interagency Committee for Outdoor Recreation, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The 1996 legislature failed to adopt a supplemental budget containing final authorization for at least sixteen local governments' park and recreation project grants under WWRP. Some of the affected agencies are seeking to proceed, using their own matching funds and at their risk, with portions of the proposed parks' development during the summer and fall construction season of 1996. Ordinarily, development costs incurred before a grant contract agreement is in place are not eligible for use as a "matching share" supporting later grant payments by the Interagency Committee for Outdoor Recreation. In this case, the Interagency Committee for Outdoor Recreation anticipates that: (a) The affected projects will be approved by the 1997 legislative session; (b) delay of 1996 construction season work would be detrimental to several projects; (c) sufficient safeguards can assure the "local match" portion of development costs will be the same as if the legislature had approved these projects in a timely manner and the Interagency Committee for Outdoor Recreation has issued a grant agreement by July 1, 1996; and, (d) the option for a waiver of retroactivity will assist in mitigating the unexpected impacts of grant approval delay. The proposal amends the existing rule for one year.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable. Only affected parties are local governments with projects on the FY 1997 WWRP list.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Interagency Committee for Outdoor Recreation is not subject to section 5, and proposed rules affect governmental parties only.

Hearing Location: Water Resources Education Center, 4600 S.E. Columbia Way, Vancouver, WA, on July 12, 1996, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Greg Lovelady by July 1, 1996, TDD (360) 902-1996, or (360) 902-3000.

Submit Written Comments to: Greg Lovelady, Rules Coordinator, Interagency Committee for Outdoor Recreation, FAX (360) 902-3026, by June 20, 1996.

Date of Intended Adoption: July 12, 1996.

May 9, 1996  
Laura E. Johnson  
Director

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-13-085 Retroactive and increased costs.** See WAC 286-04-010 for definition of terms for the following section.

(1) Retroactive land acquisition costs.

The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

(2) Retroactive development costs. The only retroactive development costs eligible for reimbursement consideration are preliminary expenses (e.g., engineering costs).

However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's development project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.

PROPOSED

**WSR 96-11-115**  
**PROPOSED RULES**  
**WASHINGTON STATE UNIVERSITY**

[Filed May 21, 1996, 10:20 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-08-039.

**Title of Rule:** Campus traffic and parking regulations for Washington State University Vancouver.

**Purpose:** To regulate parking on the Washington State University Vancouver campus.

**Other Identifying Information:** Chapter 504-19 WAC.

**Statutory Authority for Adoption:** RCW 28B.30.095, 28B.30.125, 28B.30.150.

**Summary:** The university is implementing parking rules and fines for violations.

**Reasons Supporting Proposal:** Rules are needed in order to effectively manage parking on the university's new Vancouver Salmon Creek campus.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Glenn Ford, Room 11, Bauer Hall, 1811 East McLoughlin Boulevard, Vancouver, WA 98663-3597, (360) 737-2188.

**Name of Proponent:** Washington State University, governmental.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** Washington State University recommends adoption of the rules.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** The proposed rules address management of parking arrangements, establish fines, and clarify appeals procedures for the new Washington State University Vancouver Salmon Creek campus. The purpose of these rules is to enable Washington State University Vancouver Public Safety to manage parking areas. The anticipated effects correspond to the purpose—the university anticipates the rules will clarify appropriate uses of parking areas and lead to less violation of parking regulations.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules will have no impact on small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are not of the type covered by section 201, chapter 403, Laws of 1995. In addition, the agency has not made section 201 voluntarily applicable, nor been notified that the joint administrative rules review committee has voted to make the section applicable.

**Hearing Location:** Washington State University Vancouver, Student Services Building, Lecture Hall, Room 110, 14204 N.E. Salmon Creek Avenue, Vancouver, on June 25, 1995 [1996], at 8 a.m.

**Assistance for Persons with Disabilities:** Contact Glenn Ford by June 24, 1996, TDD (360) 696-6020.

**Submit Written Comments to:** Glenn Ford, FAX (360) 696-6052, by June 25, 1996.

**Date of Intended Adoption:** June 28, 1996.

**Chapter 504-19 WAC**  
**CAMPUS TRAFFIC AND PARKING REGULATIONS**  
**FOR WASHINGTON STATE UNIVERSITY**  
**VANCOUVER**

**PART I: INTRODUCTION**

**NEW SECTION**

**WAC 504-19-010 Authorization.** Pursuant to the authority granted by RCW 28B.30.125, 28B.30.150, 28B.10.560, and chapter 34.05 RCW, the board of regents of Washington State University establishes the following regulations to govern parking and traffic at Washington State University Vancouver, hereinafter referred to as WSUV.

**NEW SECTION**

**WAC 504-19-020 Purposes of regulations.** The purposes of these regulations are to:

- (1) Expedite university business and provide maximum safety and convenience;
- (2) Regulate parking, with priority given to:
  - (a) Services of the university;
  - (b) Persons who need vehicles in connection with their work; and
  - (c) Staff and students who need private vehicles because of a disability or other approved reason; and
- (3) Provide and maintain suitable campus parking and traffic facilities.

**NEW SECTION**

**WAC 504-19-030 Knowledge of parking regulations.** It is the responsibility of all individuals parking on the campus to read and fully understand these regulations. Lack of knowledge of these regulations will not be accepted as grounds for dismissal of citations.

**NEW SECTION**

**WAC 504-19-040 Applicable parking and traffic laws and regulations.** The following regulations apply upon state lands owned and/or controlled by WSUV:

- (1) The motor vehicle and other traffic laws of the state of Washington (Revised Code of Washington);
- (2) The WSUV parking and traffic regulations.

**NEW SECTION**

**WAC 504-19-050 Emergencies.** The president delegates to the WSUV campus dean the authority to suspend, modify, or repeal any or all provisions in this chapter in the event of an emergency, disaster, or other like contingency. Such action shall be limited in duration and scope to meeting the dangers of the contingency.

NEW SECTION

**WAC 504-19-080 Severability.** If any provision of this chapter, chapter 504-19 WAC, or its application to any person or circumstance is held invalid, the remainder of the chapter or its application to other persons or circumstances is unaffected.

NEW SECTION

**WAC 504-19-100 Definitions.** The definitions in this section are applicable within the context of these regulations.

(1) **Campus.** Describes all property owned, leased, and/or controlled by WSUV which is or may hereafter be dedicated mainly to the educational, research, recreational, parking, or other activities of WSUV.

(2) **Disability zone.** A parking zone identified with a sign bearing the international disability symbol that is restricted at all times to use by vehicles bearing a valid WSU disability parking permit or indicator, or any state-issued disability parking permit.

(3) **Holiday (WSUV holiday).** A day when all campus facilities are generally closed (e.g., Thanksgiving Day, Christmas Day, New Year's Day). Vacation days are not considered holidays. See definition of vacation.

(4) **Illegal use of permit.** A parking violation in which a citation is issued under the following circumstances:

- (a) Use of a permit/indicator on an unspecified vehicle.
- (b) Use of a counterfeit permit/indicator.
- (c) Use of a permit/indicator obtained under false pretenses.

(d) Use of a modified permit/indicator.

(e) Use and/or retention of a permit/indicator by person(s) ineligible, or no longer eligible, for such permit as described and authorized in this chapter.

(5) **Indicator.** A vinyl, plastic, or paper instrument displayed adjacent to a parking permit which more clearly defines the parking areas available to a permit holder.

(6) **Loading zone.** A loading dock or an area signed "loading zone" adjacent to a facility or in a parking area. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times.

(7) **Moped.** Any two-wheeled or three-wheeled motor vehicle with an engine displacement of 50 cc or less.

(8) **Motorcycle.** Any two-wheeled or three-wheeled motor vehicle with an engine displacement greater than 50 cc.

(9) **Motor vehicle.** All motor-driven conveyances except wheelchairs.

(10) **No parking zone.** Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to, areas with adjacent curbs or rails painted yellow or red.

(11) **Park/parking.** This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

(12) **Parking permit.** A vinyl, plastic, or paper instrument sanctioned by WSUV that is displayed from a vehicle and authorizes parking in specified areas.

(13) **Service vehicle.** A vehicle used to provide a service for WSUV or a tenant or contractor of WSUV (e.g.,

a university-owned vehicle or a privately owned vehicle with a valid service permit displayed).

(14) **Service zone.** Parking spaces designated for the use of university vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones for a maximum of fifteen minutes, except for vehicles that display a service indicator issued for an extended time. Service zones are restricted at all times.

(15) **Staff.** For the purposes of these regulations, "staff" includes all faculty, classified staff, administrative and professional employees, temporary employees, and other support personnel employed by the university, and the personnel of other activities located on campus. Teaching assistants, research assistants, and other students employed by the university are not "staff." They are considered as students for the purpose of these rules.

(16) **Student.** Any person who has been admitted to the university, and who is either attending classes or actively pursuing a degree or certificate.

(17) **Summer session.** The summer session includes all summer school sessions beginning on the first day of the earliest session and ending on the last day of the latest session.

(18) **Vacation.** A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of WSUV typically are open during this time.

(19) **Vehicle.** See motor vehicle.

(20) **Visitors.** Persons who are not staff or students and who only visit the campus on an occasional basis.

(21) **Wheel lock.** A device used to temporarily immobilize a vehicle (i.e., on-the-spot impoundment).

**PART II: ENFORCEMENT**NEW SECTION

**WAC 504-19-200 Enforcement authority.** WSUV public safety is charged with the impartial enforcement of these regulations. Enforcement personnel have authority to issue parking citations, to impound vehicles, and to control access to areas.

NEW SECTION

**WAC 504-19-210 Times of enforcement.** Parking regulations are subject to enforcement at all times.

(1) **Permit areas:** All parking zones are limited to authorized permit holders during specific hours. These hours are posted in each parking zone either at the entrance to parking areas or along roadways where parking is marked. Restricted spaces are enforced at all times.

(2) **Restricted spaces:** These spaces are restricted for their designated purpose at all times (twenty-four hours a day, seven days a week):

- (a) Disability.
- (b) Load/unload.
- (c) Service.
- (d) Reserved.
- (e) Reserved (bagged) meters.
- (f) Specially signed areas.

PROPOSED

(3) Metered spaces: Parking meters are in effect during the times posted on each meter. During these times the meter must be paid the posted amount. Additional time cannot be purchased beyond the meter's posted time limit (e.g., a thirty-minute meter will allow a maximum of thirty minutes to be purchased at one time).

#### NEW SECTION

**WAC 504-19-220 Signed and marked areas.** (1) Parking on campus is allowed only in the marked and/or signed spaces in areas and on streets. All other areas outside these designated areas are "no parking zones." Each parking area has signs or markings to indicate the type of permit or permits required and the times they are required.

(2) Individual parking spaces are marked, and no vehicle may be parked so as to occupy any portion of more than one parking space. The fact that other vehicles were parked in a manner requiring a vehicle to occupy a portion of more than one space shall not constitute an excuse for a violation of this rule.

(3) Should there be a conflict between these regulations, map designation, and on-site signs regarding parking instructions, the on-site sign takes precedence.

(4) Permit areas and restricted spaces are not always signed individually.

#### NEW SECTION

**WAC 504-19-250 Motorcycles, mopeds, and bicycles.** (1) The general traffic regulations applicable to motor vehicles apply equally to motorcycles, mopeds, and bicycles. Motorcycles or mopeds may not be driven on sidewalks or in the mall area. Bicycles may be used on sidewalks, though pedestrians always have the right of way. Owners of motorcycles and mopeds are responsible for all violations including violations issued even if said vehicle is moved by someone else after being legally parked.

(2) Motorcycles and mopeds: Motorcycles and mopeds may park only in spaces which are marked by signs or the letter "M" painted on the parking surface. Motorcycles and mopeds must display a valid WSUV motorcycle permit during posted times. During all other times, these spaces are restricted to use by motorcycles and mopeds only.

#### NEW SECTION

**WAC 504-19-300 Responsibility for citations.** (1) Each permit registrant shall be responsible for parking citations on vehicles:

- (a) Registered with WSUV public safety; and/or
- (b) Displaying the registrant's permit.

(2) Owners of vehicles will be held primarily liable for citations.

#### NEW SECTION

**WAC 504-19-350 Use of areas for emergency, maintenance, or special needs.** WSUV reserves the right to close any campus parking area at any time it is deemed necessary for maintenance, safety, or to meet special needs. WSUV public safety will provide notice to users when possible.

Public safety and maintenance personnel performing official duties may deviate from these regulations as required to conduct emergency procedures.

#### NEW SECTION

**WAC 504-19-360 Liability.** The university assumes no responsibility for the care and protection of any vehicle or its contents at any time the vehicle is on university property.

### PART III: PARKING PERMITS

#### NEW SECTION

**WAC 504-19-410 Issuance and use of permits.** Parking permits are available at various locations upon application and payment of the appropriate fees. A parking permit and/or indicator which specifies parking area(s) where the vehicle may be parked will be issued.

#### NEW SECTION

**WAC 504-25-420 Consent to withholding of fines.** All permit applications shall provide that the university may withhold unpaid fines from any sums owed the permit holder and to treat the same as a debt.

**Reviser's note:** The above new section was filed by the agency as WAC 504-25-420. This section is placed among sections forming new chapter 504-19 WAC, and therefore should be numbered WAC 504-19-420. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

#### NEW SECTION

**WAC 504-19-430 Change in residence or license plates.** Permit holders changing residence or license plates after initial application must contact WSUV public safety and complete the necessary forms. Failure to do so may result in continued responsibility for citations issued to the old license plate and a loss of parking privileges.

#### NEW SECTION

**WAC 504-19-440 Term of permit—Transfer of permit.** Permits are valid up to and including the expiration date on the permit.

The ownership of permits is generally not transferable, but exceptions can be made by WSUV public safety provided that the:

(1) Person relinquishing ownership and the eligible purchaser appear in person at WSUV public safety when requesting such a transfer;

(2) Former owner relinquishes all ownership or claim to the permit and pays all outstanding fines; and

(3) New owner completes a new application form for the permit.

If a replacement permit is requested, the old permit must be removed and presented to WSUV public safety to be eligible for a replacement or a refund.

NEW SECTION

**WAC 504-19-450 Replacement permits and indicators.** (1) Sold or traded vehicles. Failure to advise WSUV public safety of a sale or trade for registration purposes may result in continued responsibility to the permit holder for citations received on that permit.

The permit holder has responsibility for removing parking permits prior to selling or trading a vehicle. The identifiable remnants of the original permit must be presented to WSUV public safety to receive a free replacement. Persons failing to comply with this requirement shall pay the cost of a new permit.

(2) Lost/stolen permits. Permit holders are responsible for the security of their permits. The theft or loss of a parking permit should be reported to WSUV public safety immediately upon discovery. A stolen permit will be replaced once at no cost, but only if a theft report of the permit has been filed in the appropriate police jurisdiction and verified by WSUV public safety. The second time the permit is reported stolen, the replacement fee will be ten dollars; the third time, twenty dollars; and thereafter, the original cost of the stolen permit. A lost permit will be replaced once for ten dollars; the second time, twenty dollars; and thereafter at the original cost of the permit. Lost or stolen permits must be returned to the WSUV public safety office immediately if recovered.

(3) Windshield replacements. When a permit-bearing windshield is replaced, the permit replacement fee will be waived if proof of replacement is presented.

NEW SECTION

**WAC 504-19-460 False information.** No person shall obtain, attempt to obtain, or use in a manner contrary to these regulations, a modified or counterfeit parking permit or a permit issued upon false information. A violation of this section includes giving a false name, address, Social Security number, and/or other information known to be false. It also includes the mere use of a visitor, conference, and commercial permit by staff or students. Violation of this provision shall constitute the illegal use of a parking permit and will be subject to citation and fine.

NEW SECTION

**WAC 504-19-470 Recall of permits.** Parking permits are the property of WSUV and may be recalled by WSUV public safety when:

- (1) The purpose for which the permit was issued changes or no longer exists;
  - (2) A permit is used on an unauthorized vehicle or by an unauthorized person;
  - (3) A parking permit application is falsified;
  - (4) A counterfeit, modified, or lost/stolen permit is used;
- or
- (5) The parking fee is unpaid.

NEW SECTION

**WAC 504-19-510 Permits—General.** WSUV public safety will issue permits for designated areas of the campus. Any vehicle parked on WSUV property, other than a pay area or metered space, must clearly display a valid permit

for a given area during the posted hours when permits are required.

NEW SECTION

**WAC 504-19-520 Permits—Form and display.** All permits must be displayed in the approved position on the vehicle with permit numbers visible. Permits not displayed in accordance with the provisions of this section are not valid, and vehicles displaying them improperly are subject to citation.

(1) Autos and trucks:

(a) Hanging permits, both annual and temporary, must be displayed hanging from the rear-view mirror post.

(b) Transferable cards and affixed decals must be displayed on the front windshield at the lower left corner (driver's side). Decals must be mounted completely by means of their own adhesive (not by tape).

(2) Motorcycles and mopeds: Motorcycle and moped permits must be mounted completely by means of their own adhesive and prominently displayed on the left rear side of the vehicle or on top of the rear tail light.

NEW SECTION

**WAC 504-19-540 Zone permits—Availability and use.** Staff and students are generally assigned to specific parking areas called zones. Parking zones are color-coded with respect to their price and numbered with respect to the specific parking area assignment of each permit holder. Permit holders may park in their assigned zone as reflected by the combination of color and number on their permit and corresponding sign, or they may park in other zones as signed.

NEW SECTION

**WAC 504-19-560 Other permits—Availability and use.** (1) Visitor permits: Visitor permits may be used only by bona fide visitors as defined by this chapter. Use by any other person constitutes illegal use of a parking permit. Visitor permits are valid in any zone and parking spaces signed for visitors only. Visitor permits are not valid at meters or restricted spaces.

(2) Golden cougar permits: Golden cougar permits are special visitor permits that are issued to retired faculty and staff free of charge. They are issued on an annual basis and are valid in any zone. Faculty and staff who remain regularly employed by the university after formal retirement are not eligible to use a golden cougar permit in lieu of a regular paid permit.

(3) President's associates decals: President's associates decals are issued to eligible members of the WSU foundation. They are valid in any zone. However, WSU faculty, staff, and students may not use a president's associates decal in lieu of a paid zone permit.

(4) Conference permits: Conference permits are available to visitors who participate in conferences held on the WSUV campus. They are available on a daily basis only. Conference permits are valid in any assigned zone.

(5) Motorcycle permits: Motorcycle permits are valid within boundaries of areas specifically posted and/or marked for motorcycle permits.

(6) Construction permits: A construction permit is issued to personnel who are working on a construction site on campus. Construction permits are assigned to a specific parking area.

(7) Carpool: Upon completion of application, bona fide carpools with three or more participants will be given preference in the assignment of parking zones, and will be issued a permit instrument that will facilitate the carpool. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

#### NEW SECTION

##### **WAC 504-19-580 Special indicator decals/hangers.**

Special indicator decals or hangers may be issued to staff and student permit holders who have otherwise valid parking permits in the following cases:

(1) Service indicator decals/hangers which are valid for a maximum of fifteen minutes in a marked service zone. A separate mall service indicator allows a maximum of fifteen-minute parking in the pedestrian mall. These are available to staff or students who must use a private vehicle for university business.

(2) Reserved parking indicator decals/hangers which are valid in parking spaces that are signed for the corresponding permit and indicator.

#### NEW SECTION

**WAC 504-19-600 Disability permits.** WSUV strives to comply with the Americans with Disabilities Act (ADA) parking standards.

There are two types of disability permits:

(1) Permanent physical disability. Disability permits are available to permanently disabled WSUV staff and students at the established fee. Disability permit holders may park in any zone and meter spaces if disability parking spaces are not available. They may not park in service zones or reserved spaces if disability parking spaces are not available.

(2) Temporary physical disability. Disability permits are available to temporarily disabled staff and students for a maximum of six weeks, although they may be renewed.

Staff and students must obtain a temporary disability form from WSUV public safety. These disabled parking privileges will be granted only after submission of the form that shows the applicant meets criteria established by the ADA. The form must be completed by a health care provider. WSUV public safety will not accept substitute forms or letters.

#### NEW SECTION

**WAC 504-19-650 Permit fees.** Schedules for parking fees, parking administrative fees, meter rates, prorated and refund schedules, and the effective date thereof will be posted in the public area of WSUV public safety and filed with the university rules coordinator.

## **PART IV: FINES, SANCTIONS, AND APPEALS**

### NEW SECTION

#### **WAC 504-19-810 Violations, fines, and sanctions.**

(1) Violations and fines: Parking violations will be processed by the university. Fines must be paid at authorized locations, at the following rates:

(a) Overtime/nonpayment at meter	\$ 10.00
(b) Overtime in time zone	\$ 10.00
(c) No parking permit	\$ 25.00
(d) No parking permit for this area	\$ 20.00
(e) No parking zone	\$ 20.00
(f) Improper display of permit/indicator	\$ 5.00
(g) Blocking traffic	\$ 25.00
(h) Unauthorized parking in a disability space	\$ 50.00
(i) Parking in a fire zone	\$ 50.00
(j) Unauthorized parking in reserved area	\$ 40.00
(k) Illegal use of permit	\$ 65.00
(l) Display of lost or stolen permit	\$ 200.00
(m) Wheel lock fee	\$ 50.00
(n) Unauthorized/overtime parking in service space	\$ 25.00
(o) Unauthorized/overtime parking on the pedestrian mall	\$ 50.00
(p) All other parking violations	\$ 20.00

(2) Reduction of fines: Fines for violations in subsection (1)(a) and (b) of this section paid within twenty-four hours will be reduced by one-half. Eligible violations received on Friday or Saturday can be paid on the following Monday to satisfy the twenty-four-hour requirement. Mailed fines must be postmarked within twenty-four hours to receive the one-half reduction. If a permit holder of record neglects to display his/her permit and receives a notice of violation for no parking permit, (subsection (1)(c) of this section), that fine will be reduced to five dollars when possession of a valid parking permit for the location is verified by WSUV public safety within twenty-four hours.

(3) Visitors: The first violation of the notices listed in subsection (1)(c) of this section, no parking permit, and subsection (1)(d) of this section, no parking permit for this area, issued to visitors are considered warning notices upon presentation to WSUV public safety.

(4) Inoperable vehicles: It is the owner's responsibility to immediately contact WSUV public safety in the event that their vehicle becomes inoperable.

### NEW SECTION

#### **WAC 504-19-830 Other violations and sanctions.**

(1) Late payment of fines: Forty-five days after issuance of a notice of violation a ten-dollar charge shall be added to all unpaid parking violations. If a student or staff member fails to pay the fine assessed for any violation, the fine will be referred to the WSU controller's office for collection. The controller may, if other collection efforts fail, deduct outstanding fines from the salary warrants of employees or withhold the amount of the outstanding fines from damage deposits or other funds held for any student in order to secure payment. Where collection efforts are unsuccessful, the controller may notify the registrar to refrain from issuing student transcripts or to withhold permission to reenroll for

a subsequent term until outstanding fines are paid. The procedures discussed above are not exclusive, however, and failure by anyone to pay fines may lead to towing or use of the wheel lock device described in these regulations. The procedures discussed above are not a precondition to towing or use of the wheel lock.

(2) Impound by wheel lock or towing:

(a) Any vehicle with an accumulation of three or more unpaid parking violations or any vehicle displaying a lost or stolen permit may be temporarily immobilized by use of a wheel lock device placed on a wheel. A fifty-dollar fee will be assessed on vehicles which are immobilized with a wheel lock.

(b) Any vehicle may be towed away at owner's/operator's expense if the vehicle:

(i) Has been immobilized by wheel lock more than twenty-four hours; or

(ii) Is illegally parked in a marked tow-away zone; or

(iii) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or

(iv) Cannot be impounded with a wheel lock device; or

(v) Is illegally parked in a disability space.

(c) The driver and/or owner of a towed vehicle shall pay towing and storage expenses.

(d) Any vehicle immobilized by use of the wheel lock device in excess of twenty-four hours will be assessed a storage fee of ten dollars for each calendar day or portion thereof, beyond the first twenty-four hours.

(e) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(f) No vehicle impounded by towing or wheel lock devices shall be released until the following fines are paid in cash:

(i) All unpaid parking violation penalties against said vehicle and any other vehicle registered to the violator;

(ii) A fifty-dollar wheel lock fee;

(iii) All towing and storage fees.

(g) Any vehicle impounded pursuant to these regulations in excess of thirty calendar days shall be considered an abandoned vehicle and shall be disposed of in accordance with chapter 46.55 RCW.

(h) A person wishing to challenge the validity of any fines or fees imposed under this subsection may appeal such fines or fees as elsewhere provided in these regulations. However, in order to secure release of the vehicle, such person must pay the amount of such fines or fees as a bond which will be refunded to the extent the appeal is successful.

(i) An accumulation of six unpaid violations during any twelve-month period, exclusive of meter violations, and overtime in time zone violations, will subject the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

(3) Failure to pay fines: Failure to pay a fine or comply with other penalties assessed pursuant to these regulations after exhausting or failing to exercise appeals provided for in these regulations constitutes a violation of RCW 28B.10.560. A citation or complaint for such violations may be issued and filed with the district court. Upon request of

the university, the department of licensing may withhold vehicle registration pending the payment of outstanding parking fines.

#### NEW SECTION

**WAC 504-19-860 Appeals procedure.** (1) Purpose: The parking appeals committee serves two primary functions:

(a) To assure an impartial evaluation of the circumstances relating to a particular parking violation; and

(b) To aid in the appraisal of parking and traffic problems.

(2) Procedure: Any person who has received notice of a parking violation may appeal the alleged violation. The appellant may request more information from WSUV public safety. The appeal must be in writing and received at WSUV public safety within ten calendar days after receipt of notice of the violation. Forms for this purpose are available from WSUV public safety. The parking appeals committee will make an initial decision on the appeal within twenty calendar days during the academic year and forty-five calendar days during the summer months after receipt of the appeal. The committee will serve a brief statement of the reasons for its decision on appellant within ten days of the decision.

(3) Review of initial decision: If the appellant is dissatisfied with the initial decision, he/she may request a hearing before a hearing officer or appeals committee. Such request must be made within ten calendar days of service of the notice of the initial decision. If no such request is received, the initial decision shall be final. During the review hearing the appellant and representatives of WSUV public safety may present and cross-examine witnesses. The hearing officer or appeals committee shall render a decision in writing and serve appellant with the decision within five calendar days after the review hearing.

(4) Appeal to district court: RCW 28B.10.560 provides that a person who is not satisfied with the final decision of the university may appeal to district court. The application for appeal to district court shall be in writing and must be filed at the WSUV public safety office within ten calendar days after service of written notice of the final decision. WSUV public safety will forward the documents relating to the appeal to the district court.

### PART V: TRAFFIC RULES

#### NEW SECTION

**WAC 504-19-900 Speed limits.** Driving on campus roads and streets is permitted at any time, unless otherwise posted or restricted by signs and/or by these regulations. The maximum speed limit unless otherwise posted is twenty-five miles per hour.

#### NEW SECTION

**WAC 504-19-920 Closed and restricted areas.** In certain designated areas on campus, such as the mall in the campus core, driving is restricted to mall service vehicles.

PROPOSED

NEW SECTION

**WAC 504-19-930 Bicycles, skateboards, and roller blades.** (1) The riding and use of bicycles, skateboards, and roller blades is prohibited from all building plazas, and interior building spaces.

(2) Bicycles, skateboards, and roller blades may be ridden and used on sidewalks when a bike path is not provided. Operators must move at a safe speed and yield to pedestrians at all times.

(3) Bicycles, skateboards, and roller blades may not be ridden on or over stairways, steps, ledges, benches, planting areas, or any other fixtures.

(4) Bicyclists must obey all traffic rules of the road when operating a bicycle in roadways.

(5) Bicycles may be secured only at bicycle racks and facilities designed for such purpose.

NEW SECTION

**WAC 504-19-940 Pedestrians.** (1) When traffic control signals are in place at intersections, pedestrians shall be subject to them.

(2) When traffic control signals are not in place or not in operation at pedestrian crossings, a vehicle must yield the right of way, by slowing down or stopping, when the pedestrian in the crossing is upon the same half of the roadway as the vehicle, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(3) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(4) Pedestrians who are between adjacent intersections at which traffic control signals are in operation must not cross at any place except in a marked crosswalk.

**WSR 96-11-116**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed May 21, 1996, 1:11 p.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 96-05-079.

Title of Rule: Fall protection.

Purpose: Chapter 296-155 WAC, Safety standards for construction work, the department is proposing to reverse the previous adoption of the fall protection standard, which became effective October 1, 1995, and readopt the standard as it existed prior to that date. This state initiated proposal would adopt the fall protection standard identical to the standard which existed as of September 30, 1995.

The existing standard was adopted as a result of federal-initiated amendments published in Federal Register Volume 59, Number 152, dated August 9, 1994. The standard has not provided clear guidance to employers, but has proven to be confusing and contradictory. The federal standard on which it is based has required numerous interpretive letters and stays of implementation. The proposed fall protection standard's application is clear and its interpretation well

understood by industry, as shown by the standard's previous four-year history. The department considers the proposed standard to be more effective than the current federal standard because the standard is targeted to the heights and work situations where industrial insurance data shows falls are likely to result in serious injury.

Readoption of the previous fall protection standard would restore clear requirements well understood by the construction industry and which had prompted a steady decline in fall injuries and fatalities since their implementation. Construction industry associations and the Construction Advisory Committee support readoption of the previous standard. There are no additional compliance requirements as a result of the proposed rules.

WAC 296-155-245 Scope and application, proposed amendments are made:

- to move subsection (1) to WAC 296-155-24501 (the proposed "Scope and application" section).
- to delete existing subsections (2) through (4) in their entirety.
- to reserve this section number for future use.

WAC 296-155-24501 Definitions, proposed amendments are made:

- to rename this section to "Scope and application."
- to move the definitions in this section (except as identified below) to WAC 296-155-24503 (the proposed "Definitions" section).
- to delete the following definitions in their entirety: Body harness, buckle, connector, controlled access zone (CAZ), dangerous equipment, deceleration distance, equivalent, failure, note regarding fall protection plan, free fall, free fall distance, guardrail system, hole, infeasible, low-slope roof, lower levels, mechanical equipment, opening, overhand bricklaying and related work, personal fall arrest system, personal fall restraint system, positioning device system, roof, roofing work and toeboard.
- to add WAC 296-155-245(1) defining the scope and application of the requirements for employers to provide and enforce the use of fall protection for employees in construction, alteration, repair, maintenance (including painting and decorating), demolition workplaces, and material handling covered under chapter 296-155 WAC.

WAC 296-155-24503 Duty to have full fall protection, proposed amendments are made:

- to rename this section "Definitions."
- to add the following definitions that came from the standard that was in effect prior to September 30, 1995: Approved, full body harness, full body harness system, catenary line, continuous fall protection, control zone, drop line, fall arrest system, fall distance, hardware, horizontal lifeline, locking snap hook, restraint line, roll-out, safety line, shock absorbing lanyard, single-action snap hook, static line, and strength member.
- to add and modify the following definitions: Deceleration device, lanyard, leading edge, lifeline, low-pitched roof, positioning belt, rope grab, self-retracting lifeline, snap hook, unprotected sides and edges, and walking/working surface.
- to move requirements relating to fall protection systems to WAC 296-155-24510 (the proposed "Fall restraint, fall arrest systems" section).

- to move the requirement to have a written fall protection work plan to WAC 296-155-24505 (the proposed "Fall protection work plan" section).
  - to move requirements related to low-pitched roofs to the proposed WAC 296-155-24515.
  - to move requirements relating to covers for holes in floors, roofs, and other walking/working surfaces to chapter 296-155 WAC, Part K (the proposed "Floor openings, wall openings and stairways" section).
  - to move requirements related to guarding of open-sided floors, platforms, runways, etc. at four feet to chapter 296-155 WAC, Part K (the proposed "Floor openings, wall openings and stairways" section).
  - to delete the requirements related to form work and reinforcing steel which would be covered under the ten-foot requirements added to the proposed WAC 296-155-24510.
  - to delete requirements specific to excavations, overhand bricklaying, precast concrete erection, and residential construction.
  - to delete requirements specific to steep roofs which would be covered under the ten-foot requirement in the proposed WAC 296-155-24510.
- WAC 296-155-24505 Fall protection systems criteria and practices, proposed amendments are made:
- to rename this section "Fall protection work plan."
  - to add requirements relating to a written fall protection work plan from the existing WAC 296-155-24503.
  - to move requirements relating to personal fall arrest and personal fall restraint systems to WAC 296-155-24510 (the proposed "Fall restraint, fall arrest systems" section).
  - to move requirements relating to safety nets to WAC 296-155-24510 (the proposed "Fall restraint, fall arrest systems" section).
  - to move the requirements relating to warning line systems to WAC 296-155-24515 (the proposed "Guarding of low-pitched roof perimeters" section).
  - to move requirements relating to controlled access zones to WAC 296-155-24520 (the proposed "Leading edge control zone" section).
  - to move requirements relating to safety monitor system to WAC 296-155-24521 (the proposed "Safety monitor system" section).
  - to move requirements relating to guardrail systems to chapter 296-155 WAC, Part K (the proposed "Floor openings, wall openings and stairways" section).
  - to move requirements relating to covers for holes in floors, roofs, and other walking/working surfaces to chapter 296-155 WAC, Part K (the proposed "Floor openings, wall openings and stairways" section).
  - to move requirements relating to protection from falling objects to chapter 296-155 WAC, Part K (the proposed "Floor openings, wall openings and stairways" section).
  - to delete fall protection plan requirements.
- WAC 296-155-24507 Training requirements, proposed amendments are made:
- to delete this section in its entirety.
  - to reserve this section number for future use.
- WAC 296-155-24510 Fall restraint, fall arrest systems, proposed amendments are made:
- to require fall protection at ten feet.
  - to add and modify requirements (from the existing WAC 296-155-24505) relating to fall restraint and fall arrest systems.
  - to add catch platform requirements from WAC 296-155-485 (19)(c).
- WAC 296-155-24515 Guarding of low-pitched roof perimeters, proposed amendments are made to add and modify requirements (from the existing WAC 296-155-24505) relating to guarding of low-pitched roof perimeters.
- WAC 296-155-24519 Appendix A to Part C-1—Determining roof widths nonmandatory guidelines for complying with WAC 296-155-24503 (2)(j), proposed amendments are made:
- to delete this section in its entirety.
  - to reserve this section number for future use.
- WAC 296-155-24520 Appendix B to Part C-1—Guardrail systems non-mandatory guidelines for complying with WAC 296-155-24505(2), proposed amendments are made:
- to rename this section "Leading edge control zone" and to add and modify requirements relating to leading edge control zone within this section.
  - to delete all current contents of this section.
- WAC 296-155-24521 Appendix C to Part C-1—Personal fall arrest systems nonmandatory guidelines for complying with WAC 296-155-24505(4), proposed amendments are made:
- to rename this section "Safety monitor system."
  - to add requirements (from the existing WAC 296-155-24505) relating to safety monitor systems.
  - to delete all current contents of this section.
- WAC 296-155-24522 Appendix D to Part C-1—Positioning device systems nonmandatory guidelines for complying with WAC 296-155-24505(6), proposed amendments are made:
- to delete this section in its entirety.
  - to reserve this section number for future use.
- WAC 296-155-24523 Appendix E to Part C-1—Sample fall protection plan nonmandatory guidelines for complying with WAC 296-155-24505(12), proposed amendments are made:
- to delete this section in its entirety.
  - to reserve this section number for future use.
- WAC 296-155-24524 Appendix F to Part C-1, fall restraint and fall arrest (employer information only), proposed amendments are made:
- to move this section in its entirety to WAC 296-155-24525 (the proposed "Appendix to Part C-1, fall restraint and fall arrest (employer information only)" section).
  - to reserve this section number for future use.
- WAC 296-155-24525 Appendix to Part C-1, fall restraint and fall arrest (employer information only), proposed amendments are made to move existing WAC 296-155-24524 in its entirety to this section.
- WAC 296-155-477 Stairways, proposed amendments are made to replace the reference to "Part C-1" in subsection (3)(l) with a reference to the proposed "Part K."
- WAC 296-155-480 Ladders, proposed amendments are made to replace the reference to "Part C-1" in subsection (1)(j) with a reference to the proposed "Part K."

WAC 296-155-485 Scaffolding, proposed amendments are made:

- to replace the requirements in subsection (19), "Roofing brackets," with a reference to the proposed "Part K" for requirements relating to roofing brackets.
- to replace the requirements in subsection (20), "Crawling boards or chicken ladders," with a reference to the proposed "Part K" for requirements relating to crawling boards or chicken ladders.

WAC 296-155-48533 Crane or derrick suspended personnel platforms, proposed amendments are made:

- to add an additional reference in subsection (6)(d) relating to "Part K."
- to change the reference in subsection (7)(a) from "Part C-1" to "Part K."

WAC 296-155-500 Definitions applicable to this part, proposed amendments are made to add the following definitions: Built-up roofing, built-up roofing work, floor hole, floor opening, handrail, low-pitched roof, mechanical equipment, nose, nosing, platform, riser height, roof, runway, safety monitoring system, stair platform, stairrail system, stairs, stairways, standard railing, standard strength and construction, toeboard, tread depth, unprotected side or edge, wall opening and work area. These proposed definitions will reflect WAC 296-155-500, as adopted prior to September 30, 1995.

WAC 296-155-505 Guardrails, handrails, and covers, proposed amendments are made:

- to add and modify, so as to reflect the language from the standard in effect September 30, 1995, requirements relating to guarding of floor holes and openings, wall openings and open sided surfaces and specifications for handrails, stairrails and covers from chapter 296-155 WAC, Part C-1.
- to include specific language on pits and vehicle pits from the standard in effect September 30, 1995.

WAC 296-155-50503 Roofing brackets, proposed amendments are made to add requirements relating to roofing brackets from the existing WAC 296-155-485 Scaffolding.

WAC 296-155-515 Ramps, runways, and inclined walkways, proposed amendments are made to add requirements relating to ramps, runways, and inclined walkways from the existing WAC 296-155-24503 Duty to have full fall protection.

WAC 296-155-655 General protection requirements, proposed amendments are made:

- to delete a reference to chapter 296-155 WAC, Part C-1 in subsection (12)(a).
- to add the words, "Where employees or equipment are required or permitted to cross over excavations, walkways or bridges with standard guardrails shall be provided."

WAC 296-155-715 Bolting, riveting, fitting-up, and plumbing-up, proposed amendments are made to change the reference in subsection (10) from "Part C-1" to "Part K."

WAC 296-155-740 Cofferdams, proposed amendments are made to change the reference in subsection (3) from "Part C-1" to "Part K."

WAC 296-155-745 Compressed air, proposed amendments are made to change the reference in subsection (13)(b) from "Part C-1" to "Part K."

Statutory Authority for Adoption: Chapter 49.17 RCW. Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA, (360) 902-5530; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

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: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined a small business economic impact statement is not required to meet the requirements of the Regulatory Fairness Act, chapter 19.85 RCW because the proposed amendments do not place more than minor impact on business.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. Significant rule-making criteria does apply to these rule amendments because they do not meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii) and (iv).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on June 27, 1996, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by June 10, 1996, (360) 902-5516.

Submit Written Comments to: Frank Leuck, Assistant Director, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by July 5, 1996. In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: September 12, 1996.

May 21, 1996

Mike Watson  
for Mark O. Brown  
Director

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

~~WAC 296-155-245 ((Scope and application. (1) Chapter 296-155 WAC, Part C-1 sets forth requirements for employers to provide and enforce the use of fall protection for employees in construction, alteration, repair, maintenance (including painting and decoration), demolition workplaces, and material handling covered under chapter 296-155 WAC.~~

~~Exception: The provisions of this part do not apply when employees are making an inspection, investigation, or assessment of workplace conditions prior to the actual start of construction work or after all construction work has been completed.~~

~~(2) WAC 296-155-24503 sets forth those workplaces, conditions, operations, and circumstances for which fall protection shall be provided except requirements relating to fall protection for employees engaged in the construction of~~

electric transmission and distribution lines and equipment are provided in chapter 296-45 WAC.

(3) WAC 296-155-24505 sets forth the requirements for the installation, construction, and proper use of fall protection required by chapter 296-155 WAC, except as follows:

(a) Performance requirements for guardrail systems used on scaffolds and performance requirements for falling object protection used on scaffolds are provided in Part J-1, of chapter 296-155 WAC.

(b) Performance requirements for stairways, stairwell systems, and handrails are provided in Part J of chapter 296-155 WAC.

(c) Additional performance requirements for personal climbing equipment, lineman's body belts, safety straps, and lanyards are provided in chapter 296-45 WAC.

(4) WAC 296-155-24507 sets forth requirements for training in the installation and use of fall protection systems:)) Reserve.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-24501 ((Definitions)) Scope and application.** ((**Anchorage** means a secure point of attachment for lifelines, lanyards or deceleration devices which is capable of withstanding the forces specified in the application sections of chapter 296-155 WAC.

**Body belt** means a Type 1 safety belt used in conjunction with lanyard or lifeline for fall restraint only.

**Body harness** means straps which may be secured about the employee in a manner that will distribute the fall arrest forces over at least the thighs, pelvis, waist, chest and shoulders with means for attaching it to other components of a personal fall arrest system.

**Buckle** means any device for holding the body belt or body harness closed around the employee's body.

**Competent person** means an individual knowledgeable of fall protection equipment, including the manufacturer's recommendations and instructions for the proper use, inspection, and maintenance; and who is capable of identifying existing and potential fall hazards; and who has the authority to take prompt corrective action to eliminate those hazards; and who is knowledgeable of the rules contained in this section regarding the erection, use, inspection, and maintenance of fall protection equipment and systems.

**Connector** means a device which is used to couple (connect) parts of the personal fall arrest system and positioning device systems together. It may be an independent component of the system, such as a carabiner, or it may be an integral component of part of the system (such as a buckle or dee ring sewn into a body belt or body harness, or a snap hook spliced or sewn to a lanyard or self-retracting lanyard).

**Controlled access zone (CAZ)** means an area in which certain work (e.g., overhand bricklaying) may take place without the use of guardrail systems, personal fall arrest systems, or safety net systems and access to the zone is controlled.

**Dangerous equipment** means equipment (such as pickling or galvanizing tanks, degreasing units, machinery, electrical equipment, and other units) which, as a result of

form or function, may be hazardous to employees who fall onto or into such equipment.

**Deceleration device** means any mechanism, such as a rope grab, rip stitch lanyard, specially woven lanyard, tearing or deforming lanyards, automatic self-retracting lifelines/lanyards, etc., which serves to dissipate a substantial amount of energy during a fall arrest, or otherwise limit the energy imposed on an employee during fall arrest.

**Deceleration distance** means the additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured as the distance between the location of an employee's body belt or body harness attachment point at the moment of activation (at the onset of fall arrest forces) of the deceleration device during a fall, and the location of that attachment point after the employee comes to a full stop.

**Equivalent** means alternative designs, materials, or methods to protect against a hazard which the employer can demonstrate will provide an equal or greater degree of safety for employees than the methods, materials or designs specified in the standard.

**Failure** means load refusal, breakage, or separation of component parts. Load refusal is the point where the ultimate strength is exceeded.

**Fall protection work plan** means a written planning document in which the employer identifies all areas on the job site where a fall hazard of 10 feet or greater exists. The plan describes the method or methods of fall protection to be utilized to protect employees, and includes the procedures governing the installation, use, inspection, and removal of the fall protection method or methods which are selected by the employer. (See WAC 296-155-24505.)

**Note:** See WAC 296-155-24505(12) for a fall protection plan when conventional fall protection is infeasible to provide for leading edge, precast concrete erection work, or residential construction work.

**Fall restraint system** means an approved device and any necessary components that function together to restrain an employee in such a manner as to prevent that employee from falling to a lower level. When standard guardrails are selected, compliance with applicable sections governing their construction and use shall constitute approval.

**Free fall** means the act of falling before a personal fall arrest system begins to apply force to arrest the fall.

**Free fall distance** means the vertical displacement of the fall arrest attachment point on the employee's body belt or body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, and lifeline/lanyard elongation, but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before the operate and fall arrest forces occur.

**Guardrail system** means a barrier erected to prevent employees from falling to lower levels.

**Hole** means a gap or void 2 inches (5.1 cm) or more in its least dimension, in a floor, roof, or other walking/working surface.

**Infeasible** means that it is impossible to perform the construction work using a conventional fall protection system

(i.e., guardrail system, safety net system, or personal fall arrest system) or that it is technologically impossible to use any one of these systems to provide fall protection.

**Lanyard** means a flexible line of rope, wire rope, or strap which generally has a connector at each end for connecting the body belt or body harness to a deceleration device, lifeline, or anchorage.

**Leading edge** means the edge of a floor, roof, or form work for a floor or other walking/working surface (such as the deck) which changes location as additional floor, roof, decking, or form work sections are placed, formed, or constructed. A leading edge is considered to be an "unprotected side and edge" during periods when it is not actively and continuously under construction.

**Lifeline** means a component consisting of a flexible line for connection to an anchorage at one end to hang vertically (vertical lifeline), or for connection to anchorage's at both ends to stretch horizontally (horizontal lifeline), and which serves as a means for connecting other components of a personal fall protection system to the anchorage.

**Low slope roof** means a roof having a slope less than or equal to 4 in 12 (vertical to horizontal).

**Lower levels** means those areas or surfaces to which an employee can fall. Such areas or surfaces include, but are not limited to, ground levels, floors, platforms, ramps, runways, excavations, pits, tanks, material, water, equipment, structures, or portions thereof.

**Mechanical equipment** means all motor or human propelled wheeled equipment used for roofing work, except wheelbarrows and moparts.

**Opening** means a gap or void 30 inches (76 cm) or more high and 18 inches (48 cm) or more wide, in a wall or partition, through which employees can fall to a lower level.

**Overhand bricklaying and related work** means the process of laying bricks and masonry units such that the surface of the wall to be jointed is on the opposite side of the wall from the mason, requiring the mason to lean over the wall to complete the work. Related work includes mason tending and electrical installation incorporated into the brick wall during the overhand bricklaying process.

**Personal fall arrest system** means a system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, or harness and may include a lanyard, deceleration device, lifeline, or suitable combinations of these.

**Personal fall restraint system** means a system used to prevent an employee from falling. It consists of anchorage's, connectors, body belt/harness. It may include, lanyards, lifelines and rope grabs designed for the purpose.

**Positioning device system** means a body belt or body harness system rigged to allow an employee to be supported on an elevated vertical surface, such as a wall, and work with both hands free while leaning.

**Rope grab** means a deceleration device which travels on a lifeline and automatically, by friction, engages the lifeline and locks so as to arrest the fall of an employee. A rope grab usually employs the principle of inertial locking, cam/level locking, or both.

**Roof** means the exterior surface on the top of a building. This does not include floors or form work which, because a building has not been completed, temporarily become the top surface of a building.

**Roofing work** means the hoisting, storage, application, and removal of roofing materials and equipment, including related insulation, sheet metal, and vapor barrier work, but not including the construction of the roof deck.

**Safety monitor system** means a system of fall restraint used in conjunction with a warning line system only, where a competent person as defined by this part, having no additional duties, monitors the proximity of workers to the fall hazard when working between the warning line and the unprotected sides and edges, including, the leading edge of a low sloped roof or walking/working surface.

**Self-retracting lifeline/lanyard** means a deceleration device containing a drum wound line which can be slowly extracted from, or retracted onto, the drum under slight tension during normal employee movement, and which, after onset of a fall, automatically locks the drum and arrests the fall.

**Snap hook** means a connector comprised of a hook-shaped member with a normally closed keeper, or similar arrangement, which may be opened to permit the hook to receive an object and, when released, automatically closes to retain the object. Snap hooks are generally one of two types:

▲ The locking type with a self-closing, self-locking keeper which remains closed and locked until unlocked and pressed open for connection or disconnection; or

▲ The nonlocking type with a self-closing keeper which remains closed until pressed open for connection or disconnection. As of January 1, 1998, the use of a nonlocking snap hook as part of personal fall arrest systems and positioning device systems is prohibited.

**Steep roof** means a roof having a slope greater than 4 in 12 (vertical to horizontal).

**Toeboard** means a low protective barrier that will prevent the fall of materials and equipment to lower levels and provide protection from falls for personnel.

**Unprotected sides and edges** means any side or edge (except at entrances to points of access) of a walking/working surface, e.g., floor, roof, ramp, or runway where there is no wall or guardrail system at least 39 inches (1.0 m) high.

**Walking/working surface** means any surface, whether horizontal or vertical on which an employee walks or works, including, but not limited to, floors, roofs, ramps, bridges, runways, but not including ladders, vehicles, or trailers, on which employees must be located in order to perform their job duties.

**Warning line system** means a barrier erected on a walking and working surface or a low slope roof (4 in 12 or less), to warn employees that they are approaching an unprotected fall hazard(s).

**Work area** means that portion of a walking/working surface where job duties are being performed.)) This section sets forth requirements for employers to provide and enforce the use of fall protection for employees in construction, alteration, repair, maintenance (including painting and decorating), demolition workplaces, and material handling covered under chapter 296-155 WAC.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-24503 ((Duty to have full fall protection.)) Definitions.** (((1)-General.

(a) This section sets forth requirements for employers to provide fall protection systems. All fall protection required by this section shall conform to the criteria set forth in WAC 296-155-24505.

(b) The employer shall determine if the walking/working surfaces on which its employees are to work have the strength and structural integrity to support employees safely. Employees shall be allowed to work on those surfaces only when the surfaces have the requisite strength and structural integrity.

(2) Unprotected sides and edges.

(a) Each employee on a walking/working surface (horizontal and vertical surface) with an unprotected side or edge which is 4 feet (1.2m) or more above a lower level shall be protected from falling by the use of guardrail systems, safety net systems, or personal fall arrest/fall-restraint systems.

(b) Leading edges.

(i) Each employee who is constructing a leading edge 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, or personal fall arrest/fall-restraint systems.

**Exception:** When working between a height six (1.8m) and ten (3.05) feet above the adjacent floor or ground and the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of WAC 296-155-24505(12).

**Note:** There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above-listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with WAC 296-155-24505(12) for a particular workplace situation, in lieu of implementing any of these systems.

(ii) Each employee on a walking/working surface 4 feet (1.2m) or more above a lower level where leading edges are under construction, but who is not engaged in the leading edge work, shall be protected from falling by a guardrail system, safety net system, or personal fall arrest system. If a guardrail system is chosen to provide the fall protection, and a controlled access zone has already been established for leading edge work, the control line may be used in lieu of a guardrail along the edge that parallels the leading edge.

(c) Hoist areas. Each employee in a hoist area shall be protected from falling 4 feet (1.2m) or more to lower levels by guardrail systems, fall restraint, or personal fall arrest systems. If guardrail systems, (or chain, gate, or guardrail) or portions thereof, are removed to facilitate the hoisting operation (e.g., during landing of materials), and an employee must lean through the access opening or out over the edge of the access opening (to receive or guide equipment and materials, for example), that employee shall be protected from fall hazards by a personal fall arrest system.

(d) Holes.

(i) Each employee on walking/working surfaces shall be protected from falling through holes (including skylights) by personal fall arrest systems, covers, or guardrail systems erected around such holes.

(ii) Each employee on a walking/working surface shall be protected from tripping in or stepping into or through holes (including skylights) by covers.

(iii) Each employee on a walking/working surface shall be protected from objects falling through holes (including skylights) by covers.

(e) Form work and reinforcing steel. Each employee on the face of form work or reinforcing steel shall be protected from falling 6 feet (1.8 m) or more to lower levels by personal fall arrest/fall-restraint systems, safety net systems, or positioning device systems.

(f) Ramps, runways, and other walkways.

(i) Each employee on ramps, runways, and other walkways shall be protected from falling 4 feet (1.2m) or more to lower levels by guardrail systems.

(ii) Width. Ramps, runways, and inclined walkways shall be at least eighteen inches wide.

(iii) Ramp specifications. Ramps, runways and walkways shall not be inclined more than twenty degrees from horizontal and when inclined shall be cleated or otherwise treated to prevent a slipping hazard on the walking surface.

(g) Excavations.

(i) Each employee at the edge of an excavation 4 feet (1.2m) or more in depth shall be protected from falling by guardrail systems, fences, or barricades when the excavations are not readily seen because of plant growth or other visual barrier.

(ii) Each employee at the edge of a well, pit, shaft, and similar excavation 4 feet (1.2m) or more in depth shall be protected from falling by guardrail systems, fences, barricades, or covers.

(h) Regardless of height, open sided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units and similar hazards, shall be guarded with a standard railing and toeboard.

(i) Overhand bricklaying and related work.

(i) Except as otherwise provided in subsection (2) of this section, each employee performing overhand bricklaying and related work 6 feet (1.8 m) or more above lower levels, shall be protected from falling by guardrail systems, safety net systems, personal fall arrest systems, or shall work in a controlled access zone.

(ii) Each employee reaching more than 10 inches (25 cm) below the level of the walking/working surface on which they are working, shall be protected from falling by a guardrail system, safety net system, or personal fall arrest/fall-restraint system.

**Note:** Bricklaying operations performed on scaffolds are regulated by Part J 1, Scaffolding, of this chapter.

(j) Roofing work on low slope roofs. Each employee engaged in roofing activities on low slope roofs, with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, personal fall arrest/restraint systems, or a combination of warning line system and guardrail system, warning line system and safety net system, or warning line system and personal fall arrest system, or warning line system and safety monitoring system. Or, on roofs 50 feet (15.25 m) or less in width (see Appendix A to

this Part), the use of a safety monitoring system alone (i.e. without the warning line system) is permitted.

(k) Steep roofs. Each employee on a steep roof with unprotected sides and edges 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems with toeboards, safety net systems, or personal fall arrest/restraint systems.

(l) Precast concrete erection. Each employee engaged in the erection of precast concrete members (including, but not limited to, the erection of wall panels, columns, beams, and floor and roof "tees") and related operations such as grouting of precast concrete members, who is 6 feet (1.8 m) or more above lower levels shall be protected from falling by guardrail systems, safety net systems, or personal fall arrest/restraint systems, unless another provision in subsection (2) of this section provides for an alternative fall protection measure.

**Exception:** When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of WAC 296-155-24505(12).

**Note:** There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with WAC 296-155-24505(12) for a particular workplace situation, in lieu of implementing any of these systems.

(m) Residential construction. Each employee engaged in residential construction activities 6 feet (1.8 m) or more above lower levels shall be protected by guardrail systems, safety net systems, or personal fall arrest/restraint systems unless another provision in subsection (2) of this section provides for an alternative fall protection measure.

**Exception:** When the employer can demonstrate that it is infeasible or creates a greater hazard to use these systems, the employer shall develop and implement a fall protection plan which meets the requirements of WAC 296-155-24505(12).

**Note:** There is a presumption that it is feasible and will not create a greater hazard to implement at least one of the above listed fall protection systems. Accordingly, the employer has the burden of establishing that it is appropriate to implement a fall protection plan which complies with WAC 296-155-24505(12) for a particular workplace situation, in lieu of implementing any of these systems.

(n) Wall openings. Each employee working on, at, above, or near wall openings including those with chutes attached, where the outside bottom edge of the wall opening is 4 feet (1.2m) or more above lower levels and the inside bottom edge of the wall opening is less than 39 inches (1.0 m) above the walking/working surface, shall be protected from falling by the use of a guardrail system, a safety net system, or a personal fall arrest/restraint system.

(o) Walking/working surfaces not otherwise addressed. Except as provided in WAC 296-155-245(3) or in WAC 296-155-24503 (2)(a) through (n), each employee on a walking/working surface 4 feet (1.2m) or more above lower levels shall be protected from falling by a guardrail system, safety net system, or personal fall arrest/restraint system.

(3) Protection from falling objects. When an employee is exposed to falling objects, the employer shall have each employee wear a hard hat and shall implement one of the following measures:

(a) Erect toeboards, screens, or guardrail systems to prevent objects from falling from higher levels; or

(b) Erect a canopy structure and keep potential fall objects far enough from the edge of the higher level so that those objects would not go over the edge if they were accidentally displaced; or

(c) Barricade the area to which objects could fall, prohibit employees from entering the barricaded area, and keep objects that may fall far enough away from the edge of a higher level so that those objects would not go over the edge if they were accidentally displaced.

(4) Fall protection work plan.

(a) The employer shall develop and implement a written fall protection work plan including each area of the work place where the employees are assigned and where fall hazards of 10 feet or more exists.

(b) The fall protection work plan shall:

(i) Identify all fall hazards in the work area.

(ii) Describe the method of fall arrest or fall restraint to be provided.

(iii) Describe the correct procedures for the assembly, maintenance, inspection and disassembly of the fall protection system to be used.

(iv) Describe the correct procedures for the handling, storage, and securing of tools and materials.

(v) Describe the method of providing overhead protection for workers who may be in, or pass through the area below the work site.

(vi) Describe the method for prompt, safe removal of injured workers.

(vii) Be available on the job site for inspection by the department.

(e) Prior to permitting employees into areas where fall hazards exist the employer shall:

(i) Ensure that employees are trained and instructed in the items described in subdivision (b)(i) through (vi) of this subsection.

(ii) Inspect fall protection devices and systems to ensure compliance with WAC 296-155-24505.

(d) Training of employees as required by this subsection shall be documented and shall be available on the job site.

**Note:** When working between six and ten feet above the adjacent ground or floor, see WAC 296-155-24505(12-))

**Anchorage** means a secure point of attachment for lifelines, lanyards, or deceleration devices which is capable of withstanding the forces specified in the applicable sections of chapter 296-155 WAC.

**Approved** means, for the purpose of this section; tested and certified by the manufacturer, or any recognized national testing laboratory, to possess the strength requirements specified in this section.

**Body belt** means a Type 1 safety belt used in conjunction with lanyard or lifeline for fall restraint only.

**Full body harness** means a configuration of connected straps to distribute a fall arresting force over at least the thighs, shoulders and pelvis, with provisions for attaching a lanyard, lifeline, or deceleration devices.

**Full body harness system** means a Class III full body harness and lanyard which is attached to an anchorage meeting the requirements of chapter 296-155 WAC, Part C-1; or attached to a horizontal or vertical lifeline which is properly secured to an anchorage(s) capable of withstanding

the forces specified in the applicable sections of chapter 296-155 WAC.

Catenary line - see horizontal lifeline.

Competent person means an individual knowledgeable of fall protection equipment, including the manufacturers recommendations and instructions for the proper use, inspection, and maintenance; and who is capable of identifying existing and potential fall hazards; and who has the authority to take prompt corrective action to eliminate those hazards; and who is knowledgeable of the rules contained in this section regarding the erection, use, inspection, and maintenance of fall protection equipment and systems.

Continuous fall protection means the design and use of a fall protection system such that no exposure to an elevated fall hazard occurs. This may require more than one fall protection system or a combination of prevention or protection measures.

Control zone means the area between the warning line and the unprotected sides and edges of the walking/working surface.

Deceleration device means any mechanism, such as a rope grab, ripstitch lanyard, specifically woven lanyard and automatic self-retreating lifeline, which serves to dissipate more energy during a fall arrest than does a standard line or strap webbing lanyard.

Drop line means a vertical lifeline secured to an upper anchorage for the purpose of attaching a lanyard or device.

Fall arrest system means the use of multiple, approved safety equipment components such as; body harnesses, lanyards, deceleration devices, droplines, horizontal and/or vertical lifelines and anchorages, interconnected and rigged as to arrest a free fall. Compliance with anchorage strength requirements specified in the applicable sections of chapter 296-155 WAC, Part C-1 shall constitute approval of the anchorage.

Fall protection work plan means a written planning document in which the employer identifies all areas on the job site where a fall hazard of 10 feet or greater exists. The plan describes the method or methods of fall protection to be utilized to protect employees, and includes the procedures governing the installation use, inspection, and removal of the fall protection method or methods which are selected by the employer. (See WAC 296-155-24505.)

Fall restraint system means an approved device and any necessary components that function together to restrain an employee in such a manner as to prevent that employee from falling to a lower level. When standard guardrails are selected, compliance with applicable sections governing their construction and use shall constitute approval.

Fall distance means the actual distance from the worker's support to the level where a fall would stop.

Hardware means snap hooks, D rings, bucklers, carabiners, adjusters, O rings, that are used to attach the components of a fall protection system together.

Horizontal lifeline means a rail, rope, wire, or synthetic cable that is installed in a horizontal plane between two anchorages and used for attachment of a worker's lanyard or lifeline device while moving horizontally; used to control dangerous pendulum like swing falls.

Lanyard means a flexible line of webbing, rope, or cable used to secure a body belt or harness to a lifeline or an anchorage point usually 2, 4, or 6 feet long.

Leading edge means the advancing edge of a floor, roof, or formwork which changes location as additional floor, roof, or formwork sections are placed, formed, or constructed. Leading edges not actively under construction are considered to be "unprotected sides and edges," and positive methods of fall arrest or fall restraint shall be required to protect exposed workers.

Lifeline means a vertical line from a fixed anchorage or between two horizontal anchorages, independent of walking or working surfaces, to which a lanyard or device is secured. Lifeline as referred to in this text is one which is part of a fall protection system used as back-up safety for an elevated worker.

Locking snap hook means a connecting snap hook that requires two separate forces to open the gate; one to deactivate the gatekeeper and a second to depress and open the gate which automatically closes when released; used to minimize roll out or accidental disengagement.

Low pitched roof means a roof having a slope equal to or less than 4 in 12.

Positioning belt means a single or multiple strap that can be secured around the worker's body to hold the user in a work position; for example, a lineman's belt, a rebar belt, or saddle belt.

Restraint line means a line from a fixed anchorage or between two anchorages to which an employee is secured in such a way as to prevent the worker from falling to a lower level.

Roll out means unintentional disengagement of a snap hook caused by the gate being depressed under torque or contact while twisting or turning; a particular concern with single action snap hooks that do not have a locking gatekeeper.

Rope grab means a fall arrester that is designed to move up or down a lifeline suspended from a fixed overhead or horizontal anchorage point, or lifeline, to which the belt or harness is attached. In the event of a fall, the rope grab locks onto the lifeline rope through compression to arrest the fall. The use of a rope grab device is restricted for all restraint applications. (Refer to WAC 296-155-24510 (2)(b)(iii)).

Safety line - see lifeline.

Safety monitor system means a system of fall restraint used in conjunction with a warning line system only, where a competent person as defined by this part, having no additional duties, monitors the proximity of workers to the fall hazard when working between the warning line and the unprotected sides and edges including, the leading edge of a low pitched roof or walking/working surface.

Self retracting lifeline means a deceleration device which contains a drum wound line which may be slowly extracted from, or retracted onto, the drum under slight tension during normal employee movement, and which after onset of a fall, automatically locks the drum and arrests the fall.

Shock absorbing lanyard means a flexible line of webbing, cable, or rope used to secure a body belt or harness to a lifeline or anchorage point that has an integral shock absorber.

Single action snap hook means a connecting snap hook that requires a single force to open the gate which automatically closes when released.

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**Snap hook** means a self-closing connecting device with a gatekeeper latch or similar arrangement that will remain closed until manually opened. This includes single action snap hooks that open when the gatekeeper is depressed and double action snap hooks that require a second action on a gatekeeper before the gate can be opened.

**Static line** - see horizontal lifeline.

**Strength member** means any component of a fall protection system that could be subject to loading in the event of a fall.

**Steep roof** means a roof having a slope greater than 4 in 12.

**Unprotected sides and edges** means any side or edge (except at entrances to points of access) of a floor, roof, ramp or runway where there is no wall or guardrail system as defined in WAC 296-155-505(6).

**Walking/working surface** means for the purpose of this section, any area whose dimensions are 45 inches or greater in all directions, through which workers pass or conduct work.

**Warning line system** means a barrier erected on a walking and working surface or a low pitch roof (4 in 12 or less), to warn employees that they are approaching an unprotected fall hazard(s).

**Work area** means that portion of a walking/working surface where job duties are being performed.

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 WSR 95-10-016, filed 4/25/95, effective 10/1/95)

#### **WAC 296-155-24505 Fall protection ((systems criteria and practices)) work plan. (((1) General.**

(a) Fall protection systems required by Part C-1 shall comply with the applicable provisions of this section.

(b) Employers shall provide and install all fall protection systems required by Part C-1 for an employee, and shall comply with all other pertinent requirements of Part C-1 before that employee begins the work that necessitates the fall protection.

(2) Guardrail systems. Guardrail systems and their use shall comply with the following provisions:

(a) Top edge height of top rails, or equivalent guardrail system members, shall be 42 inches (1.1 m) plus or minus 3 inches (8 cm) above the walking/working level. When conditions warrant, the height of the top edge may exceed the 45 inch height, provided the guardrail system meets all other criteria of this subsection.

Note: When employees are using stilts, the top edge height of the top rail, or equivalent member, shall be increased an amount equal to the height of the stilts.

(b) Midrails, screens, mesh, intermediate vertical members, or equivalent intermediate structural members shall be installed between the top edge of the guardrail system and the walking/working surface when there is no wall or parapet wall at least 21 inches (53 cm) high.

(i) Midrails, when used, shall be installed at a height midway between the top edge of the guardrail system and the walking/working level.

(ii) Screens and mesh, when used, shall extend from the top rail to the walking/working level and along the entire opening between top rail supports.

(iii) Intermediate members (such as balusters), when used between posts, shall be not more than 19 inches (48 cm) apart.

(iv) Other structural members (such as additional midrails and architectural panels) shall be installed such that there are no openings in the guardrail system that are more than 19 inches (.5 m) wide.

(e) Guardrail systems shall be capable of withstanding, without failure, a force of at least 200 pounds (890 N) applied within 2 inches (5.1 cm) of the top edge, in any outward or downward direction, at any point along the top edge.

(d) When the 200 pound (890 N) test load specified in subdivision (e) of this subsection is applied in a downward direction, the top edge of the guardrail shall not deflect to a height less than 39 inches (1.0m) above the walking/working level. Guardrail system components selected and constructed in accordance with the Appendix B to Part C-1 will be deemed to meet this requirement.

(e) Midrails, screens, mesh, intermediate vertical members, solid panels, and equivalent structural members shall be capable of withstanding, without failure, a force of at least 150 pounds (666 N) applied in any downward or outward direction at any point along the midrail or other member.

(f) Guardrail systems shall be so surfaced as to prevent injury to an employee from punctures or lacerations, and to prevent snagging of clothing.

(g) The ends of all top rails and midrails shall not overhang the terminal posts, except where such overhang does not constitute a projection hazard.

(h) Steel banding and plastic banding shall not be used as top rails or midrails.

(i) Top rails and midrails shall be at least one quarter inch (0.6 cm) nominal diameter or thickness to prevent cuts and lacerations. If wire rope is used for top rails, it shall be flagged at not more than 6 foot intervals with high-visibility material.

(j) When guardrail systems are used at hoisting areas, a chain, gate or removable guardrail section shall be placed across the access opening between guardrail sections when hoisting operations are not taking place.

(k) When guardrail systems are used at holes, they shall be erected on all unprotected sides or edges of the hole.

(l) When guardrail systems are used around holes used for the passage of materials, the hole shall have not more than two sides provided with removable guardrail sections to allow the passage of materials. When the hole is not in use, it shall be closed over with a cover, or a guardrail system shall be provided along all unprotected sides or edges.

(m) When guardrail systems are used around holes which are used as points of access (such as ladderways), they shall be provided with a gate, or be so offset that a person cannot walk directly into the hole.

(n) Guardrail systems used on ramps and runways shall be erected along each unprotected side or edge.

(o) Manila, plastic or synthetic rope being used for top rails or midrails shall be inspected as frequently as necessary

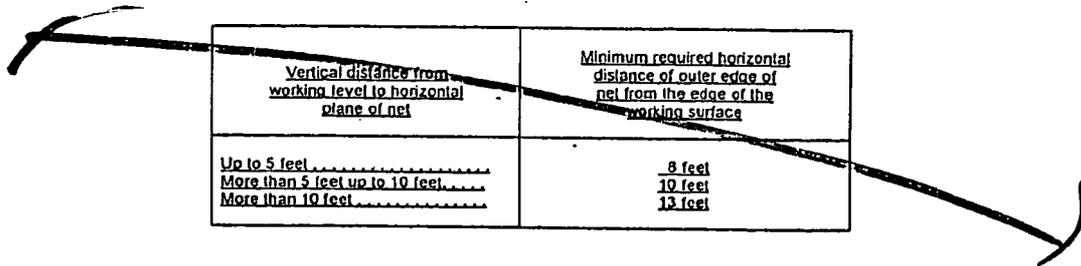
to ensure that it continues to meet the strength requirements of subdivision (c) of this subsection.

(3) Safety net systems. Safety net systems and their use shall comply with the following provisions:

(a) Safety nets shall be installed as close as practicable under the walking/working surface on which employees are

working, but in no case more than 30 feet (9.1 m) below such level. When nets are used on bridges, the potential fall area from the walking/working surface to the net shall be unobstructed.

(b) Safety nets shall extend outward from the outermost projection of the work surface as follows:



(c) Safety nets shall be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in subdivision (d) of this subsection.

(d) Safety nets and their installations shall be capable of absorbing an impact force equal to that produced by the drop test specified in subdivision (d) of this section.

(i) Except as provided in item (ii) of this subdivision, safety nets and safety net installations shall be drop tested at the job site after initial installation and before being used as a fall protection system, whenever relocated, after major repair, and at 6-month intervals if left in one place. The drop test shall consist of a 400 pound (180 kg) bag of sand 30 ± 2 inches (76 ± 5 cm) in diameter dropped into the net from the highest walking/working surface at which employees are exposed to fall hazards, but not from less than 42 inches (1.1 m) above that level.

(ii) When the employer can demonstrate that it is unreasonable to perform the drop test required by item (i) of this subdivision, the employer (or a designated competent person) shall certify that the net and net installation is in compliance with the provisions of subsection (c) and item (i) of this subdivision by preparing a certification record prior to the net being used as a fall protection system. The certification record must include an identification of the net and net installation for which the certification record is being prepared; the date that it was determined that the identified net and net installation were in compliance with subdivision (c) of this subsection and the signature of the person making the determination and certification. The most recent certification record for each net and net installation shall be available at the job site for inspection.

(e) Defective nets shall not be used. Safety nets shall be inspected at least once a week for wear, damage, and other deterioration. Defective components shall be removed from service. Safety nets shall also be inspected after any occurrence which could affect the integrity of the safety net system.

(f) Materials, scrap pieces, equipment, and tools which have fallen into the safety net shall be removed as soon as possible from the net and at least before the next work shift.

(g) The maximum size of each safety net mesh opening shall not exceed 36 square inches (230 cm<sup>2</sup>) nor be longer than 6 inches (15 cm) on any side, and the opening, mea-

sured center to center of mesh ropes or webbing, shall not be longer than 6 inches (15 cm). All mesh crossings shall be secured to prevent enlargement of the mesh opening.

(h) Each safety net (or section of it) shall have a border rope for webbing with a minimum breaking strength of 5,000 pounds (22.2 kN).

(i) Connections between safety net panels shall be as strong as integral net components and shall be spaced not more than 6 inches (15 cm) apart.

(4) Personal fall arrest systems. Personal fall arrest systems and their use shall comply with the provisions set forth below. Body belts may be used for a fall restraining device.

Note: The use of a body belt in a positioning device system is acceptable and is regulated under subsection (5) of this section.

(a) Connectors shall be drop forged, pressed or formed steel, or made of equivalent materials.

(b) Connectors shall have a corrosion-resistant finish, and all surfaces and edges shall be smooth to prevent damage to interfacing parts of the system.

(c) Dee rings and snap hooks shall have a minimum tensile strength of 5,000 pounds (22.2 kN).

(d) Dee rings and snap hooks shall be proof tested to a minimum tensile load of 3,600 pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(e) Snap hooks shall be sized to be compatible with the member to which they are connected to prevent unintentional disengagement of the snap hook by depression of the snap hook keeper by the connected member, or shall be a locking type snap hook designed and used to prevent disengagement of the snap hook by the contact of the snap hook keeper by the connected member. Effective January 1, 1998, only locking type snap hooks shall be used.

(f) Unless the snap hook is a locking type and designed for the following connections, snap hooks shall not be engaged:

- (i) Directly to webbing, rope or wire rope;
- (ii) To each other;
- (iii) To a dee ring to which another snap hook or other connector is attached;
- (iv) To a horizontal lifeline; or
- (v) To any object which is incompatibly shaped or dimensioned in relation to the snap hook such that uninten-

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tional disengagement could occur by the connected object being able to depress the snap hook keeper and release itself.

(g) On suspended scaffolds or similar work platforms with horizontal lifelines which may become vertical lifelines, the devices used to connect to a horizontal lifeline shall be capable of locking in both directions on the lifeline.

(h) Horizontal lifelines shall be designed, installed, and used, under the supervision of a qualified person, as part of a complete personal fall arrest/fall restraint system, which maintains a safety factor of at least two.

(i) Lanyards and vertical lifelines shall have a minimum breaking strength of 5,000 pounds (22.2 kN).

(j) Except as provided in subdivision (k) of this subsection, when vertical lifelines are used, each employee shall be attached to a separate lifeline.

(k) During the construction of elevator shafts, two employees may be attached to the same lifeline in the hoistway, provided both employees are working atop a false ear that is equipped with guardrails; the strength of the lifeline is 10,000 pounds (5,000 pounds per employee attached) (44.4 kN); and all other criteria specified in this subsection for lifelines have been met.

(l) Lifelines shall be protected against being cut or abraded.

(m) Self-retracting lifelines and lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less shall be capable of sustaining a minimum tensile load of 3,000 pounds (13.3 kN) applied to the device with the lifeline or lanyard in the fully extended position.

(n) Self-retracting lifelines and lanyards which do not limit free fall distance to 2 feet (0.61 m) or less, ripstitch lanyards, and tearing and deforming lanyards shall be capable of sustaining a minimum tensile load of 5,000 pounds (22.2 kN) applied to the device with the lifeline or lanyard in the fully extended position.

(o) Ropes and straps (webbing) used in lanyards, lifelines, and strength components of body belts and body harnesses shall be made from synthetic fibers.

(p) Anchorage's used for attachment of personal fall arrest equipment shall be independent of any anchorage being used to support or suspend platforms and capable of supporting at least 5,000 pounds (22.2 kN) per employee attached, or shall be designed, installed, and used as follows:

(i) As part of a complete personal fall arrest system which maintains a safety factor of at least two; and

(ii) Under the supervision of a qualified person.

(q) Personal fall arrest systems, when stopping a fall, shall:

(i) Limit maximum arresting force on an employee to 1,800 pounds (8 kN) when used with a body harness;

(ii) Be rigged such that an employee can neither free fall more than 6 feet (1.8 m), nor contact any lower level;

(iii) Bring an employee to a complete stop and limit maximum deceleration distance an employee travels to 3.5 feet (1.07 m); and,

(iv) Have sufficient strength to withstand twice the potential impact energy of an employee free falling a distance of 6 feet (1.8 m), or the free fall distance permitted by the system, whichever is less.

Note:—If the personal fall arrest system meets the criteria and protocols contained in Appendix C to Part C 1, and if the system is being used by an employee having a combined person and tool weight

of less than 310 pounds (140 kg), the system will be considered to be in compliance with the provisions of this subdivision. If the system is used by an employee having a combined tool and body weight of 310 pounds (140 kg) or more, then the employer must appropriately modify the criteria and protocols of the Appendix to provide proper protection for such heavier weights, or the system will not be deemed to be in compliance with the requirements of this subdivision.

(r) The attachment point of the body harness shall be located in the center of the wearer's back near shoulder level, or above the wearer's head.

(s) Harnesses and components shall be used only for employee protection (as part of a personal fall arrest/fall-restraint system or positioning device system) and not to hoist materials.

(t) Personal fall arrest systems and components subjected to impact loading shall be immediately removed from service and shall not be used again for employee protection until inspected and determined by a competent person to be undamaged and suitable for reuse.

(u) The employer shall provide for prompt rescue of employees in the event of a fall or shall assure that employees are able to rescue themselves.

(v) Personal fall arrest systems shall be inspected prior to each use for wear, damage and other deterioration, and defective components shall be removed from service.

(w) Personal fall arrest systems shall not be attached to guardrail systems, nor shall they be attached to hoists except as specified in other parts of chapter 296-155 WAC.

(x) When a personal fall arrest system is used at hoist areas, it shall be rigged to allow the movement of the employee only as far as the edge of the walking/working surface.

(5) Personal fall restraint:

(a) Body belts or harnesses may be used for personal fall restraint.

(b) Body belts shall be at least one and five eighths (1 5/8) inches (4.1 cm) wide.

(c) Anchorage points used for fall restraint shall be capable of supporting 4 times the intended load.

(d) Restraint protection shall be rigged to allow the movement of employees only as far as the sides of the walking/working surface.

(6) Positioning device systems. Positioning device systems and their use shall conform to the following provisions:

(a) Positioning devices shall be rigged such that an employee cannot free fall more than 2 feet (.61 m).

(b) Positioning devices shall be secured to an anchorage capable of supporting at least twice the potential impact load of an employee's fall or 3,000 pounds (13.3 kN), whichever is greater.

(c) Connectors shall be drop forged, pressed or formed steel, or made of equivalent materials.

(d) Connectors shall have a corrosion resistant finish, and all surfaces and edges shall be smooth to prevent damage to interfacing parts of this system.

(e) Connecting assemblies shall have a minimum tensile strength of 5,000 pounds (22.2 kN)

(f) Dee-rings and snap-hooks shall be proof-tested to a minimum tensile load of 3,600 pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(g) Snap hooks shall be sized to be compatible with the member to which they are connected to prevent unintentional disengagement of the snap hook by depression of the snap hook keeper by the connected member, or shall be a locking type snap hook designed and used to prevent disengagement of the snap hook by the contact of the snap hook keeper by the connected member. As of January 1, 1998, only locking type snap hooks shall be used.

(h) Unless the snap hook is a locking type and designed for the following connections, snap hooks shall not be engaged:

- (i) Directly to webbing, rope or wire rope;
- (ii) To each other;
- (iii) To a dee ring to which another snap hook or other connector is attached;
- (iv) To a horizontal lifeline; or
- (v) To any object which is incompatibly shaped or dimensioned in relation to the snap hook such that unintentional disengagement could occur by the connected object being able to depress the snap hook keeper and release itself.

(i) Positioning device systems shall be inspected prior to each use for wear, damage, and other deterioration, and defective components shall be removed from service.

(j) Body belts, harnesses, and components shall be used only for employee protection (as part of a personal fall arrest system or positioning device system) and not to hoist materials.

(7) Warning line systems. Warning line systems (see WAC 296-155-24503 (2)(j)) and their use shall comply with the following provisions:

(a) The warning line shall be erected around all sides of the roof work area or leading edge(s).

(i) When mechanical equipment is not being used, the warning line shall be erected not less than 6 feet (1.8 m) from the roof edge.

(ii) When mechanical equipment is being used, the warning line shall be erected not less than 6 feet (1.8 m) from the roof edge which is parallel to the direction of mechanical equipment operation, and not less than 10 feet (3.1 m) from the roof edge which is perpendicular to the direction of mechanical equipment operation.

(iii) Points of access, materials handling areas, storage areas, and hoisting areas shall be connected to the work area by an access path formed by two warning lines.

(iv) When the path to a point of access is not in use, a rope, wire, chain, or other barricade, equivalent in strength and height to the warning line, shall be placed across the path at the point where the path intersects the warning line erected around the work area, or the path shall be offset such that a person cannot walk directly into the work area.

(b) Warning lines shall consist of ropes, wires, or chains, and supporting stanchions erected as follows:

(i) The rope, wire, or chain shall be flagged at not more than 6 foot (1.8m) intervals with high visibility material;

(ii) The rope, wire, or chain shall be rigged and supported in such a way that its lowest point (including sag) is no less than 39 inches (1.0m) from the walking/working surface and its highest point is no more than 45 inches (1.3 m) from the walking/working surface.

(iii) After being erected, with the rope, wire, or chain attached, stanchions shall be capable of resisting, without tipping over, a force of at least 16 pounds (71 N) applied

horizontally against the stanchion, 30 inches (.8 m) above the walking/working surface, perpendicular to the warning line, and in the direction of the floor, roof, or platform edge;

(iv) The rope, wire, or chain shall have a minimum tensile strength of 500 pounds (2.22 kN), and after being attached to the stanchions, shall be capable of supporting, without breaking, the loads applied to the stanchions as prescribed in item (iii) of this subdivision; and

(v) The line shall be attached at each stanchion in such a way that pulling on one section of the line between stanchions will not result in slack being taken up in adjacent sections before the stanchion tips over.

(e) No employee shall be allowed in the area between a roof edge/leading edge and a warning line unless the employee is performing roofing work in that area.

(d) Mechanical equipment on roofs/leading edges shall be used or stored only in areas where employees are protected by a warning line system, guardrail system, or personal fall arrest system.

(e) Warning line and safety monitor systems are prohibited on any surface whose dimensions are less than 45 inches in all directions.

(f) Roof edge materials handling areas and materials storage. Employees working in a roof edge materials handling or materials storage area location on a low pitched roof with a ground to eave height greater than 6 feet shall be protected from falling along all unprotected roof sides and edges of the area.

(i) When guardrails are used at hoisting areas, a minimum of four feet of guardrail shall be erected on each side of the access point through which materials are hoisted.

(ii) A chain or gate shall be placed across the opening between the guardrail sections when hoisting operations are not taking place.

(iii) When guardrails are used at bitumen pipe outlets, a minimum of four feet of guardrail shall be erected on each side of the pipe.

(iv) When safety belt/harness systems are used, they shall not be attached to the hoist.

(v) When fall restraint systems are used, they shall be rigged to allow the movement of employees only as far as the roof edge.

(vi) Materials shall not be stored within six feet of the roof edge unless guardrails are erected at the roof edge.

(8) Controlled access zones. Controlled access zones (see WAC 296-155-24503 (2)(i) and subsection (12) of this section) and their use shall conform to the following provisions:

(a) When positive means of fall restraint, or fall arrest are not utilized, a safety monitor system shall be implemented to protect employees working between the forward edge of the control/warning line and the leading edge.

(b) When used to control access to areas where leading edge and other operations are taking place the controlled access zone shall be defined by a control line or by any other means that restricts access.

(i) When control lines are used, they shall be erected not less than 6 feet (1.8 m) nor more than 25 feet (7.7 m) from the unprotected or leading edge, except when erecting precast concrete members.

(ii) When erecting precast concrete members, the control line shall be erected not less than 6 feet (1.8 m) nor more

than 60 feet (18 m) or half the length of the member being erected, whichever is less, from the leading edge.

(iii) The control line shall extend along the entire length of the unprotected or leading edge and shall be approximately parallel to the unprotected or leading edge.

(iv) The control line shall be connected on each side to a guardrail system or wall.

(e) When used to control access to areas where overhand bricklaying and related work are taking place:

(i) The controlled access zone shall be defined by a control line erected not less than 10 feet (3.1 m) nor more than 15 feet (4.5 m) from the working edge.

(ii) The control line shall extend for a distance sufficient for the controlled access zone to enclose all employees performing overhand bricklaying and related work at the working edge and shall be approximately parallel to the working edge.

(iii) Additional control lines shall be erected at each end to enclose the controlled access zone.

(iv) Only employees engaged in overhand bricklaying or related work shall be permitted in the controlled access zone.

(d) Control lines shall consist of ropes, wires, tapes, or equivalent materials, and supporting stanchions as follows:

(i) Each line shall be flagged or otherwise clearly marked at not more than 6 foot (1.8 m) intervals with high-visibility material.

(ii) Each line shall be rigged and supported in such a way that its lowest point (including sag) is not less than 39 inches (1 m) from the walking/working surface and its highest point is not more than 45 inches (1.3 m) (50 inches (1.3 m) when overhand bricklaying operations are being performed) from the walking/working surface.

(iii) Each line shall have a minimum breaking strength of 200 pounds (.88 kN).

(e) On floors and roofs where guardrail systems are not in place prior to the beginning of overhand bricklaying operations, controlled access zones shall be enlarged, as necessary, to enclose all points of access, material handling areas, and storage areas.

(f) On floors and roofs where guardrail systems are in place, but need to be removed to allow overhand bricklaying work or leading edge work to take place, only that portion of the guardrail necessary to accomplish that day's work shall be removed.

(9) Safety monitoring systems. Safety monitoring systems (see WAC 296-155-24503 (2)(j) and subsection (12) of this section) and their use shall comply with the following provisions:

(a) The employer shall designate a competent person as defined in WAC 296-155-24501 to monitor the safety of other employees and the employer shall ensure that the safety monitor complies with the following requirements:

(i) The safety monitor shall be competent to recognize fall hazards;

(ii) The safety monitor shall warn the employee when it appears that the employee is unaware of a fall hazard or is acting in an unsafe manner;

(iii) The safety monitor shall be on the same walking/working surface and within visual sighting distance of the employee(s) being monitored;

(iv) The safety monitor shall be close enough to communicate orally with the employee;

(v) The safety monitor shall not have other responsibilities which could take the monitor's attention from the monitoring function;

(vi) Be instantly distinguishable over members of the work crew;

(vii) Not supervise more than eight exposed workers at one time; and

(viii) The safety monitor system shall not be used when adverse weather conditions create additional hazards.

(b) Mechanical equipment shall not be used or stored in areas where safety monitoring systems are being used to monitor employees engaged in roofing operations on low-slope roofs.

(c) No employee, other than an employee engaged in roofing/leading edge work (on low-sloped roofs) or an employee covered by a fall protection plan, shall be allowed in an area where an employee is being protected by a safety monitoring system.

(d) Each employee working in a controlled access zone shall be directed to comply promptly with fall hazard warnings from safety monitors.

(e) Controlled (access) zone workers shall be distinguished from other members of the crew by wearing a high-visibility vest only while in the control zone.

(10) Covers. Covers for holes in floors, roofs, and other walking/working surfaces shall meet the following requirements:

(a) Covers located in roadways and vehicular aisles shall be capable of supporting, without failure, at least twice the maximum axle load of the largest vehicle exposed to cross over the cover.

(b) All other covers shall be capable of supporting, without failure, at least twice the weight of employees, equipment, and materials that may be imposed on the cover at any one time.

(c) All covers shall be secured when installed so as to prevent accidental displacement by the wind, equipment, or employees.

(d) All covers shall be color-coded or they shall be marked with the word "hole" or "cover" to provide warning of the hazard.

Note: This provision does not apply to cast iron manhole covers or steel grates used on streets or roadways.

(11) Protection from falling objects. Falling object protection shall comply with the following provisions:

(a) Toeboards, when used as falling object protection, shall be erected along the edge of the overhead walking/working surface for a distance sufficient to protect employees below.

(b) Toeboards shall be capable of withstanding, without failure, a force of at least 50 pounds (222 N) applied in any downward or outward direction at any point along the toeboard.

(c) Toeboards shall be a minimum of 3 1/2 inches (9 cm) in vertical height from their top edge to the level of the walking/working surface. They shall have not more than 1/4 inch (0.6 cm) clearance above the walking/working surface. They shall be solid or have openings not over 1 inch (2.5 cm) in greatest dimension.

(d) Where tools, equipment, or materials are piled higher than the top edge of a toeboard, paneling or screening

shall be erected from the walking/working surface or toeboard to the top of a guardrail system's top rail or midrail, for a distance sufficient to protect employees below.

(e) Guardrail systems, when used as falling object protection, shall have all openings small enough to prevent passage of potential falling objects.

(f) During the performance of overhand bricklaying and related work:

(i) No materials or equipment except masonry and mortar shall be stored within 4 feet (1.2m) of the working edge.

(ii) Excess mortar, broken or scattered masonry units, and all other materials and debris shall be kept clear from the work area by removal at regular intervals.

(g) During the performance of roofing work:

(i) Materials and equipment shall not be stored within 6 feet (1.8m) of a roof edge unless guardrails are erected at the edge.

(ii) Materials which are piled, grouped, or stacked near a roof edge shall be stable and self-supporting.

(h) Canopies, when used as falling object protection, shall be strong enough to prevent collapse and to prevent penetration by any objects which may fall onto the canopy.

(12) Fall protection plan. This option is available only to employers engaged in leading edge work, precast concrete erection work, or residential construction work (see WAC 296-155-24503 (2)(b), (l), and (m)) when the work being done is greater than six (6) (1.8m) feet but does not exceed ten (10) feet (3.05m) above the adjacent ground level or floor and can demonstrate that it is infeasible or it creates a greater hazard to use conventional fall protection equipment. The fall protection plan must conform to the following provisions:

Note: See WAC 296-155-24503(4) when working ten feet or more above the adjacent floor or ground level.

(a) The fall protection plan shall be prepared by a qualified person and developed specifically for the site where the leading edge work, precast concrete work, or residential construction work is being performed and the plan must be maintained up to date.

(b) Any changes to the fall protection plan shall be approved by a qualified person.

(c) A copy of the fall protection plan with all approved changes shall be maintained at the job site.

(d) The implementation of the fall protection plan shall be under the supervision of a competent person.

(e) The fall protection plan shall document the reasons why the use of conventional fall protection systems (guardrail systems, personal fall arrest systems, or safety net systems) are infeasible or why their use would create a greater hazard.

(f) The fall protection plan shall include a written discussion of other measures that will be taken to reduce or eliminate the fall hazard for workers who cannot be provided with protection from the conventional fall protection systems. For example, the employer shall discuss the extent to which scaffolds, ladders, or vehicle-mounted work platforms can be used to provide a safer working surface and thereby reduce the hazard of falling.

(g) The fall protection plan shall identify each location where conventional fall protection methods cannot be used.

These locations shall then be classified as controlled access zones and the employer must comply with the criteria in subsection (7) of this section.

(h) Where no other alternative measure has been implemented, the employer shall implement a safety monitoring system in conformance with subsection (8) of this section.

(i) The fall protection plan must include a statement which provides the name or other method of identification for each employee who is designated to work in controlled access zones. No other employees may enter controlled access zones.

(j) In the event an employee falls, or some other related, serious incident occurs, (e.g., a near miss) the employer shall investigate the circumstances of the fall or other incident to determine if the fall protection plan needs to be changed (e.g., new practices, procedures, or training) and shall implement those changes to prevent similar types of falls or incidents.

Note: See WAC 296-155-24523, Appendix E to this Part for guidance in completing a fall protection plan to comply with this subsection.)

(1) The employer shall develop and implement a written fall protection work plan including each area of the work place where the employees are assigned and where fall hazards of 10 feet or more exist.

(2) The fall protection work plan shall:

(a) Identify all fall hazards in the work area.

(b) Describe the method of fall arrest or fall restraint to be provided.

(c) Describe the correct procedures for the assembly, maintenance, inspection, and disassembly of the fall protection system to be used.

(d) Describe the correct procedures for the handling, storage, and securing of tools and materials.

(e) Describe the method of providing overhead protection for workers who may be in, or pass through the area below the work site.

(f) Describe the method for prompt, safe removal of injured workers.

(g) Be available on the job site for inspection by the department.

(3) prior to permitting employees into areas where fall hazards exist the employer shall:

(a) Ensure that employees are trained and instructed in the items described in subsection (2)(a) through (f) of this section.

(b) Inspect fall protection devices and systems to ensure compliance with WAC 296-155-24510 (1) through (3)(c)(ii).

(4) Training of employees as required by this section shall be documented and shall be available on the job site.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-24507 ((Training requirements.** The following training provisions supplement other training requirements contained in chapter 296-155 WAC. Training shall be conducted regarding the hazards addressed in this part:

(1) Training program:

~~(a) The employer shall provide a training program for each employee who might be exposed to fall hazards. The program shall enable each employee to recognize the hazards of falling and shall train each employee in the procedures to be followed in order to minimize these hazards.~~

~~(b) The employer shall assure that each employee has been trained, as necessary, by a competent person qualified in the following areas:~~

~~(i) The nature of fall hazards in the work area;~~

~~(ii) The correct procedures for erecting, maintaining, disassembling, and inspecting the fall protection systems to be used;~~

~~(iii) The use and operation of guardrail systems, personal fall arrest systems, safety net systems, warning line systems, safety monitoring systems, controlled access zones, and other protection to be used;~~

~~(iv) The role of each employee in the safety monitoring system when this system is used;~~

~~(v) The limitations on the use of mechanical equipment during the performance of roofing work on low-sloped roofs;~~

~~(vi) The correct procedures for the handling and storage of equipment and materials and the erection of overhead protection;~~

~~(vii) The role of employees in fall protection plans; and~~

~~(viii) The standards contained in this part.~~

~~(2) Certification of training:~~

~~(a) The employer shall verify compliance with subsection (1) of this section by preparing a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer. If the employer relies on training conducted by another employer or completed prior to the effective date of this part, the certification record shall indicate the date the employer determined the prior training was adequate rather than the date of actual training.~~

~~(b) The latest training certification shall be maintained.~~

~~(3) Retraining. When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by subsection (1) of this section, the employer shall retrain each such employee. Circumstances where retraining is required include, but are not limited to, situations where:~~

~~(a) Changes in the workplace render previous training obsolete; or~~

~~(b) Changes in the types of fall protection systems or equipment to be used render previous training obsolete; or~~

~~(c) Inadequacies in an affected employee's knowledge or use of fall protection systems or equipment indicate that the employee has not retained the requisite understanding or skill.) Reserve.~~

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

WAC 296-155-24510 ((Reserved.)) **Fall restraint, fall arrest systems.** (1) When employees are exposed to a hazard of falling from a location 10 feet or more in height, the employer shall ensure that fall restraint or fall arrest systems are provided, installed, and implemented according to the following requirements.

(2) Fall restraint protection shall consist of:

(a) Standard guardrails as described in chapter 296-155 WAC, Part K.

(b) Safety belts and/or harness attached to securely rigged restraint lines.

(i) Safety belts and/or harness shall conform to ANSI Standard:

Class I body belt

Class II chest harness

Class III full body harness

Class IV suspension/position belt

(ii) All safety belt and lanyard hardware assemblies shall be capable of withstanding a tensile loading of 4,000 pounds without cracking, breaking, or taking a permanent deformation.

(iii) Rope grab devices are prohibited for fall restraint applications unless they are part of a fall restraint system designed specifically for the purpose by the manufacturer, and used in strict accordance with the manufacturer's recommendations and instructions.

(iv) The employer shall ensure component compatibility.

(v) Components of fall restraint systems shall be inspected prior to each use for mildew, wear, damage, and other deterioration, and defective components shall be removed from service if their function or strength have been adversely affected.

(vi) Anchorage points used for fall restraint shall be capable of supporting 4 times the intended load.

(vii) Restraint protection shall be rigged to allow the movement of employees only as far as the sides and edges of the walking/working surface.

(c) A warning line system as prescribed in WAC 296-155-24515(3) and supplemented by the use of a safety monitor system as prescribed in WAC 296-155-24521 to protect workers engaged in duties between the forward edge of the warning line and the unprotected sides and edges, including the leading edge, of a low pitched roof or walking/working surface.

(d) Warning line and safety monitor systems as described in WAC 296-155-24515 (3) through (4)(f) and WAC 296-155-24520 respectively are prohibited on surfaces exceeding a 4 in 12 pitch, and on any surface whose dimensions are less than 45 inches in all directions.

(3) Fall arrest protection shall consist of:

(a) Full body harness.

(i) An approved Class III full body harness shall be used.

(ii) Body harness systems or components subject to impact loading shall be immediately removed from service and shall not be used again for employee protection unless inspected and determined by a competent person to be undamaged and suitable for reuse.

(iii) All safety lines and lanyards shall be protected against being cut or abraded.

(iv) Body harness systems shall be rigged to minimize free fall distance with a maximum free fall distance allowed of 6 feet, and such that the employee will not contact any lower level.

(v) Hardware shall be drop forged, pressed or formed steel, or made of materials equivalent in strength.

(vi) Hardware shall have a corrosion resistant finish, and all surfaces and edges shall be smooth to prevent damage to the attached body harness or lanyard.

(vii) When vertical lifelines (droplines) are used, not more than one employee shall be attached to any one lifeline.

(viii) Full body harness systems shall be secured to anchorages capable of supporting 5,000 pounds per employee except: When self retracting lifelines or other deceleration devices are used which limit free fall to two feet, anchorages shall be capable of withstanding 3,000 pounds.

(ix) Vertical lifelines (droplines) shall have a minimum tensile strength of 5,000 pounds (22.2 kN), except that self retracting lifelines and lanyards which automatically limit free fall distance to two feet (.61 m) or less shall have a minimum tensile strength of 3,000 pounds (13.3 kN).

(x) Horizontal lifelines shall have a tensile strength capable of supporting a fall impact load of at least 5,000 pounds (22.2 kN) per employee using the lifeline, applied anywhere along the lifeline.

(xi) Lanyards shall have a minimum tensile strength of 5,000 pounds (22.2 kN).

(xii) All components of body harness systems whose strength is not otherwise specified in this subsection shall be capable of supporting a minimum fall impact load of 5,000 pounds (22.2 kN) applied at the lanyard point of connection.

(xiii) Snap hooks shall not be connected to loops made in webbing type lanyards.

(xiv) Snap hooks shall not be connected to each other.

(xv) Not more than one snap hook shall be connected to any one

D ring unless they are the double locking type.

(xvi) Full body harness systems shall be inspected prior to each use for mildew, wear, damage, and other deterioration, and defective components shall be removed from service if their function or strength have been adversely affected.

(b) Safety nets.

(i) All new nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturers, and shall bear a label of proof test.

(ii) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(iii) Safety nets shall be installed as close as practicable under the walking/working surface on which employees are working, but in no case more than 10 feet below such level.

(iv) Safety nets shall extend outward at least 8 feet from the outermost projection of the work surface.

(v) Safety nets shall be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in (b)(vii) of this subsection.

(vi) Safety nets and their installations shall be capable of absorbing an impact force equal to that produced by the drop test specified in (b)(vii) of this subsection.

(vii) Safety nets and safety net installations shall be drop tested at the jobsite before used as a fall protection system. The drop test shall consist of a 400 pound (180 kg) bag of sand 30+2 inches (76+5 cm) in diameter dropped into the net from the highest walking/working surface on which employees are to be protected. Exception: When the

employer can demonstrate that a drop test is not feasible or practicable, the net and net installation shall be certified by a qualified person to be in compliance with the provisions of this section.

(viii) Safety nets shall be inspected weekly for mildew, wear, damage, and other deterioration, and defective components shall be removed from service.

(ix) Materials, scrap pieces, and tools which have fallen into the safety net shall be removed as soon as possible from the net and at least before the next work shift.

(x) The maximum size of each safety net mesh opening shall not exceed 36 square inches (230 cm<sup>2</sup>) nor be longer than six inches

(15 cm) on any side measured center to center of mesh ropes or webbing. All mesh crossing shall be secured to prevent enlargement of the mesh opening.

(xi) Each safety net (or section of it) shall have a border rope for webbing with a minimum breaking strength of 5,000 pounds (22.2 kN).

(xii) Connections between the safety net panels shall be as strong as integral net components and shall be spaced not more than six inches (15 cm) apart.

(c) Catch platforms.

(i) A catch platform shall be installed within 10 vertical feet of the work area.

(ii) The catch platforms width shall equal the distance of the fall but shall be a minimum of 45 inches wide and shall be equipped with standard guardrails on all open sides.

(4) Droplines or lifelines used on rock scaling operations, or in areas where the lifeline may be subjected to cutting or abrasion, shall be a minimum of 7/8 inch wire core manila rope. For all other lifeline applications, a minimum of 3/4 inch manila or equivalent, with a minimum breaking strength of 5,000 pounds, shall be used.

(5) Safety harnesses, lanyards, lifelines or droplines, independently attached or attended, shall be used while performing the following types of work when other equivalent type protection is not provided:

(a) Work performed in permit required confined spaces and other confined spaces shall follow the procedures as described in chapter 296-62 WAC, Part M.

(b) Work on hazardous slopes, or dismantling safety nets, working on poles or from boatswains chairs at elevations greater than six feet (1.83 m), swinging scaffolds or other unguarded locations.

(c) Work on skips and platforms used in shafts by crews when the skip or cage does not occlude the opening to within one foot (30.5 cm) of the sides of the shaft, unless cages are provided.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

WAC 296-155-24515 ((~~Reserved~~)) Guarding of low pitched roof perimeters. (1) General provisions. During the performance of work on low pitched roofs with a potential fall hazard greater than 10 feet, the employer shall ensure that employees engaged in such work be protected from falling from all unprotected sides and edges of the roof as follows:

(a) By the use of a fall restraint or fall arrest systems, as defined in WAC 296-155-24510 (1) through (2)(b)(vi) and (3) through (3)(c)(ii); or

(b) By the use of a warning line system erected and maintained as provided in subsection (3) of this section and supplemented for employees working between the warning line and the roof edge by the use of a safety monitor system as described in WAC 296-155-24521.

(c) Mechanical equipment shall be used or stored only in areas where employees are protected by a warning line system, or fall restraint, or fall arrest systems as described in WAC 296-155-24510 (2) through (3)(c)(ii). Mechanical equipment may not be used or stored where the only protection is provided by the use of a safety monitor.

(2) Exceptions.

(a) The provisions of subsection (1)(a) of this section do not apply at points of access such as stairways, ladders, and ramps, or when employees are on the roof only to inspect, investigate, or estimate roof level conditions. Roof edge materials handling areas and materials storage areas shall be guarded as provided in subsection (4) of this section.

(b) Employees engaged in built up roofing on low pitched roofs less than 50 feet wide, may elect to utilize a safety monitor system without warning lines, where the use of hot tar poses an additional hazard to workers.

(3) Warning lines systems.

(a) Warning lines shall be erected around all sides of the work area.

(i) When mechanical equipment is not being used, the warning line shall be erected not less than six feet (1.8 meters) from the edge of the roof.

(ii) When mechanical equipment is being used, the warning line shall be erected not less than six feet (1.8 meters) from the roof edge which is parallel to the direction of mechanical equipment operation, and not less than 10 feet (3.1 meters) from the roof edge which is perpendicular to the direction of mechanical equipment operation.

(b) The warning line shall consist of a rope, wire, or chain and supporting stanchions erected as follows:

(i) The rope, wire, or chain shall be flagged at not more than six foot (1.8 meter) intervals with high visibility material.

(ii) The rope, wire, or chain shall be rigged and supported in such a way that its lowest point (including sag) is no less than 39 inches (.86 meters) from the roof surface and its highest point is no more than 45 inches (1 meter) from the roof surface.

(iii) After being erected, with the rope, wire or chain attached, stanchions shall be capable of resisting, without tipping over, a force of at least 16 pounds (71 Newtons) applied horizontally against the stanchion, 30 inches (0.76 meters) above the roof surface, perpendicular to the warning line, and in the direction of the roof edge.

(iv) The rope, wire, or chain shall have a minimum tensile strength of 500 pounds (227 Kilograms), and after being attached to the stanchions, shall be capable of supporting, without breaking, the loads applied to the stanchions.

(v) The line shall be attached at each stanchion in such a way that pulling on one section of the line between stanchions will not result in slack being taken up in adjacent sections before the stanchion tips over.

(c) Access paths shall be erected as follows:

(i) Points of access, materials handling areas, and storage areas shall be connected to the work area by a clear access path formed by two warning lines.

(ii) When the path to a point of access is not in use, a rope, wire, or chain, equal in strength and height to the warning line, shall be placed across the path at the point where the path intersects the warning line erected around the work area.

(4) Roof edge materials handling areas and materials storage. Employees working in a roof edge materials handling or materials storage area located on a low pitched roof with a ground to eave height greater than 10 feet shall be protected from falling along all unprotected roof sides and edges of the area.

(a) When guardrails are used at hoisting areas, a minimum of four feet of guardrail shall be erected on each side of the access point through which materials are hoisted.

(b) A chain or gate shall be placed across the opening between the guardrail sections when hoisting operations are not taking place.

(c) When guardrails are used at bitumen pipe outlet, a minimum of four feet of guardrail shall be erected on each side of the pipe.

(d) When safety belt/harness systems are used, they shall not be attached to the hoist.

(e) When fall restraint systems are used, they shall be rigged to allow the movement of employees only as far as the roof edge.

(f) Materials shall not be stored within six feet of the roof edge unless guardrails are erected at the roof edge.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

WAC 296-155-24519 ((Appendix A to Part C 1— Determining roof widths nonmandatory guidelines for complying with WAC 296-155-24503 (2)(j)). (1) This appendix serves as a guideline to assist employers complying with the requirements of WAC 296-155-24503 (2)(j). WAC 296-24503 (2)(j) allows the use of a safety monitoring system alone as a means of providing fall protection during the performance of roofing operations on low sloped roofs 50 feet (15.25 m) or less in width. Each example in the appendix shows a roof plan or plans and indicates where each roof or roof area is to be measured to determine its width. Section views or elevation views are shown where appropriate. Some examples show "correct" and "incorrect" subdivisions of irregularly shaped roofs divided into smaller, regularly shaped areas. In all examples, the dimension selected to be the width of an area is the lesser of the two primary dimensions of the area, as viewed from above. Example A shows that on a simple rectangular roof, width is the lesser of the two primary overall dimensions. This is also the case with roofs which are sloped toward or away from the roof center, as shown in Example B.

(2) Many roofs are not simple rectangles. Such roofs may be broken down into subareas as shown in Example C. The process of dividing a roof area can produce many different configurations. Example C gives the general rule of using dividing lines of minimum length to minimize the size and number of the areas which are potentially less than 50 feet (15.25 m) wide. The intent is to minimize the

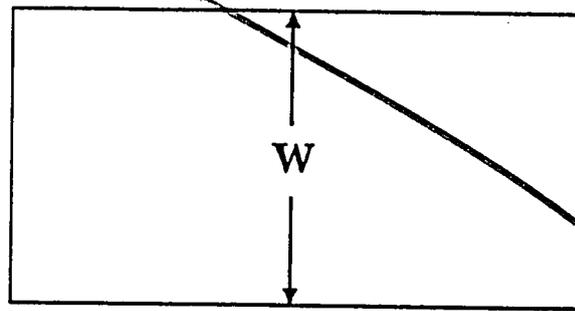
number of roof areas where safety monitoring systems alone are sufficient protection.

(3) Roofs which are comprised of several separate, non-contiguous roof areas, as in Example D, may be considered as a series of individual roofs. Some roofs have penthouses,

additional floors, courtyard openings, or similar architectural features; Example E shows how the rule for dividing roofs into subareas is applied to such configurations. Irregular, nonrectangular roofs must be considered on an individual basis, as shown in Example F.

Example A

*Rectangular Shaped Roof*



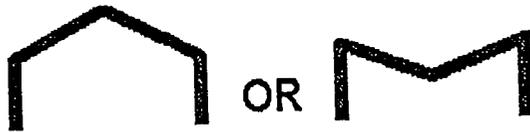
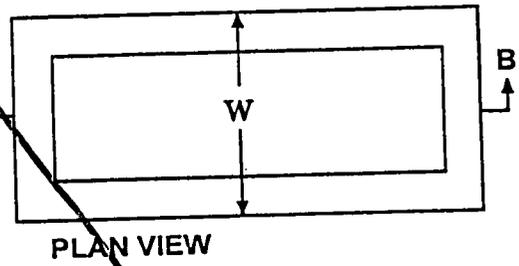
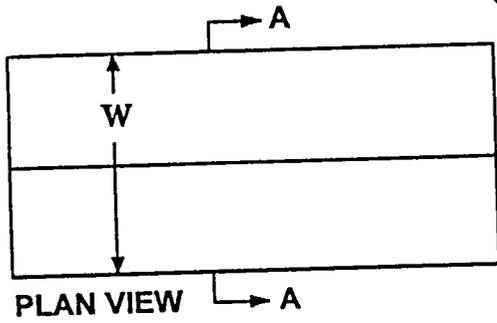
PLAN VIEW

PROPOSED

PROPOSED

Example B

*Sloped Rectangular Shaped Roofs*



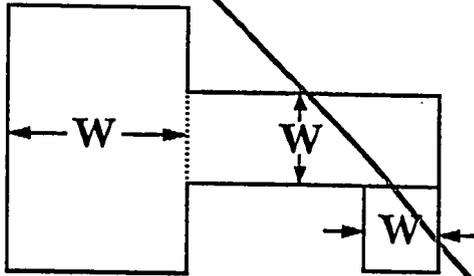
SECTION A-A



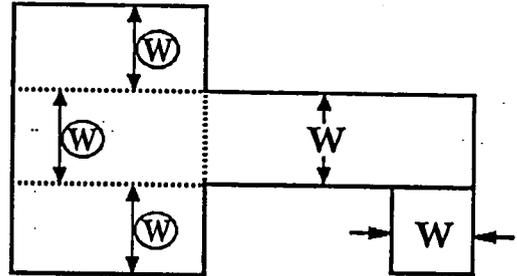
SECTION B-B

Example C

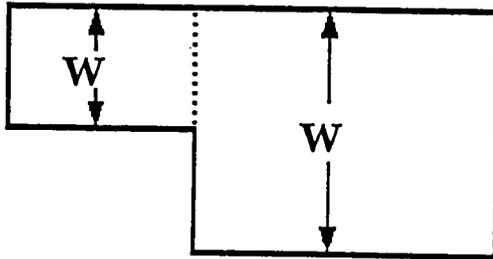
*Irregularly Shaped Roofs With Rectangular Shaped Sections*



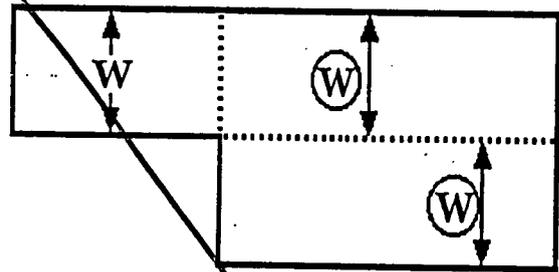
Correct



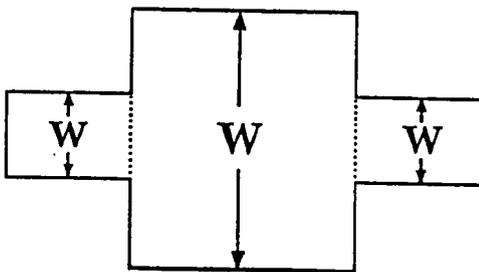
Incorrect



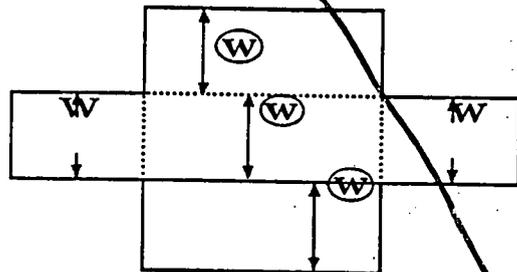
Correct



Incorrect



Correct



Incorrect

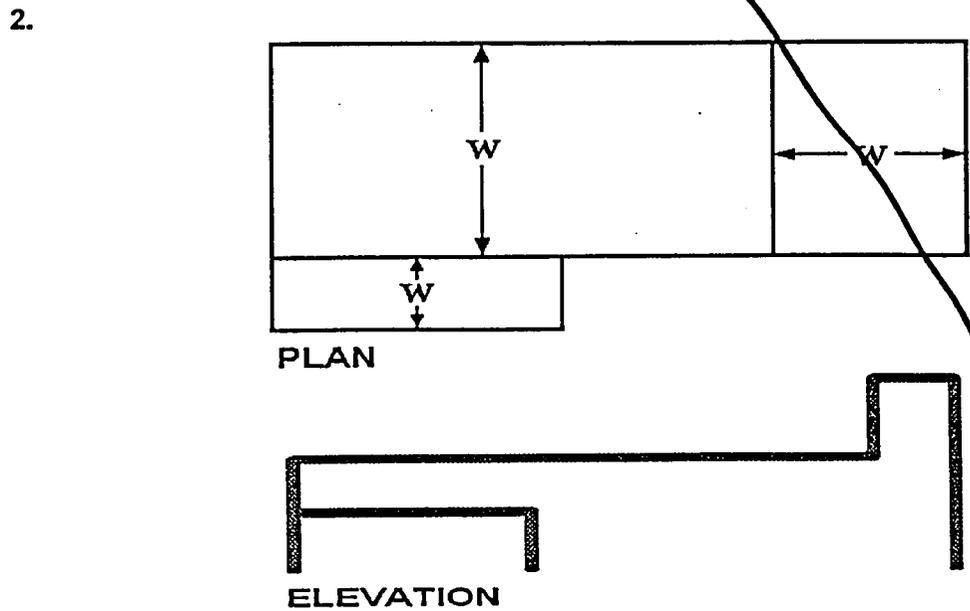
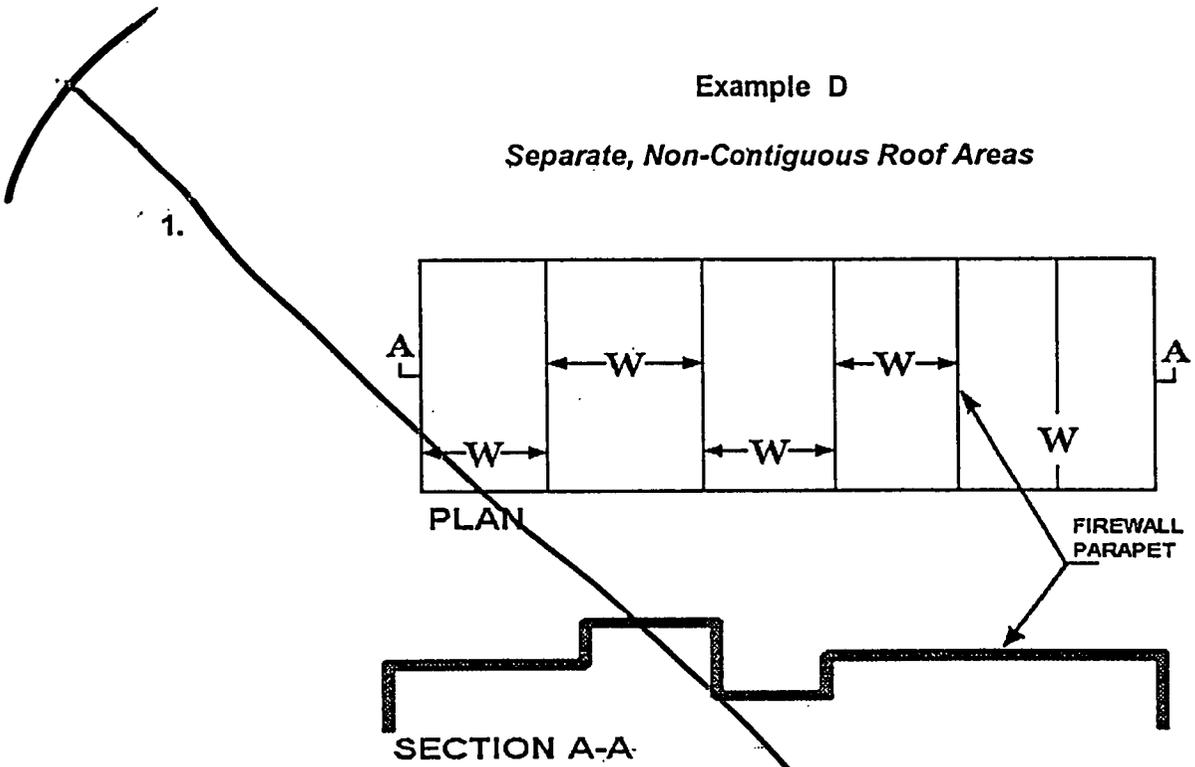
PROPOSED

Such roofs are to be divided into subareas by using dividing lines of minimum length to minimize the size and number of the areas which are potentially less than or equal to 50 feet (15.25 meters) in width, in order to limit the size of roof areas where the safety monitoring system alone can be used (WAC 296-155-24505 (2)(j)). Dotted lines are used in the examples to show the location of dividing lines. W denotes incorrect measurements of width.

PROPOSED

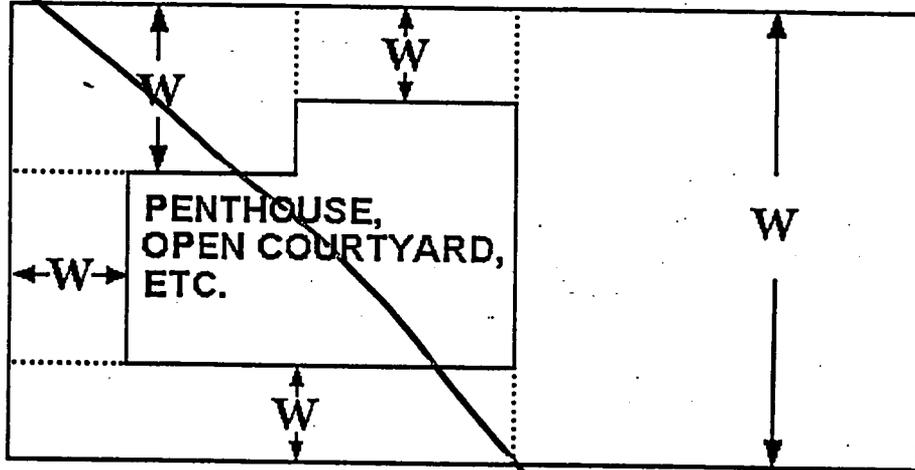
Example D

Separate, Non-Contiguous Roof Areas

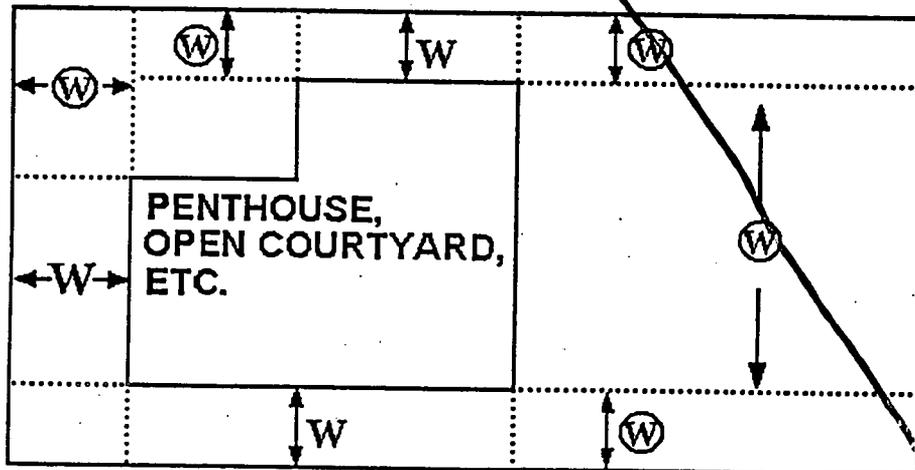


Example E

Roofs With Penthouses, Open Courtyards, Additional Floors, etc.



CORRECT



INCORRECT

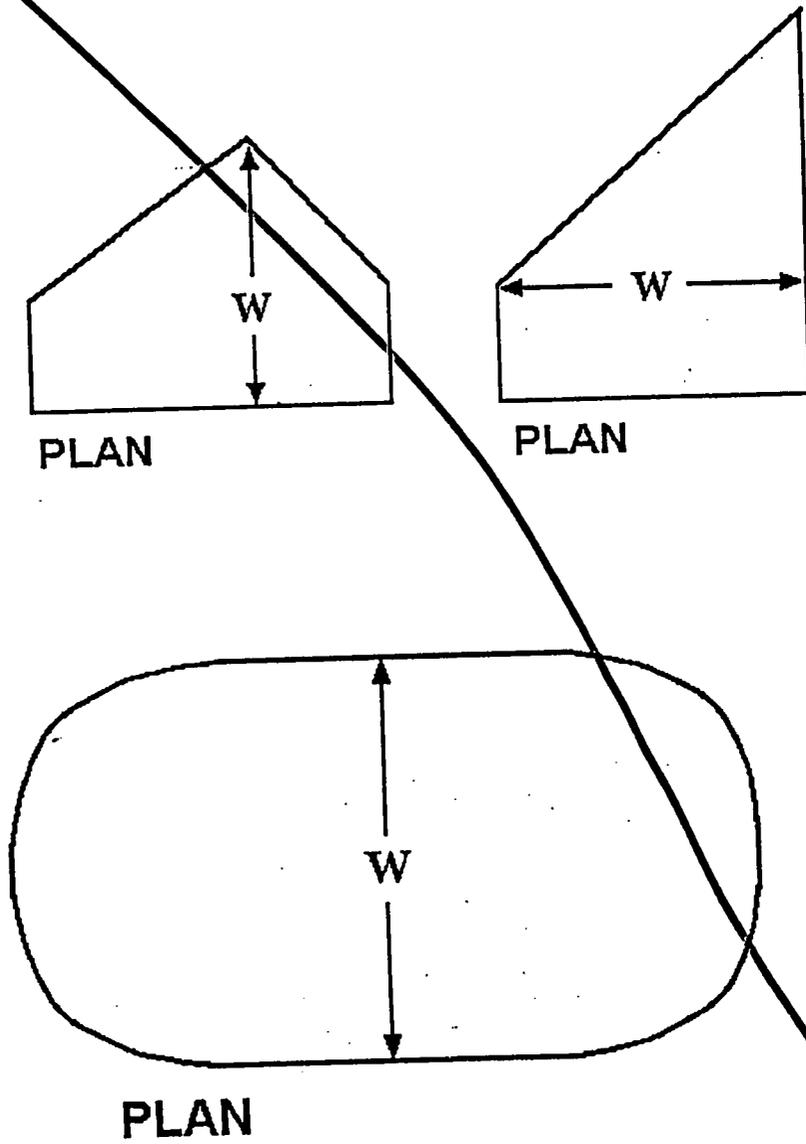
PROPOSED

Such roofs are to be divided into subareas by using dividing lines of minimum length to minimize the size and number of the areas which are potentially less than or equal to 50 feet (15.25 meters) in width, in order to limit the size of roof areas where the safety monitoring system alone can be used (WAC 296-155-24505 (2)(j)). Dotted lines are used in the examples to show the location of dividing lines. W denotes incorrect measurements of width.

PROPOSED

Example F

*Irregular, Non-Rectangular Shaped Roofs*



Reserve.

Reserve.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

WAC 296-155-24520 ((Appendix B to Part C-1—Guardrail systems nonmandatory guidelines for complying with WAC 296-155-24505(2).)) Leading edge control zone. ~~((The standard requires guardrail systems and components to be designed and built to meet the requirements of WAC 296-155-24505 (2)(e), (d) and (e). This Appendix serves as a nonmandatory guideline to assist employers in complying with these requirements. An employer may use these guidelines as a starting point for designing guardrail systems. However, the guidelines do not provide all the information necessary to build a complete system, and the employer is still responsible for designing and assembling these components in such a way that the completed system will meet the requirements of WAC 296-155-24505 (2)(e), (d) and (e). Components for which no specific guidelines are given in this Appendix (e.g., joints, base connections, components made with other materials, and components with other dimensions) must also be designed and constructed in such a way that the completed system meets the requirements of WAC 296-155-24505.~~

(1) For wood railings: Wood components shall be a minimum of 1500 lb ft/in<sup>2</sup> fiber (stress grade) construction grade lumber; the posts shall be at least 2 inch by 4 inch (5 cm x 10 cm) lumber spaced not more than 8 feet (2.4 m) apart on centers; the top rail shall be at least 2 inch by 4 inch (5 cm x 10 cm) lumber, the intermediate rail shall be at least 1 inch by 6 inch (2.5 cm x 15 cm) lumber. All lumber dimensions are nominal sizes as provided by the American Softwood Lumber Standards, dated January 1970.

(2) For pipe railings: Posts, top rails, and intermediate railings shall be at least one and one-half inches nominal diameter (schedule 40 pipe) with posts spaced not more than 8 feet (2.4 m) apart on centers.

(3) For structural steel railings: Posts, top rails, and intermediate rails shall be at least 2 inch by 2 inch (5 cm x 10 cm) by 3/8 inch (1.1 cm) angles, with posts spaced not more than 8 feet (2.4 m) apart on centers.)) (1) When performing leading edge work, the employer shall ensure that a control zone be established according to the following requirements:

(a) The control zone shall begin a minimum of 6 feet back from the leading edge to prevent exposure by employees who are not protected by fall restraint or fall arrest systems.

(b) The control zone shall be separated from other areas of the low pitched roof or walking/working surface by the erection of a warning line system.

(c) The warning line system shall consist of wire, rope, or chain supported on stanchions, or a method which provides equivalent protection.

(d) The spacing of the stanchions and support of the line shall be such that the lowest point of the line (including sag) is not less than 39 inches from the walking/working surface, and its highest point is not more than 45 inches (1.3 m) from the working/walking surface.

(e) Each line shall have a minimum tensile strength of 500 pounds (227 Kilograms).

(f) Each line shall be flagged or clearly marked with high visibility materials at intervals not to exceed 6 feet.

(g) After being erected with the rope, or chain attached, stanchions shall be capable of resisting without tipping over, a force of at least 16 pounds (71 Newtons) applied horizontally against the stanchions 30 inches (0.76 meters) above the roof surface, perpendicular to the warning line and in the direction of the roof edge.

(2) When positive means of fall restraint as described in WAC 296-155-24510 (2)(a) through (d), or fall arrest as described in WAC 296-155-24510 (3) through (5)(c) are not utilized, a safety monitor system as described in WAC 296-155-24521 shall be implemented to protect employees working between the forward edge of the warning line and the leading edge.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

WAC 296-155-24521 ((Appendix C to Part C-1—Personal fall arrest systems nonmandatory guidelines for complying with WAC 296-155-24505(4).)) Safety monitor system. ~~((1) Test methods for personal fall arrest systems and positioning device systems.~~

(a) General. This Appendix serves as a nonmandatory guideline to assist employers comply with the requirements in WAC 296-155-24505(4). Subdivisions (b), (c), (d) and (e) of this Appendix describe test procedures which may be used to determine compliance with the requirements in WAC 296-155-24505 (4)(q). As noted in Appendix D of this part, the test methods listed here in Appendix C can also be used to assist employers to comply with the requirements in WAC 296-155-24505 (6)(e) and (d) for positioning device systems.

(b) General conditions for all tests in the Appendix to WAC 296-155-24505(4).

(i) Lifelines, lanyards and deceleration devices should be attached to an anchorage and connected to the body harness in the same manner as they would be when used to protect employees.

(ii) The anchorage should be rigid, and should not have a deflection greater than 0.04 inches (1 mm) when a force of 2,250 pounds (10 kN) is applied.

(iii) The frequency response of the load measuring instrumentation should be 500 Hz.

(iv) The test weight used in the strength and force tests should be a rigid, metal, cylindrical or torso-shaped object with a girth of 38 inches plus or minus 4 inches (96 cm plus or minus 10 cm).

(v) The lanyard or lifeline used to create the free fall distance should be supplied with the system, or in its absence, the least elastic lanyard or lifeline available to be used with the system.

(vi) The test weight for each test should be hoisted to the required level and should be quickly released without having any appreciable motion imparted to it.

(vii) The system's performance should be evaluated taking into account the range of environmental conditions for which it is designed to be used.

(viii) Following the test, the system need not be capable of further operation.

(e) Strength test.

(i) During the testing of all systems, a test weight of 300 pounds plus or minus 5 pounds (135 kg plus or minus

2.5 kg) should be used. (See subdivision (b)(iv) of this subsection).

(ii) The test consists of dropping the test weight once. A new unused system should be used for each test.

(iii) For lanyard systems, the lanyard length should be 6 feet plus or minus 2 inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the (body belt or) body harness.

(iv) For rope grab type deceleration systems, the length of the lifeline above the centerline of the grabbing mechanism to the lifeline's anchorage point should not exceed 2 feet (0.61 m).

(v) For lanyard systems, for systems with deceleration devices which do not automatically limit free fall distance to 2 feet (0.61 m) or less, and for systems with deceleration devices which have a connection distance in excess of 1 foot (0.3 m) (measured between the centerline of the lifeline and the attachment point to the harness), the test weight should be rigged to free fall a distance of 7.5 feet (2.3 m) from a point that is 1.5 feet (.46 m) above the anchorage point, to its hanging location (6 feet below the anchorage). The test weight should fall without interference, obstruction, or hitting the floor or ground during the test. In some cases a non-elastic wire lanyard of sufficient length may need to be added to the system (for test purposes) to create the necessary free fall distance.

(vi) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less, the test weight should be rigged to free fall a distance of 4 feet (1.22 m).

(vii) Any weight which detaches from the harness has failed the strength test.

(d) Force test.

(i) General. The test consists of dropping the respective test weight once as specified in (d)(ii)(A) or (d)(iii)(A) of this subsection. A new, unused system should be used for each test.

(ii) For lanyard systems:

(A) A test weight of 220 pounds plus or minus 3 pounds (100 kg plus or minus 1.6 kg) should be used. (See (b)(iv) of this subsection.)

(B) Lanyard length should be 6 feet plus or minus two inches (1.83 m plus or minus 5 cm) as measured from the fixed anchorage to the attachment on the body harness.

(C) The test weight should fall free from the anchorage level to its hanging location (a total of 6 feet (1.83 m) free fall distance) without interference, obstruction, or hitting the floor or ground during the test.

(iii) For all other systems:

(A) A test weight of 220 pounds plus or minus 3 pounds (100 kg plus or minus 1.6 kg) should be used. (See (b)(iv) of this subsection.)

(B) The free fall distance to be used in the test should be the maximum fall distance physically permitted by the system during normal use conditions, up to a maximum free fall distance for the test weight of 6 feet (1.83 m), except as follows:

(1) For deceleration systems which have a connection link or lanyard, the test weight should free fall a distance equal to the connection distance (measured between the centerline of the lifeline and the attachment point to the harness):

(II) For deceleration device systems with integral lifelines or lanyards which automatically limit free fall distance to 2 feet (0.61 m) or less, the test weight should free fall a distance equal to that permitted by the system in normal use. (For example, to test a system with a self-retracting lifeline or lanyard, the test weight should be supported and the system allowed to retract the lifeline or lanyard as it would in normal use. The test weight would then be released and the force and deceleration distance measured.)

(iv) A system fails the force test if the recorded maximum arresting force exceeds 2,520 pounds (11.2 kN) when using a body harness.

(v) The maximum elongation and deceleration distance should be recorded during the force test.

(e) Deceleration device tests:

(i) General. The device should be evaluated or tested under the environmental conditions, (such as rain, ice, grease, dirt, type of lifeline, etc.), for which the device is designed.

(ii) Rope grab type deceleration devices:

(A) Devices should be moved on a lifeline 1,000 times over the same length of line a distance of not less than 1 foot (30.5 cm), and the mechanism should lock each time.

(B) Unless the device is permanently marked to indicate the type(s) of lifeline which must be used, several types (different diameters and different materials), of lifelines should be used to test the device.

(iii) Other self activating type deceleration devices. The locking mechanisms of other self activating type deceleration devices designed for more than one arrest should lock each of 1,000 times as they would in normal service.

(2) Additional non-mandatory guidelines for personal fall arrest systems. The following information constitutes additional guidelines for use in complying with requirements for a personal fall arrest system.

(a) Selection and use considerations.

(i) The kind of personal fall arrest system selected should match the particular work situation, and any possible free fall distance should be kept to a minimum. Consideration should be given to the particular work environment. For example, the presence of acids, dirt, moisture, oil, grease, etc., and their effect on the system, should be evaluated. Hot or cold environments may also have an adverse effect on the system. Wire rope should not be used where an electrical hazard is anticipated. As required by the standard, the employer must plan to have means available to promptly rescue an employee should a fall occur, since the suspended employee may not be able to reach a work level independently.

(ii) Where lanyards, connectors, and lifelines are subject to damage by work operations such as welding, chemical cleaning, and sandblasting, the component should be protected, or other securing systems should be used. The employer should fully evaluate the work conditions and environment (including seasonal weather changes) before selecting the appropriate personal fall protection system. Once in use, the system's effectiveness should be monitored. In some cases, a program for cleaning and maintenance of the system may be necessary.

(b) Testing considerations. Before purchasing or putting into use a personal fall arrest system, an employer should

obtain from the supplier information about the system based on its performance during testing so that the employer can know if the system meets this standard. Testing should be done using recognized test methods. This Appendix contains test methods recognized for evaluating the performance of fall arrest systems. Not all systems may need to be individually tested; the performance of some systems may be based on data and calculations derived from testing of similar systems, provided that enough information is available to demonstrate similarity of function and design.

(e) Component compatibility considerations. Ideally, a personal fall arrest system is designed, tested, and supplied as a complete system. However, it is common practice for lanyards, connectors, lifelines, deceleration devices, and body harnesses to be interchanged since some components wear out before others. The employer and employee should realize that not all components are interchangeable. For instance, a lanyard should not be connected between a harness and a deceleration device of the self retracting type since this can result in additional free fall for which the system was not designed. Any substitution or change to a personal fall arrest system should be fully evaluated or tested by a competent person to determine that it meets the standard, before the modified system is put in use.

(d) Employee training considerations. Thorough employee training in the election and use of personal fall arrest systems is imperative. Employees must be trained in the safe use of the system. This should include the following: Application limits; proper anchoring and tie-off techniques; estimation of free fall distance, including determination of deceleration distance, and total fall distance to prevent striking a lower level; methods of use; and inspection and storage of the system. Careless or improper use of the equipment can result in serious injury or death. Employers and employees should become familiar with the material in this Appendix, as well as manufacturer's recommendations, before a system is used. Of uppermost importance is the reduction in strength caused by certain tie-offs (such as using knots, tying around sharp edges, etc.) and maximum permitted free fall distance. Also, to be stressed are the importance of inspections prior to use, the limitations of the equipment, and unique conditions at the worksite which may be important in determining the type of system to use.

(e) Instruction considerations. Employers should obtain comprehensive instructions from the supplier as to the system's proper use and application, including, where applicable:

- (i) The force measured during the sample force test;
  - (ii) The maximum elongation measured for lanyards during the force test;
  - (iii) The deceleration distance measured for deceleration devices during the force test;
  - (iv) Caution statements on critical use limitations;
  - (v) Application limits;
  - (vi) Proper hook up, anchoring and tie-off techniques, including the proper dec-ring or other attachment point to use on the harness for fall arrest;
  - (vii) Proper climbing techniques;
  - (viii) Methods of inspection, use, cleaning, and storage;
- and

(ix) Specific lifelines which may be used. This information should be provided to employees during training.

(f) Rescue considerations. As required by WAC 296-155-24505 (4)(u), when personal fall arrest systems are used, the employer must assure that employees can be promptly rescued or can rescue themselves should a fall occur. The availability of rescue personnel, ladders or other rescue equipment should be evaluated. In some situations, equipment which allows employees to rescue themselves after the fall has been arrested may be desirable, such as devices which have descent capability.

(g) Inspection considerations. As required by WAC 296-155-24505 (4)(v), personal fall arrest systems must be regularly inspected. Any component with any significant defect, such as cuts, tears, abrasions, mold, or undue stretching; alterations or additions which might affect its efficiency; damage due to deterioration; contact with fire, acids, or other corrosives; distorted hooks or faulty hook springs; tongues unfitted to the shoulder of buckles; loose or damaged mountings; non-functioning parts; or wearing or internal deterioration in the ropes must be withdrawn from service immediately, and should be tagged or marked as unusable, or destroyed.

(h) Tie-off considerations:

(i) One of the most important aspects of personal fall protection systems is fully planning the system before it is put into use. Probably the most overlooked component is planning for suitable anchorage points. Such planning should ideally be done before the structure or building is constructed so that anchorage points can be incorporated during construction for use later for window cleaning or other building maintenance. If properly planned, these anchorage points may be used during construction, as well as afterwards.

(A) Properly planned anchorages should be used if they are available. In some cases, anchorages must be installed immediately prior to use. In such cases, a registered professional engineer with experience in designing fall protection systems, or another qualified person with appropriate education and experience should design an anchor point to be installed.

(B) In other cases, the department recognizes that there will be a need to devise an anchor point from existing structures. Examples of what might be appropriate anchor points are steel members or I beams if an acceptable strap is available for the connection (do not use a lanyard with a snap hook clipped onto itself); large eye bolts made of an appropriate grade steel; guardrails or railings if they have been designed for use as an anchor point; or masonry or wood members only if the attachment point is substantial and precautions have been taken to assure that bolts or other connectors will not pull through. A qualified person should be used to evaluate the suitability of these "make shift" anchorages with a focus on proper strength.

(ii) Employers and employees should at all times be aware that the strength of a personal fall arrest system is based on its being attached to an anchoring system which does not reduce the strength of the system (such as a properly dimensioned eye bolt/snap hook anchorage). Therefore, if a means of attachment is used that will reduce the strength of the system, that component should be

replaced by a stronger one, but one that will also maintain the appropriate maximum arrest force characteristics.

(iii) Tie off using a knot in a rope lanyard or lifeline (at any location) can reduce the lifeline or lanyard strength by 50 percent or more. Therefore, a stronger lanyard or lifeline should be used to compensate for the weakening effect of the knot, or the lanyard length should be reduced (or the tie-off location raised) to minimize free fall distance, or the lanyard or lifeline should be replaced by one which has an appropriately incorporated connector to eliminate the need for a knot.

(iv) Tie off of a rope lanyard or lifeline around an "H" or "I" beam or similar support can reduce its strength as much as 70 percent due to the cutting action of the beam edges. Therefore, use should be made of a webbing lanyard or wire core lifeline around the beam; or the lanyard or lifeline should be protected from the edge; or free fall distance should be greatly minimized.

(v) Tie off where the line passes over or around rough or sharp surfaces reduces strength drastically. Such a tie off should be avoided or an alternative tie off rigging should be used. Such alternatives may include use of a snap hook/dee-ring connection, wire rope tie off, an effective padding of the surfaces, or an abrasion resistance strap around or over the problem surface.

(vi) Horizontal lifelines may, depending on their geometry and angle of sag, be subjected to greater loads than the impact load imposed by an attached component. When the angle of horizontal lifeline sag is less than 30 degrees, the impact force imparted to the lifeline by an attached lanyard is greatly amplified. For example, with a sag angle of 15 degrees, the force amplification is about 2:1 and at 5 degrees sag, it is about 6:1. Depending on the angle of sag, and the line's elasticity, the strength of the horizontal lifeline and the anchorages to which it is attached should be increased a number of times over that of the lanyard. Extreme care should be taken in considering a horizontal lifeline for multiple tie-offs. The reason for this is that in multiple tie-offs to a horizontal lifeline, if one employee falls, the movement of the falling employee and the horizontal lifeline during arrest of the fall may cause other employees to fall also. Horizontal lifeline and anchorage strength should be increased for each additional employee to be tied off. For these and other reasons, the design of systems using horizontal lifelines must only be done by qualified persons. Testing of installed lifelines and anchors prior to use is recommended.

(vii) The strength of an eye bolt is rated along the axis of the bolt and its strength is greatly reduced if the force is applied at an angle to this axis (in the direction of shear). Also, care should be exercised in selecting the proper diameter of the eye to avoid accidental disengagement of snap hooks not designed to be compatible for the connection.

(viii) Due to the significant reduction in the strength of the lifeline/lanyard (in some cases, as much as a 70 percent reduction), the sliding hitch knot (prusik) should not be used for lifeline/lanyard connections except in emergency situations where no other available system is practical. The "one and one" sliding hitch knot should never be used because it is unreliable in stopping a fall. The "two and two," or "three and three" knot (preferable) may be used in emergency situations; however, care should be taken to limit free fall

distance to a minimum because of reduced lifeline/lanyard strength.

(i) Vertical lifeline considerations. As required by the standard, each employee must have a separate lifeline (except employees engaged in constructing elevator shafts who are permitted to have two employees on one lifeline) when the lifeline is vertical. The reason for this is that in multiple tie-offs to a single lifeline, if one employee falls, the movement of the lifeline during the arrest of the fall may pull other employees' lanyards, causing them to fall as well.

(j) Snap hook considerations.

(i) Although not required by this standard for all connections until January 1, 1998, locking snap hooks designed for connection to suitable objects (of sufficient strength) are highly recommended in lieu of the nonlocking type. Locking snap hooks incorporate a positive locking mechanism in addition to the spring loaded keeper, which will not allow the keeper to open under moderate pressure without someone first releasing the mechanism. Such a feature, properly designed, effectively prevents roll out from occurring.

(ii) As required by WAC 296-155-24505 (4)(f), the following connections must be avoided (unless properly designed locking snap hooks are used) because they are conditions which can result in roll out when a nonlocking snap hook is used:

(A) Direct connection of a snap hook to a horizontal lifeline.

(B) Two (or more) snap hooks connected to one dee-ring.

(C) Two snap hooks connected to each other.

(D) A snap hook connected back on its integral lanyard.

(E) A snap hook connected to a webbing loop or webbing lanyard.

(F) Improper dimensions of the dee-ring, rebar, or other connection point in relation to the snap hook dimensions which would allow the snap hook keeper to be depressed by a turning motion of the snap hook.

(k) Free fall considerations. The employer and employee should at all times be aware that a system's maximum arresting force is evaluated under normal use conditions established by the manufacturer, and in no case using a free fall distance in excess of 6 feet (1.8 m). A few extra feet of free fall can significantly increase the arresting force on the employee, possibly to the point of causing injury. Because of this, the free fall distance should be kept at a minimum, and, as required by the standard, in no case greater than 6 feet (1.8 m). To help assure this, the tie off attachment point to the lifeline or anchor should be located at or above the connection point of the fall arrest equipment or harness. (Since otherwise additional free fall distance is added to the length of the connecting means (i.e. lanyard)). Attaching to the working surface will often result in a free fall greater than 6 feet (1.8 m). For instance, if a 6 foot (1.8 m) lanyard is used, the total free fall distance will be the distance from the working level to the harness attachment point plus the 6 feet (1.8 m) of lanyard length. Another important consideration is that the arresting force which the fall arrest system must withstand also goes up with greater distances of free fall, possibly exceeding the strength of the system.

(l) Elongation and deceleration distance considerations. Other factors involved in a proper tie off are elongation and

deceleration distance. During the arresting of a fall, a lanyard will experience a length of stretching or elongation, whereas activation of a deceleration device will result in a certain stopping distance. These distances should be available with the lanyard or device's instructions and must be added to the free fall distance to arrive at the total fall distance before an employee is fully stopped. The additional stopping distance may be very significant if the lanyard or deceleration device is attached near or at the end of a long lifeline, which may itself add considerable distance due to its own elongation. As required by the standard, sufficient distance to allow for all of these factors must also be maintained between the employee and obstructions below, to prevent an injury due to impact before the system fully arrests the fall. In addition, a minimum of 12 feet (3.7 m) of lifeline should be allowed below the securing point of a rope grab type deceleration device, and the end terminated to prevent the device from sliding off the lifeline. Alternatively, the lifeline should extend to the ground or the next working level below. These measures are suggested to prevent the worker from inadvertently moving past the end of the lifeline and having the rope grab become disengaged from the lifeline.

(m) Obstruction considerations. The location of the tie-off should also consider the hazard of obstructions in the potential fall path of the employee. Tie-offs which minimize the possibilities of exaggerated swinging should be considered. Thus, obstructions which might interfere with this motion should be avoided or a severe injury could occur.

(n) Other considerations. Because of the design of some personal fall arrest systems, additional considerations may be required for proper tie-off. For example, heavy deceleration devices of the self-retracting type should be secured overhead in order to avoid the weight of the device having to be supported by the employee. In all cases, manufacturer's instructions should be followed.) (1) A safety monitor system (SMS) may be used in conjunction with a warning line system as a method of guarding against falls during work on low pitched roofs and leading edge work only.

(2) When selected, the employer shall ensure that the safety monitor system shall be addressed in the fall protection work plan, include the name of the safety monitor(s) and the extent of their training in both the safety monitor and warning line systems, and shall ensure that the following requirements are met.

(3) The safety monitor system shall not be used when adverse weather conditions create additional hazards.

(4) A person acting in the capacity of safety monitor(s) shall be trained in the function of both the safety monitor and warning lines systems, and shall:

(a) Be a competent person as defined in WAC 296-155-24503(7).

(b) Have control authority over the work as it relates to fall protection.

(c) Be instantly distinguishable over members of the work crew.

(d) Engage in no other duties while acting as safety monitor.

(e) Be positioned in relation to the workers under their protection, so as to have a clear, unobstructed view and be able to maintain normal voice communication.

(f) Not supervise more than eight exposed workers at one time.

(5) Control zone workers shall be distinguished from other members of the crew by wearing a high visibility vest only while in the control zone.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

WAC 296-155-24522 (~~Appendix D to Part C 1— Positioning device systems nonmandatory guidelines for complying with WAC 296-155-24505(6).~~) (1) Testing methods for positioning device systems. This Appendix serves as a nonmandatory guideline to assist employers in complying with the requirements for positioning device systems in WAC 296-155-24505(6). Subdivisions (b), (c), (d) and (e) of Appendix C of Part C 1 relating to WAC 296-155-24505(4) Personal fall arrest systems set forth test procedures which may be used, along with the procedures listed below, to determine compliance with the requirements for positioning device systems in WAC 296-155-24505 (6)(c) and (d) of Part C 1.

(a) General. Single strap positioning devices shall have one end attached to a fixed anchorage and the other end connected to a body belt or harness in the same manner as they would be used to protect employees. Double strap positioning devices, similar to window cleaner's belts, shall have one end of the strap attached to a fixed anchorage and the other end shall hang free. The body belt or harness shall be attached to the strap in the same manner as it would be used to protect employees. The two strap ends shall be adjusted to their maximum span.

(b) The fixed anchorage shall be rigid, and shall not have a deflection greater than .04 inches (1 mm) when a force of 2,250 pounds (10 kN) is applied.

(c) During the testing of all systems, a test weight of 250 pounds plus or minus 3 pounds (113 kg plus or minus 1.6 kg) shall be used. The weight shall be a rigid object with a girth of 38 inches plus or minus 4 inches (96 cm plus or minus 10 cm).

(d) Each test shall consist of dropping the specified weight one time without failure of the system being tested. A new system shall be used for each test.

(e) The test weight for each test shall be hoisted exactly 4 feet (1.2 m) above its "at rest" position, and shall be dropped so as to permit a vertical free fall of 4 feet (1.2 m).

(f) The test is failed whenever any breakage or slippage occurs which permits the weight to fall free of the system.

(g) Following the test, the system need not be capable of further operation; however, all such incapacities shall be readily apparent.

(2) Inspection considerations. As required in WAC 296-155-24505 (6)(c), positioning device systems must be regularly inspected. Any component with any significant defect, such as cuts, tears, abrasions, mold, or undue stretching; alterations or additions which might affect its efficiency; damage due to deterioration; contact with fire, acids, or other corrosives; distorted hooks or faulty hook springs; tongues unfitted to the shoulder of buckles; loose or damaged mountings; non-functioning parts; or wearing or internal deterioration in the ropes must be withdrawn from

service immediately, and should be tagged or marked as unusable, or destroyed.) Reserve.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-24523** (~~Appendix E to Part C-1—Sample fall protection plan nonmandatory guidelines for complying with WAC 296-155-24505(12)~~). Employers engaged in leading edge work, precast concrete construction work and residential construction work who can demonstrate that it is infeasible or creates a greater hazard to use conventional fall protection systems must develop and follow a fall protection plan. Below are sample fall protection plans developed for precast concrete construction and residential work that could be tailored to be site specific for other precast concrete or residential job sites. This sample plan can be modified to be used for other work involving leading edge work. The sample plan outlines the elements that must be addressed in any fall protection plan. The reasons outlined in this sample fall protection plan are for illustrative purposes only and are not necessarily a valid, acceptable rationale (unless the conditions at the job site are the same as those covered by these sample plans) for not using conventional fall protection systems for a particular precast concrete or residential construction worksite. However, the sample plans provide guidance to employers on the type of information that is required to be discussed in fall protection plans:

**Sample Fall Protection Plans**

**Fall Protection Plan For Precast/Prestress Concrete Structures**

This Fall Protection Plan is specific for the following project:

- Location of Job .....
- Erecting Company .....
- Date Plan Prepared or Modified .....
- Plan Prepared By .....
- Plan Approved By .....
- Plan Supervised By .....

The following Fall Protection Plan is a sample program prepared for the prevention of injuries associated with falls. A Fall Protection Plan must be developed and evaluated on a site by site basis. It is recommended that erectors discuss the written Fall Protection Plan with their WISHA Regional Office prior to going on a job site:

(1) Statement of Company Policy: (Company Name) is dedicated to the protection of its employees from on the job injuries. All employees of (Company Name) have the responsibility to work safely on the job. The purpose of this plan is:

(a) To supplement our standard safety policy by providing safety standards specifically designed to cover fall protection on this job and;

(b) To ensure that each employee is trained and made aware of the safety provisions which are to be implemented by this plan prior to the start of erection.

This fall protection plan addresses the use of other than conventional fall protection at a number of areas on the

project, as well as identifying specific activities that require nonconventional means of fall protection.

These areas include:

- Connecting activity (point of erection).
- Leading edge work.
- Unprotected sides or edge.
- Grouting.

This plan is designed to enable employers and employees to recognize the fall hazards on this job and to establish the procedures that are to be followed in order to prevent falls to lower levels or through holes and openings in walking/working surfaces. Each employee will be trained in these procedures and strictly adhere to them except when doing so would expose the employee to a greater hazard. If, in the employee's opinion, this is the case, the employee is to notify the supervisor of the concern and the concern addressed before proceeding.

Safety policy and procedure on any one project cannot be administered, implemented, monitored and enforced by any one individual. The total objective of a safe, accident free work environment can only be accomplished by a dedicated, concerted effort by every individual involved with the project from management down to the last employee. Each employee must understand their value to the company; the costs of accidents, both monetary, physical, and emotional; the objective of the safety policy and procedures; the safety rules that apply to the safety policy and procedures; and what their individual role is in administering, implementing, monitoring, and compliance of their safety policy and procedures. This allows for a more personal approach to compliance through planning, training, understanding and cooperative effort, rather than by strict enforcement. If for any reason an unsafe act persists, strict enforcement will be implemented.

It is the responsibility of (name of Competent Person) to implement this Fall Protection Plan. (Name of Competent Person) is responsible for continual observational safety checks of their work operations and to enforce the safety policy and procedures. The foreman also is responsible to correct any unsafe acts or conditions immediately. It is the responsibility of the employee to understand and adhere to the procedures of this plan and to follow the instructions of the foreman. It is also the responsibility of the employee to bring to management's attention any unsafe or hazardous conditions or acts that may cause injury to either themselves or any other employees. Any changes to this Fall Protection Plan must be approved by (name of Qualified Person).

(2) Fall Protection Systems to be Used on This Project: Where conventional fall protection is infeasible or creates a greater hazard at the leading edge and during initial connecting activity, we plan to do this work using a safety monitoring system and expose only a minimum number of employees for the time necessary to actually accomplish the job. The maximum number of workers to be monitored by one safety monitor is eight (8). We are designating the following trained employees as designated erectors and they are permitted to enter the controlled access zones and work without the use of conventional fall protection:

- Safety monitor:
- Designated erector:

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Designated erector:  
 Designated erector:  
 Designated erector:  
 Designated erector:  
 Designated erector:

The safety monitor shall be identified by wearing an orange hard hat. The designated erectors will be identified by one of the following methods:

- (a) They will wear a blue colored arm band, or
- (b) They will wear a blue colored hard hat, or
- (c) They will wear a blue colored vest.

Note: See WAC 296-155-24505 (9)(c).

Only individuals with the appropriate experience, skills, and training will be authorized as designated erectors. All employees that will be working as designated erectors under the safety monitoring system shall have been trained and instructed in the following areas:

(d) Recognition of the fall hazards in the work area (at the leading edge and when making initial connections point of erection):

(e) Avoidance of fall hazards using established work practices which have been made known to the employees.

(f) Recognition of unsafe practices or working conditions that could lead to a fall, such as windy conditions.

(g) The function, use, and operation of safety monitoring systems, guardrail systems, body belt/harness systems, control zones and other protection to be used.

(h) The correct procedure for erecting, maintaining, disassembling and inspecting the system(s) to be used.

(i) Knowledge of construction sequence or the erection plan. A conference will take place prior to starting work involving all members of the erection crew, crane crew and supervisors of any other concerned contractors. This conference will be conducted by the precast concrete erection supervisor in charge of the project. During the pre-work conference, erection procedures and sequences pertinent to this job will be thoroughly discussed and safety practices to be used throughout the project will be specified. Further, all personnel will be informed that the controlled access zones are off limits to all personnel other than those designated erectors specifically trained to work in that area.

(3) Safety Monitoring System: A safety monitoring system means a fall protection system in which a competent person is responsible for recognizing and warning employees of fall hazards. The duties of the safety monitor are to:

(a) Warn by voice when approaching the open edge in an unsafe manner.

(b) Warn by voice if there is a dangerous situation developing which cannot be seen by another person involved with product placement, such as a member getting out of control.

(c) Make the designated erectors aware they are in a dangerous area.

(d) Be competent in recognizing fall hazards.

(e) Warn employees when they appear to be unaware of a fall hazard or are acting in an unsafe manner.

(f) Be on the same walking/working surface as the monitored employees and within visual sighting distance of the monitored employees.

(g) Be close enough to communicate orally with the employees.

(h) Not allow other responsibilities to encumber monitoring.

(i) The safety monitoring system shall not be used when the wind is strong enough to cause loads with large surface areas to swing out of radius, or result in loss of control of the load, or when weather conditions cause the walking/working surfaces to become icy or slippery.

(4) Control Zone System: A controlled access zone means an area designated and clearly marked, in which leading edge work may take place without the use of guardrail, safety net or personal fall arrest systems to protect the employees in the area. Control zone systems shall comply with the following provisions:

(a) When used to control access to areas where leading edge and other operations are taking place the controlled access zone shall be defined by a control line or by any other means that restricts access. When control lines are used, they shall be erected not less than 6 feet (1.8 m) nor more than 60 feet (18 m) or half the length of the member being erected, whichever is less, from the leading edge.

(b) The control line shall extend along the entire length of the unprotected or leading edge and shall be approximately parallel to the unprotected or leading edge.

(c) The control line shall be connected on each side to a guardrail system or wall.

(d) Control lines shall consist of ropes, wires, tapes, or equivalent materials, and supporting stanchions as follows:

(e) Each line shall be flagged or otherwise clearly marked at not more than 6 foot (1.8 m) intervals with high-visibility material.

(f) Each line shall be rigged and supported in such a way that its lowest point (including sag) is not less than 39 inches (1 m) from the walking/working surface and its highest point is not more than 45 inches (1.3 m) from the walking/working surface.

(g) Each line shall have a minimum breaking strength of 200 pounds (.88 kN).

(5) Holes: All openings greater than 2 in. x 2 in. will have perimeter guarding or covering. All predetermined holes will have the plywood covers made in the precasters' yard and shipped with the member to the job site. Prior to cutting holes on the job, proper protection for the hole must be provided to protect the workers. Perimeter guarding or covers will not be removed without the approval of the erection supervisor.

Precast concrete column erection through the existing deck requires that many holes be provided through this deck. These are to be covered and protected. Except for the opening being currently used to erect a column, all opening protection is to be left undisturbed. The opening being uncovered to erect a column will become part of the point of erection and will be addressed as part of this Fall Protection Plan. This uncovering is to be done at the erection supervisor's direction and will only occur immediately prior to "feeding" the column through the opening. Once the end of the column is through the slab opening, there will no longer exist a fall hazard at this location.

(6) Implementation of Fall Protection Plan: The structure being erected is a multistory total precast concrete building consisting of columns, beams, wall panels and

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hollow core slabs and double tee floor and roof members. The following is a list of the products and erection situations on this job:

(a) Columns: For columns 10 ft to 36 ft long, employees disconnecting crane hooks from columns will work from a ladder and wear a harness with lanyard and be tied off when both hands are needed to disconnect. For tying off, a vertical lifeline will be connected to the lifting eye at the top of the column, prior to lifting, to be used with a manually operated or mobile rope grab. For columns too high for the use of a ladder, 36 ft and higher, an added cable will be used to reduce the height of the disconnecting point so that a ladder can be used. This cable will be left in place until a point in erection that it can be removed safely. In some cases, columns will be unhooked from the crane by using an erection tube or shackle with a pull pin which is released from the ground after the column is stabilized. The column will be adequately connected and/or braced to safely support the weight of a ladder with an employee on it.

(b) Inverted Tee Beams: Employees erecting inverted tee beams, at a height of 4 to 40 ft, will erect the beam, make initial connections, and final alignment from a ladder. If the employee needs to reach over the side of the beam to bar or make an adjustment to the alignment of the beam, they will mount the beam and be tied off to the lifting device in the beam after ensuring the load has been stabilized on its bearing. To disconnect the crane from the beam an employee will stand a ladder against the beam. Because the use of ladders is not practical at heights above 40 ft, beams will be initially placed with the use of tag lines and their final alignment made by a person on a manlift or similar employee positioning systems.

(c) Spandrel Beams: Spandrel beams at the exterior of the building will be aligned as closely as possible with the use of tag lines with the final placement of the spandrel beam made from a ladder at the open end of the structure. A ladder will be used to make the initial connections and a ladder will be used to disconnect the crane. The other end of the beam will be placed by the designated erector from the double tee deck under the observation of the safety monitor.

The beams will be adequately connected and/or braced to safely support the weight of a ladder with an employee on it.

(d) Floor and Roof Members: During installation of the precast concrete floor and/or roof members, the work deck continuously increases in area as more and more units are being erected and positioned. Thus, the unprotected floor/roof perimeter is constantly modified with the leading edge changing location as each member is installed. The fall protection for workers at the leading edge shall be assured by properly constructed and maintained control zone lines not more than 60 ft away from the leading edge supplemented by a safety monitoring system to ensure the safety of all designated erectors working within the area defined by the control zone lines.

The hollow core slabs erected on the masonry portion of the building will be erected and grouted using the safety monitoring system. Grout will be placed in the space between the end of the slab and face shell of the concrete masonry by dumping from a wheelbarrow. The grout in the keyways between the slabs will be dumped from a wheelbar-

row and then spread with long handled tools, allowing the worker to stand erect facing toward the unprotected edge and back from any work deck edge.

Whenever possible, the designated erectors will approach the incoming member at the leading edge only after it is below waist height so that the member itself provides protection against falls.

Except for the situations described below, when the arriving floor or roof member is within 2 to 3 inches of its final position, the designated erectors can then proceed to their position of erection at each end of the member under the control of the safety monitor. Crane hooks will be unhooked from double tee members by designated erectors under the direction and supervision of the safety monitor.

Designated erectors, while waiting for the next floor or roof member, will be constantly under the control of the safety monitor for fall protection and are directed to stay a minimum of six ft from the edge. In the event a designated erector must move from one end of a member, which has just been placed at the leading edge, they must first move away from the leading edge a minimum of six ft and then progress to the other end while maintaining the minimum distance of six feet at all times.

Horizontal cables used as an anchorage present an additional hazard due to amplification of the horizontal component of maximum arrest force (of a fall) transmitted to the points where the horizontal cable is attached to the structure. This amplification is due to the angle of sag of a horizontal cable and is most severe for small angles of sag. For a cable sag angle of 2 degrees the horizontal force on the points of cable attachment can be amplified by a factor of 15.

It is also necessary to install the retractable device vertically overhead to minimize swing falls. If an object is in the worker's swing path (or that of the cable) hazardous situations exist: (i) Due to the swing, horizontal speed of the user may be high enough to cause injury when an obstacle in the swing fall path is struck by either the user or the cable; (ii) the total vertical fall distance of the user may be much greater than if the user had fallen only vertically without a swing fall path.

With retractable lines, overconfidence may cause the worker to engage in inappropriate behavior, such as approaching the perimeter of a floor or roof at a distance appreciably greater than the shortest distance between the anchorage point and the leading edge. Though the retractable lifeline may arrest a worker's fall before he or she has fallen a few feet, the lifeline may drag along the edge of the floor or beam and swing the worker like a pendulum until the line has moved to a position where the distance between the anchorage point and floor edge is the shortest distance between those two points. Accompanying this pendulum swing is a lowering of the worker, with the attendant danger that he or she may violently impact the floor or some obstruction below.

The risk of a cable breaking is increased if a lifeline is dragged sideways across the rough surface or edge of a concrete member at the same moment that the lifeline is being subjected to a maximum impact loading during a fall.

The typical 3/16 in. cable in a retractable lifeline has a breaking strength of from 3000 to 3700 lbs.

PROPOSED

(7) Safety Net Systems: The nature of this particular precast concrete erection worksite precludes the safe use of safety nets where point of erection or leading edge work must take place.

(a) To install safety nets in the interior high bay of the single story portion of the building poses rigging attachment problems. Structural members do not exist to which supporting devices for nets can be attached in the area where protection is required. As the erection operation advances, the location of point of erection or leading edge work changes constantly as each member is attached to the structure. Due to this constant change it is not feasible to set net sections and build separate structures to support the nets.

(b) The nature of the erection process for the precast concrete members is such that an installed net would protect workers as they position and secure only one structural member. After each member is stabilized the net would have to be moved to a new location (this could mean a move of 8 to 10 ft or the possibility of a move to a different level or area of the structure) to protect workers placing the next piece in the construction sequence. The result would be the installation and dismantling of safety nets repeatedly throughout the normal work day. As the time necessary to install a net, test, and remove it is significantly greater than the time necessary to position and secure a precast concrete member, the exposure time for the worker installing the safety net would be far longer than for the workers whom the net is intended to protect. The time exposure repeats itself each time the nets and supporting hardware must be moved laterally or upward to provide protection at the point of erection or leading edge.

(c) Strict interpretation of WAC 296-155-24505(3) requires that operations shall not be undertaken until the net is in place and has been tested. With the joint of erection constantly changing, the time necessary to install and test safety net significantly exceeds the time necessary to position and secure the concrete member.

(d) Use of safety nets on exposed perimeter wall openings and opensided floors, causes attachment points to be left in architectural concrete which must be patched and filled with matching material after the net supporting hardware is removed. In order to patch these openings, additional numbers of employees must be suspended by swing stages, boatswain chairs or other devices, thereby increasing the amount of fall exposure time to employees.

(e) Installed safety nets pose an additional hazard at the perimeter of the erected structure where limited space is available in which members can be turned after being lifted from the ground by the crane. There would be a high probability that the member being lifted could become entangled in net hardware, cables, etc.

(f) The use of safety nets where structural wall panels are being erected would prevent movement of panels to point of installation. To be effective, nets would necessarily have to provide protection across the area where structural supporting wall panels would be set and plumbed before roof units could be placed.

(g) Use of a tower crane for the erection of the high rise portion of the structure poses a particular hazard in that the crane operator cannot see or judge the proximity of the load in relation to the structure or nets. If the signaler is looking

through nets and supporting structural devices while giving instructions to the crane operator, it is not possible to judge precise relationships between the load and the structure itself or to nets and supporting structural devices. This could cause the load to become entangled in the net or hit the structure causing potential damage.

(8) Other Fall Protection Measures Considered for This Job: The following is a list of other fall protection measures available or that could be used or that could be used on this particular job site. If during the course of erecting the building the employee sees an area that could be erected more safely by the use of these fall protection measures, the supervisor should be notified.

- Scaffolds
- Vehicle mounted platforms
- Crane suspended personnel platforms

(9) Enforcement: Constant awareness of and respect for fall hazards, and compliance with all safety rules are considered conditions of employment. The job site Superintendent, as well as individuals in the Safety and Personnel Department, reserve the right to issue disciplinary warnings to employees, up to and including termination, for failure to follow the guidelines of this program.

(10) Accident Investigations: All accidents that result in injury to workers, regardless of their nature, shall be investigated and reported. It is an integral part of any safety program that documentation take place as soon as possible so that the cause and means of prevention can be identified to prevent a recurrence. In the event that an employee falls or there is some other related, serious incident occurring, this plan shall be reviewed to determine if additional practices, procedures, or training need to be implemented to prevent similar types of falls or incidents from occurring.

(11) Changes to Plan: Any changes to the plan will be approved by (name of the qualified person). This plan shall be reviewed by a qualified person as the job progresses to determine if additional practices, procedures or training needs to be implemented by the competent person to improve or provide additional fall protection. Workers shall be notified and trained, if necessary, in the new procedures. A copy of this plan and all approved changes shall be maintained at the job site.

(12) Sample fall protection plan for residential construction. This sample fall protection work plan example is only applicable when work is being done between six and ten feet above the adjacent ground or floor level.

(Insert Company Name)

This fall protection plan is specific for the following project:

- Location of Job .....
- Date Plan Prepared or Modified .....
- Plan Prepared By .....
- Plan Approved By .....
- Plan Supervised By .....

The following fall protection plan is a sample program prepared for the prevention of injuries associated with falls. A fall protection plan must be developed and evaluated on a site by site basis. It is recommended that builders discuss the written fall protection plan with their WISHA Region Office prior to going on a job site.

PROPOSED

(a) ~~Statement of Company Policy: (Your company name here) is dedicated to the protection of its employees from on the job injuries. All employees of (Your company name here) have the responsibility to work safely on the job. The purpose of the plan is to supplement our existing safety and health program and to ensure that every employee who works for (Your company name here) recognizes workplace fall hazards and takes the appropriate measures to address those hazards.~~

~~This fall protection plan addresses the use of conventional fall protection at a number of areas on the project, as well as identifies specific activities that require non conventional means of fall protection. During the construction of residential buildings and working between a height of six and ten feet above the adjacent ground or floor, it is sometimes infeasible or it creates a greater hazard to use conventional fall protection systems at specific areas or for specific tasks. The areas or tasks may include, but are not limited to:~~

- ~~Setting and bracing of roof trusses and rafters;~~
- ~~Installation of floor sheathing and joists;~~
- ~~Roof sheathing operations; and~~
- ~~Erecting exterior walls.~~

~~In these cases, conventional fall protection systems may not be the safest choice for builders. This plan is designed to enable employers and employees to recognize the fall hazards associated with this job and to establish the safest procedures that are to be followed in order to prevent falls to lower levels or through holes and openings in walking/working surfaces.~~

~~Each employee will be trained in these procedures and will strictly adhere to them except when doing so would expose the employee to a greater hazard. If, in the employee's opinion, this is the case, the employee is to notify the competent person of their concern and have the concern addressed before proceeding.~~

~~It is the responsibility of (name of competent person) to implement this fall protection plan. Continual observational safety checks of work operations and the enforcement of the safety policy and procedures shall be regularly enforced. The crew supervisor or leader (insert name) is responsible for correcting any unsafe practices or conditions immediately.~~

~~It is the responsibility of the employer to ensure that all employees understand and adhere to the procedures of this plan and to follow the instructions of the crew supervisor. It is also the responsibility of the employee to bring to management's attention any unsafe or hazardous conditions or practices that may cause injury to either themselves or any other employees. Any changes to the Fall Protection Plan must be approved by (name of qualified person).~~

~~(b) Fall Protection Systems to be Used on This Job: Installation of roof trusses/rafters, exterior wall erection, roof sheathing, floor sheathing and joist/truss activities will be conducted by employees who are specifically trained to do this type of work and are trained to recognize the fall hazards. The nature of such work normally exposes the employee to the fall hazard for a short period of time. This Plan details how (Your company name here) will minimize these hazards.~~

~~(i) Controlled Access Zones: When using the Plan to implement the fall protection options available, workers must be protected through limited access to high hazard locations.~~

~~Before any non-conventional fall protection systems are used as part of the work plan, a controlled access zone (CAZ) shall be clearly defined by the competent person as an area where a recognized hazard exists. The demarcation of the CAZ shall be communicated by the competent person in a recognized manner, either through signs, wires, tapes, ropes or chains. (Your company name here) shall take the following steps to ensure that the CAZ is clearly marked or controlled by the competent person:~~

~~All access to the CAZ must be restricted to authorized entrants;~~

~~All workers who are permitted in the CAZ shall be listed in the appropriate sections of the Plan (or be visibly identifiable by the competent person) prior to implementation;~~

~~The competent person shall ensure that all protective elements of the CAZ be implemented prior to the beginning of work.~~

~~(ii) Installation Procedures for Roof Truss and Rafter Erection: During the erection and bracing of roof trusses/rafters, conventional fall protection may present a greater hazard to workers when working between 6 and 10 feet. On this job, safety nets will not provide adequate fall protection because the nets will cause the walls to collapse.~~

~~On this job, requiring workers to use a ladder for the entire installation process will cause a greater hazard because the worker must stand on the ladder with their back or side to the front of the ladder. While erecting the truss or rafter the worker will need both hands to maneuver the truss and therefore cannot hold onto the ladder. In addition, ladders cannot be adequately protected from movement while trusses are being maneuvered into place. Many workers may experience additional fatigue because of the increase in overhead work with heavy materials, which can also lead to a greater hazard.~~

~~Exterior scaffolds cannot be utilized on this job because the ground, after recent backfilling, cannot support the scaffolding. In most cases, the erection and dismantling of the scaffold would expose workers to a greater fall hazard than erection of the trusses/rafters.~~

~~On all walls eight feet or less, workers will install interior scaffolds along the interior wall below the location where the trusses/rafters will be erected. "Sawhorse" scaffolds constructed of 46 inch sawhorses and 2 x 10 planks will often allow workers to be elevated high enough to allow for the erection of trusses and rafters without working on the top plate of the wall.~~

~~In structures that have walls higher than eight feet and where the use of scaffolds and ladders would create a greater hazard, safe working procedures will be utilized when working on the top plate and will be monitored by the crew supervisor. During all stages of truss/rafter erection the stability of the trusses/rafters will be ensured at all times.~~

~~(Your company name here) shall take the following steps to protect workers who are exposed to fall hazards while working from the top plate installing trusses/rafters:~~

~~Only the following trained workers will be allowed to work on the top plate during roof truss or rafter installation:~~

- ~~\_\_\_\_\_~~
- ~~\_\_\_\_\_~~
- ~~\_\_\_\_\_~~

PROPOSED

- ~~▲ Workers shall have no other duties to perform during truss/rafter erection procedures;~~
- ~~▲ All trusses/rafters will be adequately braced before any worker can use the truss/rafter as a support;~~
- ~~▲ Workers will remain on the top plate using the previously stabilized truss/rafter as a support while other trusses/rafters are being erected;~~
- ~~▲ Workers will leave the area of the secured trusses only when it is necessary to secure another truss/rafter;~~
- ~~▲ The first two trusses/rafters will be set from ladders leaning on side walls at points where the walls can support the weight of the ladder; and~~
- ~~▲ A worker will climb onto the interior top plate via a ladder to secure the peaks of the first two trusses/rafters being set.~~

~~The workers responsible for detaching trusses from cranes and/or securing trusses at the peaks traditionally are positioned at the peak of the trusses/rafters. There are also situations where workers securing rafters to ridge beams will be positioned on top of the ridge beam.—~~

~~(Your company name here) shall take the following steps to protect workers who are exposed to fall hazards while securing trusses/rafters at the peak of the trusses/ridge beam:~~

- ~~▲ Only the following trained workers will be allowed to work at the peak during roof truss or rafter installation:~~

~~.....  
.....  
.....~~

- ~~▲ Once truss or rafter installation begins, workers not involved in that activity shall not stand or walk below or adjacent to the roof opening or exterior walls in any area where they could be struck by falling objects;~~

- ~~▲ Workers shall have no other duties than securing/bracing the trusses/ridge beam;~~

- ~~▲ Workers positioned at the peaks or in the webs of trusses or on top of the ridge beam shall work from a stable position, either by sitting on a "ridge seat" or other equivalent surface that provides additional stability or by positioning themselves in previously stabilized trusses/rafters and leaning into and reaching through the trusses/rafters;~~
- ~~▲ Workers shall not remain on or in the peak/ridge any longer than necessary to safely complete the task.~~

~~(iii) Roof Sheathing Operations: Workers typically install roof sheathing after all trusses/rafters and any permanent truss bracing is in place. Roof structures are unstable until some sheathing is installed, so workers installing roof sheathing cannot be protected from fall hazards by conventional fall protection systems until it is determined that the roofing system can be used as an anchorage point. At that point, employees shall be protected by a personal fall arrest system.~~

~~Trusses/rafters are subject to collapse if a worker falls while attached to a single truss with a harness. Nets could also cause collapse, and there is no place to attach guardrails.~~

~~All workers will ensure that they have secure footing before they attempt to walk on the sheathing, including cleaning shoes/boots of mud or other slip hazards.~~

~~To minimize the time workers must be exposed to a fall hazard, materials will be staged to allow for the quickest installation of sheathing.~~

~~(Your company name here) shall take the following steps to protect workers who are exposed to fall hazards while installing roof sheathing:~~

- ~~▲ Once roof sheathing installation begins, workers not involved in that activity shall not stand or walk below or adjacent to the roof opening or exterior walls in any area where they could be struck by falling objects;~~

- ~~▲ The competent person shall determine the limits of this area, which shall be clearly communicated to workers prior to placement of the first piece of roof sheathing;~~

- ~~▲ The competent person may order work on the roof to be suspended for brief periods as necessary to allow other workers to pass through such areas when this would not create a greater hazard;~~

- ~~▲ Only qualified workers shall install roof sheathing;~~

- ~~▲ The bottom row of roof sheathing may be installed by workers standing in truss webs;~~

~~▲ After the bottom row of roof sheathing is installed, a slide guard extending the width of the roof shall be securely attached to the roof. Slide guards are to be constructed of no less than nominal 4" height capable of limiting the uncontrolled slide of workers. Workers should install the slide guard while standing in truss webs and leaning over the sheathing;~~

~~▲ Additional rows of roof sheathing may be installed by workers positioned on previously installed rows of sheathing. A slide guard can be used to assist workers in retaining their footing during successive sheathing operations; and~~

~~▲ Additional slide guards shall be securely attached to the roof at intervals not to exceed 13 feet as successive rows of sheathing are installed. For roofs with pitches in excess of 9 in 12, slide guards will be installed at four foot intervals.~~

~~▲ When wet weather (rain, snow, or sleet) are present, roof sheathing operations shall be suspended unless safe footing can be assured for those workers installing sheathing.~~

~~▲ When strong winds are present, roof sheathing operations are to be suspended unless wind breakers are erected.—~~

~~(iv) Installation of Floor Joists and Sheathing: During the installation of floor sheathing/joists (leading edge construction), the following steps shall be taken to protect workers:~~

- ~~▲ Only the following trained workers will be allowed to install floor joists or sheathing:~~

~~.....  
.....  
.....~~

- ~~▲ Materials for the operations shall be conveniently staged to allow for easy access to workers;~~

~~▲ The first floor joists or trusses will be rolled into position and secured either from the ground, ladders or sawhorse scaffolds;~~

~~▲ Each successive floor joist or truss will be rolled into place and secured from a platform created from a sheet of plywood laid over the previously secured floor joists or trusses;~~

PROPOSED

Except for the first row of sheathing which will be installed from ladders or the ground, workers shall work from the established deck; and

Any workers not assisting in the leading edge construction while leading edges still exist (e.g. cutting the decking for the installers) shall not be permitted within six feet of the leading edge under construction.

(v) Erection of Exterior Walls: During the construction and erection of exterior walls, employers shall take the following steps to protect workers:

Only the following trained workers will be allowed to erect exterior walls:

.....  
.....  
.....

A painted line six feet from the perimeter will be clearly marked prior to any wall erection activities to warn of the approaching unprotected edge;

Materials for operations shall be conveniently staged to minimize fall hazards; and

Workers constructing exterior walls shall complete as much cutting of materials and other preparation as possible away from the edge of the deck.

(vi) Enforcement: Constant awareness of and respect for fall hazards, and compliance with all safety rules are considered conditions of employment. The crew supervisor or leader, as well as individuals in the safety and personnel department, reserve the right to issue disciplinary warnings to employees, up to and including termination, for failure to follow the guidelines of this program.

(vii) Accident Investigations: All accidents that result in injury to workers, regardless of their nature, shall be investigated and reported. It is an integral part of any safety program that documentation take place as soon as possible so that the cause and means of prevention can be identified to prevent a recurrence.

In the event that an employee falls or there is some other related, serious incident occurring, this plan shall be reviewed to determine if additional practices, procedures, or training need to be implemented to prevent similar types of falls or incidents from occurring.

(viii) Changes to Plan: Any changes to the plan will be approved by (name of the qualified person). This plan shall be reviewed by a qualified person as the job progresses to determine if additional practices, procedures or training needs to be implemented by the competent person to improve or provide additional fall protection. Workers shall be notified and trained, if necessary, in the new procedures. A copy of this plan and all approved changes shall be maintained at the job site.)) Reserve.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-24524 ((Appendix F to Part C-1, fall restraint and fall arrest (employer information only). Additional standards that require the use of fall restraint and/or fall arrest protection for employees are listed below:**

Ladders	WAC 296-155-480 (1)(e)
	WAC 296-155-480 (1)(p)
Suspended Scaffold	WAC 296-155-485 (7)(h)

Two Points Suspension Scaffold	WAC 296-155-485 (7)(h) and (i)
Boatswain's Chair Scaffold	WAC 296-155-485 (10)(d)
Needle Beam Scaffold	WAC 296-155-485 (14)(i)
Ladder Jack Scaffold	WAC 296-155-485 (17)(f)
Window Jack Scaffold	WAC 296-155-485 (18)(e)
Float or Ship Scaffold	WAC 296-155-485 (21)(f)
Pump Jack Scaffold	WAC 296-155-485 (23)(k)
Boom Supported Elevating Work Platforms	WAC 296-155-48529 (19)(b)(vi)
Vehicle Mounted Elevated and Rotating Work Platforms	WAC 296-155-48531 (14)(h)
Crane and Derrick Supported Work Platforms	WAC 296-155-48533 (6)(e)
	WAC 296-155-48533 (6)(d)
	WAC 296-155-48533 (7)(i)
	WAC 296-155-48533 (7)(j)
	WAC 296-155-48533 (7)(k)
	WAC 296-155-48533 (10)(h)
Pile Driving	WAC 296-155-620 (1)(i)
Vertical Slip Forms	WAC 296-155-688(9)
Placing and Removal of Forms	WAC 296-155-689(4)
Steel Erection Temporary Floors	WAC 296-155-705 (2)(b)
Tunneling (Skips and Platforms)	WAC 296-155-730(8))

Reserve.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-24525 ((Reserved.)) Appendix to Part C-1, Fall restraint and fall arrest (employer information only).** Additional standards that require the use of fall restraint and/or fall arrest protection for employees are listed below:

Ladders	WAC 296-155-480 (1)(O)
	WAC 296-155-480 (1)(P)
Suspended Scaffold	WAC 296-155-485 (7)(h)
Two Points Suspension Scaffold	WAC 296-155-485 (7)(h)(ii)
Bosun's Chain Scaffold	WAC 296-155-485 (10)(d)
Needle Beam Scaffold	WAC 296-155-485 (14)(i)
Ladder Jack Scaffold	WAC 296-155-485 (17)(f)
Window Jack Scaffold	WAC 296-155-485 (18)(c)
Float or Ship Scaffold	WAC 296-155-485 (21)(f)
Pump Jack Scaffold	WAC 296-155-485 (23)(k)
Boom Supported Elevating Work Platforms	WAC 296-155-48529 (19)(b)(vi)
Vehicle Mounted Elevated and Rotating Work Platforms	WAC 296-155-48531 (14)(h)
Crane and Derrick Supported Work Platforms	WAC 296-155-48533 (6)(c)
	WAC 296-155-48533 (6)(d)
	WAC 296-155-48533 (7)(i)
	WAC 296-155-48533 (7)(j)
	WAC 296-155-48533 (7)(k)
	WAC 296-155-48533 (10)(h)
Open Sided Floors	WAC 296-155-505 (4)(a)
Pile Driving	WAC 296-155-620 (1)(I)
Vertical Slip Forms	WAC 296-155-688(9)
Placing and Removal of Forms	WAC 296-155-689(4)
Steel Erection Temporary Floors	WAC 296-155-705 (2)(b)
Tunneling (Skips and Platforms)	WAC 296-155-730 (8)(e)

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.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-325 General requirements for storage.** (1) General.

(a) All materials stored in tiers shall be stacked, racked, blocked, interlocked, or otherwise secured to prevent sliding, falling or collapse.

(b) Maximum safe load limits of floors within buildings and structures, in pounds per square foot, shall be conspicuously posted in all storage areas, except for floor or slab on grade. Maximum safe loads shall not be exceeded.

(c) Aisles and passageways shall be kept clear to provide for the free and safe movement of material handling equipment or employees. Such areas shall be kept in good repair.

(d) When a difference in road or working levels exist, means such as ramps, blocking, or grading shall be used to ensure the safe movement of vehicles between the two levels.

(2) Material storage.

(a)(i) Material stored inside buildings under construction shall not be placed within 6 feet of any hoistway or inside floor openings, nor within 10 feet of an exterior wall which does not extend above the top of the material stored.

(ii) Temporary floors, used in steel erection, concrete forms and shoring (i.e., stripped forms, shoring jacks, clamps, steel rods or pipes, base plates, etc.) placed within close proximity to an open-sided floor for movement to another tier for placement, shall be considered "in-process equipment and subject to the provisions contained in Parts "O" and "P" of this standard. When this type equipment is to be left overnight or for longer periods of time it shall be anchored and braced to prevent displacement in any direction. In addition this equipment shall be subject to the provisions of this subsection while in "interim storage."

(b) Each employee required to work on stored material in silos, hoppers, tanks, and similar storage areas shall be equipped with personal fall arrest equipment meeting the requirements of chapter 296-155 WAC, Part C-1.

(c) Noncompatible materials shall be segregated in storage.

(d) Bagged materials shall be stacked by stepping back the layers and cross-keying the bags at least every 10 bags high.

(i) When cement and lime is delivered in paper bags they shall be carefully handled to prevent the bags bursting.

(ii) Cement and lime bags shall not be piled more than ten bags high except when stored in bins or enclosures built for the purpose of storage.

(iii) When bags are removed from the pile, the length of the pile shall be kept at an even height, and the necessary step backs every five bags maintained.

(iv) Persons handling cement and lime bags shall wear eye protection which prevents contact between the substance and the worker's eyes (such as goggles or other sealed eye protection) and shall wear long sleeve shirts with close fitting collar and cuffs.

(v) Persons shall be warned against wearing clothing that has become hard and stiff with cement.

(vi) Persons shall be instructed to report any susceptibility of their skin to cement and lime burns.

(vii) A hand cream or vaseline and eye wash shall be provided and kept ready for use to prevent burns.

(viii) Lime shall be stored in a dry place to prevent a premature slacking action that may cause fire.

(e) Materials shall not be stored on scaffolds or runways in excess of supplies needed for immediate operations.

(f) Brick stacks shall not be more than 7 feet in height. When a loose brick stack reaches a height of 4 feet, it shall be tapered back 2 inches in every foot of height above the 4-foot level.

(i) Brick shall never be stacked, for storage purposes, on scaffolds or runways.

(ii) When delivering brick on scaffolds inside the wall lines in wheelbarrows, they shall be dumped toward the inside of the building and not toward the wall.

(iii) Blocks shall always be stacked and not thrown in a loose pile.

(g) When masonry blocks are stacked higher than 6 feet, the stack shall be tapered back one-half block per tier above the 6-foot level.

(i) When blocks are stacked inside a building, the piles shall be so distributed as not to overload the floor on which they stand.

(ii) Blocks shall not be dropped or thrown from an elevation or delivered through chutes.

(h) Lumber:

(i) Used lumber shall have all nails withdrawn before stacking.

(ii) Lumber shall be stacked on level and solidly supported sills.

(iii) Lumber shall be so stacked as to be stable and self-supporting.

(iv) Lumber stacks shall not exceed 20 feet in height provided that lumber to be handled manually shall not be stacked more than 16 feet high.

(v) All stored lumber shall be stacked on timber sills to keep it off the ground. Sills shall be placed level on solid supports.

(vi) Cross strips shall be placed in the stacks when they are stacked more than four feet high.

(i) Structural steel, poles, pipe, bar stock, and other cylindrical materials, unless racked, shall be stacked and blocked so as to prevent spreading or tilting.

(i) Persons handling reinforcing steel shall wear heavy gloves.

(ii) When bending of reinforcing steel is done on the job, a strong bench shall be provided, set up on even dry ground or a floor for the persons to work on.

(iii) Structural steel shall be carefully piled to prevent danger of members rolling off or the pile toppling over.

(iv) Structural steel shall be kept in low piles, consideration being given to the sequence of use of the members.

(v) Corrugated and flat iron shall be stacked in flat piles, with the piles not more than four feet high and spacing strips shall be placed between each bundle.

(j) Sand, gravel and crushed stone.

(i) Stock piles shall be frequently inspected to prevent their becoming unsafe by continued adding to or withdrawing from the stock.

(ii) If material becomes frozen, it shall not be removed in a manner that would produce an overhang.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-477 Stairways.** (1) General. The following requirements apply to all stairways as indicated:

(a) Stairways that will not be a permanent part of the structure on which construction work is being performed shall have landings of not less than 30 inches (76 cm) in the direction of travel and extend at least 22 inches (56 cm) in width at every 12 feet (3.7 m) or less of vertical rise.

(b) Stairs shall be installed between 30 deg. and 50 deg. from horizontal.

(c) In all buildings or structures two or more stories or twenty-four feet or more in height or depth, suitable permanent or temporary stairways shall be installed.

(d) Stairways, ramps or ladders shall be provided at all points where a break in elevation of eighteen inches or more occurs in a frequently traveled passageway, entry or exit.

(e) A minimum of one stairway shall be provided for access and exit for buildings and structures to three stories or thirty-six feet; if more than three stories or thirty-six feet, two or more stairways shall be provided. Where two stairways are provided and work is being performed in the stairways, one shall be maintained clear for access between levels at all times.

(f) Wood frame buildings.

(i) The stairway to a second or higher floor shall be completed before studs are raised to support the next higher floor.

(ii) Roof and attic work areas of all buildings shall be provided with a safe means of access and egress, such as stairways, ramps or ladders.

(iii) Cleats shall not be nailed to studs to provide access to and egress from roof or other work areas.

(g) Steel frame buildings. Stairways shall extend to the uppermost floor that has been planked or decked. Ladders may be used above that point.

(h) Reinforced concrete or composite steel—Concrete buildings. Stairways shall extend to the lowermost floor upon which a complete vertical shoring system is in place. A minimum of two ladders at different locations for each floor may be used above this floor but not to exceed three floors.

(i) Riser height and tread depth shall be uniform within each flight of stairs, including any foundation structure used as one or more treads of the stairs. Variations in riser height or tread depth shall not be over 1/4-inch (0.6 cm) in any stairway system.

(j) Where doors or gates open directly on a stairway, a platform shall be provided, and the swing of the door shall not reduce the effective width of the platform to less than 20 inches (51 cm).

(k) Metal pan landings and metal pan treads, when used, shall be secured in place before filling with concrete or other material.

(l) All parts of stairways shall be free of hazardous projections, such as protruding nails.

(m) Slippery conditions on stairways shall be eliminated before the stairways are used to reach other levels.

(n) Employers are permitted to use alternating tread type stairs as long as they install, use, and maintain the stairs in

accordance with manufacturer's recommendations and the following:

(i) The stair must be installed at an angle of seventy degrees or less.

(ii) The stair must be capable of withstanding a minimum uniform load of one hundred pounds per square foot with a design factor of 1.7, and the treads must be capable of carrying a minimum concentrated load of three hundred pounds at the center of any treadspan or exterior arc with a design factor of 1.7. If the stair is intended for greater loading, construction must allow for that loading.

(iii) The stair must be equipped with a handrail on each side to assist the user in climbing or descending.

(o) Due to space limitations, when a permanent stairway must be installed at an angle above fifty degrees, such an installation (commonly called an inclined or ship's ladder) shall have treads, open risers and handrails on both sides.

(p) Where ladders are permitted for access under subsection (1) of this section, means shall be provided for employee hoisting of tools and material, such as a well wheel and hoisting line or the equivalent, so employees will have both hands free for ascending and descending ladders.

(2) Temporary service. The following requirements apply to all stairways as indicated:

(a) Except during stairway construction, foot traffic is prohibited on stairways with pan stairs where the treads and/or landings are to be filled in with concrete or other material at a later date, unless the stairs are temporarily fitted with wood or other solid material at least to the top edge of each pan. Such temporary treads and landings shall be replaced when worn below the level of the top edge of the pan.

(b) Except during stairway construction, foot traffic is prohibited on skeleton metal stairs where permanent treads and/or landings are to be installed at a later date, unless the stairs are fitted with secured temporary treads and landings long enough to cover the entire tread and/or landing area.

(c) Treads for temporary service shall be made of wood or other solid material, and shall be installed the full width and depth of the stair.

(3) Stairrails and handrails. The following requirements apply to all stairways as indicated:

(a) Stairways having four or more risers or rising more than 30 inches (76 cm), whichever is less, shall be equipped with:

(i) At least one handrail; and

(ii) One stairrail system along each unprotected side or edge.

Note: When the top edge of a stairrail system also serves as a handrail, subdivision (g) of this subsection applies.

(b) Winding and spiral stairways shall be equipped with a handrail offset sufficiently to prevent walking on those portions of the stairways where the tread width is less than 6 inches (15 cm).

(c) The height of stairrails shall be as follows:

(i) Stairrails installed after the effective date of this standard, shall be not less than 36 inches (91.5 cm) from the upper surface of the stairrail system to the surface of the tread, in line with the face of the riser at the forward edge of the tread.

(ii) Stairrails installed before the effective date of this standard, shall be not less than 30 inches (76 cm) nor more

than 34 inches (86 cm) from the upper surface of the stairrail system to the surface of the tread, in line with the face of the riser at the forward edge of the tread.

(d) Midrails, screens, mesh, intermediate vertical members, or equivalent intermediate structural members, shall be provided between the top rail of the stairrail system and the stairway steps.

(i) Midrails, when used, shall be located at a height midway between the top edge of the stairrail system and the stairway steps.

(ii) Screens or mesh, when used, shall extend from the top rail to the stairway step, and along the entire opening between top rail supports.

(iii) When intermediate vertical members, such as balusters, are used between posts, they shall be not more than 19 inches (48 cm) apart.

(iv) Other structural members, when used, shall be installed such that there are no openings in the stairrail system that are more than 19 inches (48 cm) wide.

(e) Handrails and the top rails of stairrail systems shall be capable of withstanding, without failure, a force of at least 200 pounds (890 n) applied within 2 inches (5 cm) of the top edge, in any downward or outward direction, at any point along the top edge.

(f) The height of handrails shall be not more than 37 inches (94 cm) nor less than 30 inches (76 cm) from the upper surface of the handrail to the surface of the tread, in line with the face of the riser at the forward edge of the tread.

(g) When the top edge of a stairrail system also serves as a handrail, the height of the top edge shall be not more than 37 inches (94 cm) nor less than 36 inches (91.5 cm) from the upper surface of the stairrail system to the surface of the tread, in line with the face of the riser at the forward edge of the tread.

(h) Stairrail systems and handrails shall be so surfaced as to prevent injury to employees from punctures or lacerations, and to prevent snagging of clothing.

(i) Handrails shall provide an adequate handhold for employees grasping them to avoid falling.

(j) The ends of stairrail systems and handrails shall be constructed so as not to constitute a projection hazard.

(k) Handrails that will not be a permanent part of the structure being built shall have a minimum clearance of 3 inches (8 cm) between the handrail and walls, stairrail systems, and other objects.

(l) Unprotected sides and edges of stairway landings shall be provided with guardrail systems. Guardrail system criteria are contained in chapter 296-155 WAC, Part ((C-4)) K.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-480 Ladders.** (1) General. The following requirements apply to all ladders as indicated, including job-made ladders.

(a) Ladders shall be capable of supporting the following loads without failure:

(i) Each self-supporting portable ladder: At least four times the maximum intended load, except that each extra-heavy-duty type 1A metal or plastic ladder shall sustain at

least 3.3 times the maximum intended load. The ability of a ladder to sustain the loads indicated in this section shall be determined by applying or transmitting the requisite load to the ladder in a downward vertical direction. Ladders built and tested in conformance with the applicable provisions of appendix A of this part will be deemed to meet this requirement.

(ii) Each portable ladder that is not self-supporting: At least four times the maximum intended load, except that each extra-heavy-duty type 1A metal or plastic ladders shall sustain at least 3.3 times the maximum intended load. The ability of a ladder to sustain the loads indicated in this section shall be determined by applying or transmitting the requisite load to the ladder in a downward vertical direction when the ladder is placed at an angle of 75 1/2 degrees from the horizontal. Ladders built and tested in conformance with the applicable provisions of appendix A will be deemed to meet this requirement.

(iii) Each fixed ladder: At least two loads of 250 pounds (114 kg) each, concentrated between any two consecutive attachments (the number and position of additional concentrated loads of 250 pounds (114 kg) each, determined from anticipated usage of the ladder, shall also be included), plus anticipated loads caused by ice buildup, winds, rigging, and impact loads resulting from the use of ladder safety devices. Each step or rung shall be capable of supporting a single concentrated load of at least 250 pounds (114 kg) applied in the middle of the step or rung. Ladders built in conformance with the applicable provisions of appendix A will be deemed to meet this requirement.

(b) Ladder rungs, cleats, and steps shall be parallel, level, and uniformly spaced when the ladder is in position for use.

(c)(i) Rungs, cleats, and steps of portable ladders (except as provided below) and fixed ladders (including individual-rung/step ladders) shall be spaced not less than 10 inches (25 cm) apart, nor more than 14 inches (36 cm) apart, as measured between centerlines of the rungs, cleats, and steps.

(ii) Rungs, cleats, and steps of step stools shall be not less than 8 inches (20 cm) apart, nor more than 12 inches (31 cm) apart, as measured between centerlines of the rungs, cleats, and steps.

(iii) Rungs, cleats, and steps of the base section of extension trestle ladders shall be not less than 8 inches (20 cm) nor more than 18 inches (46 cm) apart, as measured between centerlines of the rungs, cleats, and steps. The rung spacing on the extension section of the extension trestle ladder shall be not less than 6 inches (15 cm) nor more than 12 inches (31 cm), as measured between centerlines of the rungs, cleats, and steps.

(iv) Cleats on job-made ladders shall be inset into the edges of the side-rails one-half inch, or filler blocks shall be used on the side-rails between the cleats.

(v) Cleats on job-made ladders shall be secured to each rail with three 10d common wire nails or other fasteners of equivalent strength.

(d)(i) The minimum clear distance between the sides of individual-rung/step ladders and the minimum clear distance between the side rails of other fixed ladders shall be 16 inches (41 cm).

(ii) The minimum clear distance between side rails for all portable ladders shall be 11 1/2 inches (29 cm).

(e) The rungs of individual-rung/step ladders shall be shaped such that employees' feet cannot slide off the end of the rungs.

(f)(i) The rungs and steps of fixed metal ladders manufactured after the effective date of this standard, shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize slipping.

(ii) The rungs and steps of portable metal ladders shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize slipping.

(g) Ladders shall not be tied or fastened together to provide longer sections unless they are specifically designed for such use.

(h) A metal spreader or locking device shall be provided on each stepladder to hold the front and back sections in an open position when the ladder is being used.

(i) When splicing is required to obtain a given length of side rail, the resulting side rail must be at least equivalent in strength to a one-piece side rail made of the same material.

(j) Except when portable ladders are used to gain access to fixed ladders (such as those on utility towers, billboards, and other structures where the bottom of the fixed ladder is elevated to limit access), when two or more separate ladders are used to reach an elevated work area, the ladders shall be offset with a platform or landing between the ladders. (The requirements to have guardrail systems with toeboards for falling object and overhead protection on platforms and landings are set forth in chapter 296-155 WAC, Part ((C)-(K)).)

(k) Ladder components shall be surfaced so as to prevent injury to an employee from punctures or lacerations, and to prevent snagging of clothing.

(l) Wood ladders shall not be coated with any opaque covering, except for identification or warning labels which may be placed on one face only of a side rail.

(m) The minimum perpendicular clearance between fixed ladder rungs, cleats, and steps, and any obstruction behind the ladder shall be 7 inches (18 cm), except in the case of an elevator pit ladder, for which a minimum perpendicular clearance of 4 1/2 inches (11 cm) is required.

(n) The minimum perpendicular clearance between the center line of fixed ladder rungs, cleats, and steps, and any obstruction on the climbing side of the ladder shall be 30 inches (76 cm), except as provided in (o) of this subsection.

(o) When unavoidable obstructions are encountered, the minimum perpendicular clearance between the centerline of fixed ladder rungs, cleats, and steps, and the obstruction on the climbing side of the ladder may be reduced to 24 inches (61 cm), provided that a deflection device is installed to guide employees around the obstruction.

(p) Through fixed ladders at their point of access/egress shall have a step-across distance of not less than 7 inches (18 cm) nor more than 12 inches (30 cm) as measured from the centerline of the steps or rungs to the nearest edge of the landing area. If the normal step-across distance exceeds 12 inches (30 cm), a landing platform shall be provided to reduce the distance to the specified limit.

(q) Fixed ladders without cages or wells shall have a clear width to the nearest permanent object of at least 15 inches (38 cm) on each side of the centerline of the ladder.

(r) Fixed ladders shall be provided with cages, wells, ladder safety devices, or self-retracting lifelines where the length of climb is less than 24 feet (7.3 m) but the top of the ladder is at a distance greater than 24 feet (7.3 m) above lower levels.

(s) Where the total length of a climb equals or exceeds 24 feet (7.3 m), fixed ladders shall be equipped with one of the following:

(i) Ladder safety devices; or

(ii) Self-retracting lifelines, and rest platforms at intervals not to exceed 150 feet (45.7 m); or

(iii) A cage or well, and multiple ladder sections, each ladder section not to exceed 50 feet (15.2 m) in length. Ladder sections shall be offset from adjacent sections, and landing platforms shall be provided at maximum intervals of 50 feet (15.2 m).

(t) Cages for fixed ladders shall conform to all of the following:

(i) Horizontal bands shall be fastened to the side rails of rail ladders, or directly to the structure, building, or equipment for individual-rung ladders;

(ii) Vertical bars shall be on the inside of the horizontal bands and shall be fastened to them;

(iii) Cages shall extend not less than 27 inches (68 cm), or more than 30 inches (76 cm) from the centerline of the step or rung (excluding the flare at the bottom of the cage), and shall not be less than 27 inches (68 cm) in width;

(iv) The inside of the cage shall be clear of projections;

(v) Horizontal bands shall be spaced not more than 4 feet (1.2 m) on center vertically;

(vi) Vertical bars shall be spaced at intervals not more than 9 1/2 inches (24 cm) on center horizontally;

(vii) The bottom of the cage shall be at a level not less than 7 feet (2.1 m) nor more than 8 feet (2.4 m) above the point of access to the bottom of the ladder. The bottom of the cage shall be flared not less than 4 inches (10 cm) all around within the distance between the bottom horizontal band and the next higher band;

(viii) The top of the cage shall be a minimum of 42 inches (1.1 m) above the top of the platform, or the point of access at the top of the ladder, with provision for access to the platform or other point of access.

(u) Wells for fixed ladders shall conform to all of the following:

(i) They shall completely encircle the ladder;

(ii) They shall be free of projections;

(iii) Their inside face on the climbing side of the ladder shall extend not less than 27 inches (68 cm) nor more than 30 inches (76 cm) from the centerline of the step or rung;

(iv) The inside clear width shall be at least 30 inches (76 cm);

(v) The bottom of the wall on the access side shall start at a level not less than 7 feet (2.1 m) nor more than 8 feet (2.4 m) above the point of access to the bottom of the ladder.

(v) Ladder safety devices, and related support systems, for fixed ladders shall conform to all of the following:

(i) They shall be capable of withstanding without failure a drop test consisting of an 18-inch (41 cm) drop of a 500-pound (226 kg) weight;

(ii) They shall permit the employee using the device to ascend or descend without continually having to hold, push

or pull any part of the device, leaving both hands free for climbing;

(iii) They shall be activated within 2 feet (.61 m) after a fall occurs, and limit the descending velocity of an employee to 7 feet/sec. (2.1 m/sec.) or less;

(iv) The connection between the carrier or lifeline and the point of attachment to the body belt or harness shall not exceed 9 inches (23 cm) in length.

(w) The mounting of ladder safety devices for fixed ladders shall conform to the following:

(i) Mountings for rigid carriers shall be attached at each end of the carrier, with intermediate mountings, as necessary, spaced along the entire length of the carrier, to provide the strength necessary to stop employees' falls.

(ii) Mountings for flexible carriers shall be attached at each end of the carrier. When the system is exposed to wind, cable guides for flexible carriers shall be installed at a minimum spacing of 25 feet (7.6 m) and maximum spacing of 40 feet (12.2 m) along the entire length of the carrier, to prevent wind damage to the system.

(iii) The design and installation of mountings and cable guides shall not reduce the design strength of the ladder.

(x) The side rails of through or side-step fixed ladders shall extend 42 inches (1.1 m) above the top of the access level or landing platform served by the ladder. For a parapet ladder, the access level shall be the roof if the parapet is cut to permit passage through the parapet; if the parapet is continuous, the access level shall be the top of the parapet.

(y) For through-fixed-ladder extensions, the steps or rungs shall be omitted from the extension and the extension of the side rails shall be flared to provide not less than 24 inches (61 cm) nor more than 30 inches (76 cm) clearance between side rails. Where ladder safety devices are provided, the maximum clearance between side rails of the extensions shall not exceed 36 inches (91 cm).

(z) For side-step fixed ladders, the side rails and the steps or rungs shall be continuous in the extension.

(aa) Individual-rung/step ladders, except those used where their access openings are covered with manhole covers or hatches, shall extend at least 42 inches (1.1 m) above an access level or landing platform either by the continuation of the rung spacings as horizontal grab bars or by providing vertical grab bars that shall have the same lateral spacing as the vertical legs of the rungs.

(2) Use. The following requirements apply to the use of all ladders, including job-made ladders, except as otherwise indicated:

(a) When portable ladders are used for access to an upper landing surface, the ladder side rails shall extend at least 3 feet (.9 m) above the upper landing surface to which the ladder is used to gain access; or, when such an extension is not possible because of the ladder's length, then the ladder shall be secured at its top to a rigid support that will not deflect, and a grasping device, such as a grabrail, shall be provided to assist employees in mounting and dismounting the ladder. In no case shall the extension be such that ladder deflection under a load would, by itself, cause the ladder to slip off its support.

(b) Ladders shall be maintained free of oil, grease, and other slipping hazards.

(c) Ladders shall not be loaded beyond the maximum intended load for which they were built, nor beyond their manufacturer's rated capacity.

(d) Ladders shall be used only for the purpose for which they were designed.

(e)(i) Nonself-supporting ladders shall be used at an angle such that the horizontal distance from the top support to the foot of the ladder is approximately one-quarter of the working length of the ladder (the distance along the ladder between the foot and the top support).

(ii) Wood job-made ladders with spliced side rails shall be used at an angle such that the horizontal distance is one-eighth the working length of the ladder.

(iii) Fixed ladders shall be used at a pitch no greater than 90 degrees from the horizontal, as measured to the back side of the ladder.

(f) Ladders shall be used only on stable and level surfaces unless secured to prevent accidental displacement.

(g) Ladders shall not be used on slippery surfaces unless secured or provided with slip-resistant feet to prevent accidental displacement. Slip-resistant feet shall not be used as a substitute for care in placing, lashing, or holding a ladder that is used upon slippery surfaces including, but not limited to, flat metal or concrete surfaces that are constructed so they cannot be prevented from becoming slippery.

(h) Ladders placed in any location where they can be displaced by workplace activities or traffic, such as in passageways, doorways, or driveways, shall be secured to prevent accidental displacement, or a barricade shall be used to keep the activities or traffic away from the ladder.

(i) The area around the top and bottom of ladders shall be kept clear.

(j) The top of a nonself-supporting ladder shall be placed with the two rails supported equally unless it is equipped with a single support attachment.

(k) Ladders shall not be moved, shifted, or extended while occupied.

(l) Ladders shall have nonconductive side rails if they are used where the employee or the ladder could contact exposed energized electrical equipment, except as provided in the following:

(i) Portable metal or other portable conductive ladders shall not be used on or near energized line or equipment except where nonconductive ladders present a greater electrical hazard than conductive ladders. A greater electrical hazard would be static electricity such as might be found in extra high voltage substations.

(ii) All conductive or metal ladders shall be prominently marked and identified as being conductive.

(iii) All conductive or metal ladders shall be grounded when used near energized lines or equipment.

(m) The top or top step of a stepladder shall not be used as a step.

(n) Cross-bracing on the rear section of stepladders shall not be used for climbing unless the ladders are designed and provided with steps for climbing on both front and rear sections.

(o) Ladders shall be inspected by a competent person for visible defects on a periodic basis and after any occurrence that could affect their safe use.

(p) Portable ladders with structural defects, such as, but not limited to, broken or missing rungs, cleats, or steps,

broken or split rails, corroded components, or other faulty or defective components, shall either be immediately marked in a manner that readily identifies them as defective, or be tagged with "do not use" or similar language, and shall be withdrawn from service until repaired.

(q) Fixed ladders with structural defects, such as, but not limited to, broken or missing rungs, cleats, or steps, broken or split rails, or corroded components, shall be withdrawn from service until repaired. The requirement to withdraw a defective ladder from service is satisfied if the ladder is either:

(i) Immediately tagged with "do not use" or similar language;

(ii) Marked in a manner that readily identifies it as defective;

(iii) Or blocked (such as with a plywood attachment that spans several rungs).

(r) Ladder repairs shall restore the ladder to a condition meeting its original design criteria, before the ladder is returned to use.

(s) Single-rail ladders shall not be used.

(t) When ascending or descending a ladder, the user shall face the ladder.

(u) Employees shall not ascend or descend ladders while carrying tools or materials that might interfere with the free use of both hands.

(v) When working from a ladder, the ladder shall be secured at both top and bottom.

(w) No type of work shall be performed on a ladder over twenty-five feet from the ground or floor that requires the use of both hands to perform the work, unless a safety belt is worn and the safety lanyard is secured to the ladder.

(x) Any work that requires wearing eye protection, respirators, or handling of pressure equipment shall not be performed from a ladder more than twenty-five feet above the surrounding surface.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-485 Scaffolding.** (1) General requirements. Scaffolds shall be furnished and erected in accordance with this standard for persons engaged in work that cannot be done safely from the ground or from solid construction, except that ladders used for such work shall conform to Part J chapter 296-155 WAC.

(a) All rules for design, construction, maintenance, operation, testing, and use of scaffolds contained in Part J-1 chapter 296-24 WAC apply within the construction industry.

(b) Scaffolds shall be erected in accordance with requirements of this section.

(c) The footing or anchorage for scaffolds shall be sound, rigid, and capable of carrying the maximum intended load without settling or displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks, shall not be used to support scaffolds or planks.

(d) No scaffold shall be erected, moved, dismantled, or altered except under the supervision of competent persons.

(e) Standard guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beam scaffolds and floats. Scaffolds 4 feet to 10 feet in height, having a

minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails and toeboards installed on all open sides and ends of the scaffold platform.

(f) Where persons are required to work or pass under the scaffold, scaffolds shall be provided with a screen between the toeboard and the guardrail, extending along the entire opening, consisting of No. 18 gauge U.S. Standard wire 1/2-inch mesh, or the equivalent.

(g) Scaffolds and their components shall be capable of supporting without failure at least 4 times the maximum intended load.

(h) Any scaffold including accessories such as braces, brackets, trusses, screw legs, ladders, etc. damaged or weakened from any cause shall be immediately repaired or replaced.

(i) All load-carrying timber members of scaffold framing shall be a minimum of 1,500 fiber (stress grade) construction grade lumber. All dimensions are nominal sizes as provided in the American Lumber Standards, except that where rough sizes are noted, only rough or undressed lumber of the size specified will satisfy minimum requirements.

(j) All planking shall be scaffold grades, or equivalent, as recognized by approved grading rules for the species of wood used. The maximum permissible spans for 2- x 10-inch or wider planks shall be as shown in Table J-1.

(k) The maximum permissible span for 1 1/4- x 9-inch or wider plank of full thickness shall be 4 feet with medium duty loading of 50 p.s.f.

(l) Platforms shall be level. All planking or platforms shall be overlapped (minimum 12 inches), or secured from movement. The platform shall be a minimum of two 2-inch by 10-inch planks in width or a minimum of 18 inches.

(m) An access ladder or equivalent safe access shall be provided.

(n) Scaffold planks shall extend over their end supports not less than 6 inches nor more than 12 inches.

(o) The poles, legs, or uprights of scaffolds shall be plumb, and securely and rigidly braced to prevent swaying and displacement.

(p) Overhead protection shall be provided for persons on a scaffold exposed to overhead hazards.

(q) Slippery conditions on scaffolds shall be eliminated as soon as possible after they occur.

(r) Welding, burning, riveting, or open flame work shall not be performed on any staging suspended by means of fiber or synthetic rope unless suspended components are well insulated to protect against damaging contacts. Only treated or protected fiber or synthetic ropes shall be used for or near any work involving the use of corrosive substances or chemicals. Specific requirements for boatswain's chairs and float or ship scaffolds are contained in subsections (10) and (21) of this section.

(s) Wire, synthetic, or fiber rope used for scaffold suspension shall be capable of supporting at least 6 times the rated load.

(t) The use of shore or lean-to scaffolds is prohibited.

(u) The height of freestanding scaffold towers shall not exceed four times the minimum base dimension.

(v) Factory-built (laminated) scaffold planks meeting the requirements of wood scaffold planks may be substituted for wood scaffold planks.

(w) Materials being hoisted onto a scaffold shall have a tag line.

(x) Employees shall not work on scaffolds during storms or high winds.

(y) Tools, materials, and debris shall not be allowed to accumulate in quantities to cause a hazard.

(2) Wood pole scaffolds.

(a) Scaffold poles shall bear on a foundation of sufficient size and strength to spread the load from the pole over a sufficient area to prevent settlement. All poles shall be set plumb.

(b) Where wood poles are spliced, the ends shall be squared and the upper section shall rest squarely on the lower section. Wood splice plates shall be provided on at least two adjacent sides and shall be not less than 4 feet in length, overlapping the abutted ends equally, and have the same width and not less than the cross-sectional area of the pole. Splice plates or other materials of equivalent strength may be used.

(c) Independent pole scaffolds shall be set as near to the wall of the building as practicable.

(d) All pole scaffolds shall be securely guyed or tied to the building or structure. Where the height or length exceeds 25 feet, the scaffold shall be secured at intervals not greater than 25 feet vertically and horizontally.

(e) Putlogs or bearers shall be set with their greater dimension vertical, and long enough to project over the ledgers of the inner and outer rows of poles at least 3 inches for proper support.

(f) Every wooden putlog on single pole scaffolds shall be reinforced with a 3/16- x 2-inch steel strip, or equivalent, secured to its lower edge throughout its entire length.

(g) Ledgers shall be long enough to extend over two pole spaces. Ledgers shall not be spliced between the poles. Ledgers shall be reinforced by bearing blocks securely nailed to the side of the pole to form a support for the ledger.

(h) Diagonal bracing shall be provided to prevent the poles from moving in a direction parallel with the wall of the building, or from buckling

(i) Cross bracing shall be provided between the inner and outer sets of poles in independent pole scaffolds. The free ends of pole scaffolds shall be cross braced.

(j) Full diagonal face bracing shall be erected across the entire face of pole scaffolds in both directions. The braces shall be spliced only at the poles. The inner row of poles on medium and heavy duty scaffolds shall be braced in a similar manner.

(k) Platform planks shall be laid with their edges close together so the platform will be tight with no spaces through which tools or fragments of material can fall.

(l) Where planking is lapped, each plank shall lap its end supports at least 12 inches. Where the ends of planks abut each other to form a flush floor, the butt joint shall be at the centerline of a pole. The abutted ends shall rest on separate bearers. Intermediate beams shall be provided where necessary to prevent dislodgment of planks due to deflection, and the ends shall be secured to prevent their dislodgment.

(m) When a scaffold materially changes its direction, the platform planks shall be laid to prevent tipping. The planks that meet the corner putlog at an angle shall be laid first, extending over the diagonally placed putlog far enough to

have a good safe bearing, but not far enough to involve any danger from tipping. The planking running in the opposite direction at an angle shall be laid so as to extend over and rest on the first layer of planking.

(n) When moving platforms to the next level, the old platform shall be left undisturbed until the new putlogs or bearers have been set in place, ready to receive the platform planks.

(o) All wood pole scaffolds 60 feet or less in height shall be constructed and erected in accordance with Tables J-2 to J-8. If they are over 60 feet in height, they shall be designed by a qualified engineer competent in this field, and shall be constructed and erected in accordance with such design. Design drawings shall be available at the jobsite.

(3) Tube and coupler scaffolds.

(a) A light duty tube and coupler scaffold shall have all posts, bearers, runners, and bracing of nominal 2-inch O.D. steel tubing. The posts shall be spaced no more than 6 feet apart by 10 feet along the length of the scaffold. Other structural metals when used must be designed to carry an equivalent load. No dissimilar metals shall be used together.

(b) A medium duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing. Posts spaced not more than 6 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2 1/2-inch O.D. steel tubing. Posts spaced not more than 5 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2-inch O.D. steel tubing. Other structural metals, when used, must be designed to carry an equivalent load. No dissimilar metals shall be used together.

(c) A heavy duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing, with the posts spaced not more than 6 feet by 6 feet-6 inches. Other structural metals, when used, must be designed to carry an equivalent load. No dissimilar metals shall be used together.

(d) Tube and coupler scaffolds shall be limited in heights and working levels to those permitted in Tables J-8, J-9 and J-10. Drawings and specifications of all tube and coupler scaffolds above the limitations in Tables J-8, J-9 and J-10 shall be designed by a qualified engineer competent in this field. Design drawings shall be available at the jobsite.

(e) All tube and coupler scaffolds shall be constructed and erected to support four times the maximum intended loads, as set forth in Tables J-8, J-9 and J-10, or as set forth in the specifications by a licensed professional engineer competent in this field.

(f) Posts shall be accurately spaced, erected on suitable bases, and maintained plumb.

(g) Runners shall be erected along the length of the scaffold, located on both the inside and the outside posts at even height. Runners shall be interlocked to the inside and the outside posts at even heights. Runners shall be interlocked to form continuous lengths and coupled to each post. The bottom runners shall be located as close to the base as possible. Runners shall be placed not more than 6 feet-6 inches on centers. When tube and coupler guardrails and midrails are used on outside posts, they may be used in lieu of outside runners.

(h) Bearers shall be installed transversely between posts and shall be securely coupled to the posts with the inboard

coupler bearing on the runner coupler. Where guardrails and midrails are required, no outboard runner is required.

(i) The length of the bearer shall exceed the post spacing of the width of the scaffold by the amount necessary to have full contact with the coupler. Bearers used to provide a cantilever support for use as brackets for light and medium-duty scaffolds shall not carry more than two ten-inch planks unless knee braced.

(j) Bracing across the width of the scaffold shall be installed at the ends of the scaffold at least at every fourth level. Such bracing shall extend diagonally from the outer post or runner at this level upward to the inner post or runner at the next level.

(k) Longitudinal diagonal bracing shall be installed on the outer rows of poles at approximately forty degrees to fifty degrees angle from near the base of the first and last outer post upward to the top center of the scaffold. If the scaffold is long, the above diagonal bracing shall be repeated. On short but high runs, the diagonal bracing shall be installed at forty degrees to fifty degrees from the base of the first outer post to the last outer post alternating directions to the top of the scaffold. When conditions preclude the attachment of this bracing to the posts, it may be attached to the runners.

(l) When a scaffold exceeds either 30 feet horizontally or 26 feet vertically, the entire scaffold shall be tied to and securely braced against the building at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(4) Fabricated tubular welded frame scaffolds.

(a) Metal tubular frame scaffolds, including accessories such as braces, brackets, trusses, screw legs, ladders, etc., shall safely support four times the maximum rated load. The maximum rated load shall not be exceeded.

(b) Spacing of panels or frames shall be consistent with the loads imposed.

(c) Scaffolds shall be properly braced by cross bracing or diagonal braces, or both, for securing vertical members together laterally, and the cross braces shall be of such length as will automatically square and aline vertical members so that the erected scaffold is always plumb, level, square, and rigid. All brace connections shall be made secure.

(d) Panel or frame legs shall be set on adjustable bases or plain bases placed on mud sills or other foundations adequate to support the maximum rated load.

(e) The panels or frames shall be placed one on top of the other with coupling or stacking pins to provide proper vertical alinement of the legs.

(f) Where uplift may occur, panels shall be locked together vertically by pins or equivalent method.

(g) To prevent movement, the scaffold shall be secured to the building or structure at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(h) Maximum permissible spans or planking shall be in conformity with (1)(j) of this section.

(i) Fabricated tubular frame scaffolds over 125 feet in height above the base plates shall be designed by a registered professional engineer. Copies of the drawings and specifications shall be available at the jobsite.

(j) Guardrails, midrails, and toeboards shall be installed as required by subsection (1)(e) of this section. Wire mesh

shall be provided between the toprail and toeboard when persons are working below.

(k) All fabricated tubular frame scaffolds shall be erected by competent and experienced personnel.

(l) All brackets shall be seated correctly with side brackets parallel to the frames and end brackets at ninety degrees to the frames. Brackets shall not be bent or twisted from normal position. Brackets (except mobile brackets designed to carry materials) are to be used as work platforms only and shall not be used for storage of material or equipment.

(m) Scaffold frames and their components manufactured by different companies shall not be intermixed unless they are compatible and the manufacturer has given written approval. The manufacturers letter of approval shall be available at the jobsite.

(n) Periodic inspections by the employer shall be made of all fabricated tubular frames and accessories. Any maintenance required shall be made before further use.

(5) Outrigger scaffolds, general.

(a) Outrigger beams shall extend not more than 6 feet beyond the face of the building. The inboard end of outrigger beams, measured from the fulcrum point to the inboard point of support, shall be not less than 1 1/2 times the outboard end in length. The beams shall rest on edge, the sides shall be plumb, and the edges shall be horizontal. The fulcrum point of the beam shall rest on a secure bearing at least 6 inches in each horizontal dimension. The beam shall be secured in place against movement and shall be securely braced at the fulcrum point against tipping.

(b) The inboard ends of outrigger beams shall be positively secured either by means of struts bearing against sills in contact with the overhead beams or ceiling, or by means of tension members secured to the floor joists underfoot, or by both if necessary, or by a securely fastened solid body counterweight. (Water in an open container or loose material in bags shall not be permitted.) The inboard ends of outrigger beams shall be secured against tipping and the entire supporting structure shall be securely braced in both directions to prevent any horizontal movement.

(c) Unless outrigger scaffolds are designed by a registered professional engineer competent in this field, they shall be constructed and erected in accordance with Table J-11. Outrigger scaffolds, designed by a registered professional engineer, shall be constructed and erected in accordance with such design. A copy of the drawings and specifications shall be available at the jobsite.

(d) Planking shall be laid tight and shall extend to within 3 inches of the building wall. Planking shall be secured to the beams.

(6) Masons' adjustable multiple-point suspension scaffolds.

(a) The scaffold shall be capable of sustaining a working load of 50 pounds per square foot and shall not be loaded in excess of that figure.

(b) The scaffold shall be provided with hoisting machines that meet the requirements of Underwriters' Laboratories, Factory Mutual Engineering Corporation, or other agency or laboratory approved by the department of labor and industries.

(c) The platform shall be supported by wire ropes, capable of supporting at least 6 times the intended load, suspended from overhead outrigger beams.

(d) The scaffold outrigger beams shall consist of structural metal securely fastened or anchored to the frame or floor system of the building or structure.

(e) Each outrigger beam shall be equivalent in strength to at least a standard 7-inch, 15.3-pound steel I-beam, at least 15 feet long, and shall not project more than 6 feet 6 inches beyond the bearing point.

(f) Where the overhang exceeds 6 feet 6 inches, outrigger beams shall be composed of stronger beams or multiple beams and be installed under the supervision of a competent person.

(g) All outrigger beams shall be set and maintained with their webs in a vertical position.

(h) A stop bolt shall be placed at each end of every outrigger beam.

(i) The outrigger beam shall rest on suitable wood bearing blocks.

(j) The free end of the suspension wire ropes shall be equipped with proper size thimbles and secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum. At least four turns of wire rope shall remain on the drum when the platform is at ground level. The use of fiber rope is prohibited.

(k) Where a single outrigger beam is used, the steel shackles or clevises with which the wire ropes are attached to the outrigger beams shall be placed directly over the hoisting drums.

(l) The scaffold platform shall be equivalent in strength to at least 2-inch planking. (For maximum planking spans, see subsection (1)(j) of this section.)

(m) When employees are at work on the scaffold and an overhead hazard exists, overhead protection shall be provided on the scaffold, not more than 9 feet above the platform, consisting of 2-inch planking, or material of equivalent strength, laid tight, and extending not less than the width of the scaffold.

(n) Each scaffold shall be installed or relocated under the supervision of a competent person.

(o) When channel iron outrigger beams are used instead of I-beams, they shall be securely fastened together with the flanges turned out.

(p) All parts of the scaffold, such as bolts, nuts, fittings, clamps, wire rope, outrigger beams and their fastenings shall be maintained in sound condition and shall be inspected before each installation and periodically thereafter. All parts shall be of the grade specified by the manufacturer.

(7) Two-point suspension scaffolds.

(a) Two-point suspension scaffold platforms shall be not less than 20 inches nor more than 36 inches wide overall. The platform shall be securely fastened to the hangers by U-bolts or by other equivalent means.

(b) The hangers of two-point suspension scaffolds shall be made of wrought iron, mild steel, or other equivalent material, having a cross-sectional area capable of sustaining 4 times the maximum rated load, and shall be designed with a support for guardrail, intermediate rail, and toeboard.

(c) When hoisting machines are used on two-point suspension scaffolds, such machines shall be of a design tested and approved by Underwriters' Laboratories, Factory

Mutual Engineering Corporation, or by an agency or laboratory approved by the department of labor and industries.

(d) The roof irons or hooks shall be of mild steel, or other equivalent material, of proper size and design, securely installed and anchored. The roof irons or hooks and any other devices shall have tiebacks of 3/4-inch manila rope, or the equivalent, to serve as a secondary means of anchorage, installed at right angles to the face of the building, whenever possible, and secured to a structurally sound portion of the building.

(e) Two-point suspension scaffolds shall be suspended by wire, synthetic or fiber ropes capable of supporting at least 6 times the rated load. All other components shall be capable of supporting at least four times the rated load.

(f) The sheaves of all blocks, consisting of at least one double and one single block, shall fit the size and type of rope used and shall be a minimum of six inches in diameter.

(g) All wire ropes, fiber and synthetic ropes, slings, hangers, platforms, and other supporting parts shall be inspected before every installation. Periodic inspections shall be made while the scaffold is in use.

(h) On suspension scaffolds designed for a working load of 500 pounds, no more than two persons shall be permitted to work at one time. On suspension scaffolds with a working load of 750 pounds, no more than three persons shall be permitted to work at one time. On suspension scaffolds with a working load of 1,000 pounds, no more than four persons shall be permitted to work at one time. Each employee shall be protected by an approved full body harness attached to a dropline. The droplines shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the employee in case of a fall. In order to keep the dropline continuously attached, with a minimum of slack, to a fixed structure, the attachment point of the dropline shall be appropriately changed as the work progresses.

(i) When a multi-tiered two-point suspension scaffold is used, it shall be provided with safety droplines that attach to each end of the scaffold through an approved quick acting safety device, in case either or both of the main suspension lines should break. The lanyard of the full body harness shall be tied off to a substantial member of the scaffold itself or to a horizontal lifeline attached to each end of the scaffold or a sliding device on the horizontal lifeline. The two additional safety droplines shall be individually suspended from roof irons, hooks, or other approved devices and shall be near the suspension droplines to prevent unnecessary side impact. The safety dropline shall have a 6 to 1 safety factor. Such scaffolds shall be designed by a licensed professional engineer and a copy of the drawings and specifications shall be available at the jobsite.

(j) Two-point suspension scaffolds shall be securely lashed to the building or structure to prevent the scaffolds from swaying. Window cleaners' anchors shall not be used for this purpose.

(k) The platform of every two-point suspension scaffold shall be one of the following types:

(i) Ladder-type platforms. The side stringer shall be of clear straight-grained spruce or materials of equivalent strength and durability. The rungs shall be of straight-grained oak, ash, or hickory, at least 1 1/8 inch in diameter, with 7/8-inch tenons mortised into the side stringers at least

7/8-inch. The stringers shall be tied together with the tie rods not less than one-quarter inch in diameter, passing through the stringers and riveted up tight against washers on both ends. The flooring strips shall be spaced not more than five-eighths inch apart except at the side rails where the space may be 1 inch. Ladder-type platforms shall be constructed in accordance with Table J-12.

(ii) Plank-type platforms. Plank-type platforms shall be composed of not less than two nominal 2- x 10-inch unspliced planks, properly cleated together on the underside, starting 6 inches from each end; intervals in between shall not exceed 4 feet. The plank-type platform shall not extend beyond the hangers more than 12 inches. A bar or other effective means shall be securely fastened to the platform at each end to prevent its slipping off the hanger. The span between hangers for plank-type platforms shall not exceed 8 feet.

(iii) Beam-type platforms. Beam platforms shall have side stringers of lumber not less than 2 x 6 inches set on edge. The span between hangers shall not exceed 12 feet when beam platforms are used. The flooring shall be supported on 2- x 6-inch cross beams, laid flat and set into the upper edge of the stringers with a snug fit, at intervals of not more than 4 feet, securely nailed in place. The flooring shall be of 1- x 6-inch material properly nailed. Floor boards shall not be spaced more than one-half inch apart.

(iv) Light metal-type platforms, when used, shall be tested and listed according to Underwriters' Laboratories, Factory Mutual Engineering Corporation, or the department of labor and industries.

(l) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(m) When acid solutions are used, natural or synthetic fiber rope shall not be used.

(n) Every swinging scaffold shall be tested before using by raising the platform one foot from the ground and loading it with at least four times the maximum weight to be imposed when aloft.

(8) Stone setters' adjustable multiple-point suspension scaffolds.

(a) The scaffold shall be capable of sustaining a working load of 25 pounds per square foot and shall not be overloaded. Scaffolds shall not be used for storage of stone or other heavy materials.

(b) When used, the hoisting machine and its supports shall be of a type tested and listed by Underwriters' Laboratories, Factory Mutual Engineering Corporation or the department of labor and industries.

(c) The platform shall be securely fastened to the hangers by U-bolts or other equivalent means. (For materials and spans, see item (ii) of subsection (7)(k), Plank-type Platforms and Table J-12 of this section.)

(d) The scaffold unit shall be suspended from metal outriggers, iron brackets, wire rope slings, or iron hooks.

(e) Outriggers, when used, shall be set with their webs in a vertical position, securely anchored to the building or structure and provided with stop bolts at each end.

(f) The scaffold shall be supported by wire rope capable of supporting at least 6 times the rated load. All other components shall be capable of supporting at least 4 times the rated load.

(g) The free ends of the suspension wire ropes shall be equipped with proper size thimbles, secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum and at least four turns of wire rope shall remain on the drum at all times.

(h) When two or more scaffolds are used on a building or structure, they shall not be bridged one to the other; but shall be maintained at even height with platforms abutting closely.

(i) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(j) Each scaffold shall be installed or relocated in accordance with approved designs and instructions under the supervision of a competent designated person.

(k) Where additional working levels are required to be supported, the plans and specifications of the support and scaffold components shall be designed by a licensed professional engineer. These plans and specifications shall be available at the site.

(9) Single-point adjustable suspension scaffolds.

(a) The scaffolding, including power units or manually operated winches, shall be of a type tested and listed by Underwriters' Laboratories, Factory Mutual Engineering Corporation or the department of labor and industries.

(b) The power units may be either electrically or air motor driven.

(c) All power-operated gears and brakes shall be enclosed.

(d) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(e) The hoisting machines, cables, and equipment shall be regularly serviced and inspected.

(f) The units may be combined to form a two-point suspension scaffold. Such scaffold shall comply with subsection (7) of this section.

(g) When the supporting wire rope is not plumb for its entire length, supports shall be designed to sustain any additional load or stress upon the line.

(h) Suspension methods and employee safeguards shall conform to the provisions of subsections (6) and (7) of this section.

(i) For additional details not covered in this subsection applicable technical portions of American National Standards Institute, A120.1-1970, Power-Operated Devices for Exterior Building Maintenance Powered Platforms, shall be used.

(10) Boatswain's chairs.

(a) The chair seat shall not be less than 12 x 24 inches, and 1-inch thick. The seat shall be reinforced on the underside by cleats securely fastened to prevent the board from splitting. Specially designed seats having dimensions other than those specified in this subsection may be used provided they have been designed and tested (with a safety factor of four) to sustain a load of two hundred fifty pounds.

(b) The two fiber rope seat slings shall be of 5/8-inch diameter, reeved through the four seat holes so as to cross each other on the underside of the seat.

(c) Seat slings shall be of at least 3/8-inch wire rope when an employee is conducting a heat-producing process, such as gas welding.

(d) The employee shall be protected by a full body harness and lifeline in accordance with chapter 296-155 WAC, Part C-1. The attachment point of the lifeline to the structure shall be appropriately changed as the work progresses.

(e) The tackle shall consist of correct size ball bearing or bushed blocks and properly spliced 5/8-inch diameter first grade manila rope, or equivalent.

(f) The roof irons, hooks, or the object to which the tackle is anchored, shall be securely installed. Tiebacks, when used, shall be installed at right angles to the face of the building and securely fastened.

(g) The scaffolding, including power units shall be of tested design.

(h) All power operated gears and brakes shall be enclosed.

(i) In addition to the normal operating brake, all power-driven units shall have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(11) Carpenters' bracket scaffolds.

(a) The brackets shall consist of a triangular wood frame not less than 2 x 3 inches in cross section, or of metal of equivalent strength. Each member shall be properly fitted and securely joined.

(b) Each bracket shall be attached to the structure by means of one of the following:

(i) A bolt, no less than 5/8-inch in diameter, which shall extend through to the inside of the building wall;

(ii) A metal stud attachment device;

(iii) Welding to steel tanks;

(iv) Hooking over a well-secured and adequately strong supporting member.

(c) The brackets shall be spaced no more than 8 feet apart.

(d) No more than two employees shall occupy any given 8 feet of a bracket scaffold at any one time. Tools and materials shall not exceed 75 pounds in addition to the occupancy.

(e) The platform shall consist of not less than two 2- x 10-inch planks extending not more than 12 inches or less than 6 inches beyond each end support. Fabricated planking may be used if properly engineered and tested.

(12) Bricklayers' square scaffolds.

(a) The squares shall not exceed 5 feet in width and 5 feet in height.

(b) Members shall be not less than those specified in Table J-13.

(c) The squares shall be reinforced on both sides of each corner with 1- x 6-inch gusset pieces. They shall also have diagonal braces 1 x 8 inches on both sides running from center to center of each member, or other means to secure equivalent strength and rigidity.

(d) The squares shall be set not more than 5 feet apart for medium duty scaffolds, and not more than 8 feet apart for light duty scaffolds. Bracing, 1 x 8 inches, extending from the bottom of each square to the top of the next square, shall be provided on both front and rear sides of the scaffold.

(e) Platform planks shall be at least 2 x 10-inch. The ends of the planks shall overlap the bearers of the squares and each plank shall be supported by not less than three

squares. Fabricated planking may be used if properly engineered and tested.

(f) Bricklayers' square scaffolds shall not exceed three tiers in height and shall be so constructed and arranged that one square shall rest directly above the other. The upper tiers shall stand on a continuous row of planks laid across the next lower tier and be nailed down or otherwise secured to prevent displacement.

(g) Scaffolds shall be level and set upon a firm foundation.

(13) Horse scaffolds.

(a) Horse scaffolds shall not be constructed or arranged more than two tiers or 10 feet in height.

(b) The members of the horses shall be not less than those specified in Table J-14.

(c) Horses shall be spaced not more than 5 feet for medium duty and not more than 8 feet for light duty.

(d) When arranged in tiers, each horse shall be placed directly over the horse in the tier below.

(e) On all scaffolds arranged in tiers, the legs shall be nailed down or otherwise secured to the planks to prevent displacement or thrust and each tier shall be substantially cross braced.

(f) Horses or parts which have become weak or defective shall not be used.

(14) Needle beam scaffold.

(a) Wood needle beams shall be not less than 4 x 6 inches in size, with the greater dimension placed in a vertical direction. Metal beams or the equivalent, conforming to subsections (1)(h) and (j) of this section, may be used and shall not be altered or moved horizontally while they are in use.

(b) Ropes or hangers shall be provided for supports. The span between supports on the needle beam shall not exceed 10 feet for 4- x 6-inch timbers. Rope supports shall be equivalent in strength to 1-inch diameter first-grade manila rope.

(c) The ropes shall be attached to the needle beams by a scaffold hitch or a properly made eye splice. The loose end of the rope shall be tied by a bowline knot or by a round turn and a half hitch.

(d) The scaffold hitch shall be arranged so as to prevent the needle beam from rolling or becoming otherwise displaced.

(e) The platform span between the needle beams shall not exceed 8 feet when using 2-inch scaffold plank. For spans greater than 8 feet, platforms shall be designed based on design requirements for the special span. The overhang of each end of the platform planks shall be not less than 6 inches and not more than 12 inches.

(f) When needle beam scaffolds are used, the planks shall be secured against slipping.

(g) All unattached tools, bolts, and nuts used on needle beam scaffolds shall be kept in suitable containers, properly secured.

(h) One end of a needle beam scaffold may be supported by a permanent structural member conforming to subsections (1)(h) and (j) of this section.

(i) Each employee working on a needle beam scaffold shall be protected by a full body harness and lifeline in accordance with chapter 296-155 WAC, Part C-1.

(15) Plasterers', decorators', and large area scaffolds.

(a) Plasters', lathers', and ceiling workers' inside scaffolds shall be constructed in accordance with the general requirements set forth for independent wood pole scaffolds. (See subsection (2) of this section and Tables J-5, J-6 and J-7.)

(b) All platform planks shall be laid with the edges close together.

(c) When independent pole scaffold platforms are erected in sections, such sections shall be provided with connecting runways equipped with substantial guardrails.

(16) Interior hung scaffolds.

(a) An interior hung scaffold shall be hung or suspended from the roof structure or ceiling beams.

(b) The suspending wire or fiber rope shall be capable of supporting at least 6 times the rated load. The rope shall be wrapped at least twice around the supporting members and twice around the bearers of the scaffold, with each end of the wire rope secured by at least three standard wire-rope clips properly installed.

(c) For hanging wood scaffolds, the following minimum nominal size material shall be used:

(i) Supporting bearers 2 x 10 inches on edge;

(ii) Planking 2 x 10 inches, with maximum span 7 feet for heavy duty and 10 feet for light duty or medium duty.

(d) Steel tube and coupler members may be used for hanging scaffolds with both types of scaffold designed to sustain a uniform distributed working load up to heavy duty scaffold loads with a safety factor of four.

(e) All overhead supporting members shall be inspected and have required strength assured before the scaffold is erected.

(17) Ladder jack scaffolds.

(a) All ladder jack scaffolds shall be limited to light duty and shall not exceed a height of 20 feet above the floor or ground.

(b) All ladders used in connection with ladder jack scaffolds shall be Type I heavy-duty ladders and shall be designed and constructed in accordance with American National Standards Institute A14.1-1982, Safety Code for Portable Wood Ladders, and A14.2-1982, Safety Code for Portable Metal Ladders. Cleated ladders shall not be used for this purpose.

(c) The ladder jack shall be so designed and constructed that it will bear on the side rails in addition to the ladder rungs, or if bearing on rungs only, the bearing area shall be at least 10 inches on each rung.

(d) Ladders used in conjunction with ladder jacks shall be so placed, fastened, held, or equipped with devices so as to prevent slipping.

(e) The wood platform planks shall be not less than 2 inches in thickness. Both metal and wood platform planks shall overlap the bearing surface not less than 12 inches and shall be secured to prevent movement. The span between supports for wood shall not exceed 8 feet. Platform width shall be not less than 18 inches.

(f) No more than two persons shall be within any 8 feet section of any ladder jack scaffold at any one time. When the use of standard guardrails as required by subsection (1)(e) of this section is impractical, full body harnesses and lifelines shall be used in accordance with chapter 296-155 WAC, Part C-1.

(18) Window jack scaffolds.

(a) Window jack scaffolds shall be used only for the purpose of working at the window opening through which the jack is placed.

(b) Window jacks shall not be used to support planks placed between one window jack and another or for other elements of scaffolding.

(c) Window jack scaffolds shall be provided with guardrails unless full body harnesses with lifelines are attached and used by the employee.

(d) Not more than one employee shall occupy a window jack scaffold at any one time.

(e) Window jacks shall be designed and constructed so as to provide a secure anchorage on the window opening and be capable of supporting the design load.

(19) Roofing brackets.

~~((a) Roofing brackets shall be constructed to fit the pitch of the roof.~~

~~(b) Brackets shall be secured in place by nailing in addition to the pointed metal projections. When it is impractical to nail brackets, rope supports shall be used. When rope supports are used, they shall consist of first grade manilla of at least 3/4 inch diameter, or equivalent.~~

(e) Catch platforms.

~~(i) A catch platform shall be installed within 10 vertical feet of the work area.~~

~~(ii) The catch platforms width shall equal the distance of the fall but shall be a minimum of 45 inches wide and shall be equipped with standard guardrails on all open sides.)~~ All roofing brackets must be installed and used in accordance with the requirements of chapter 296-155 WAC, Part K.

(20) Crawling boards or chicken ladders.

~~((a) Crawling boards shall be not less than 10 inches wide and 1 inch thick, having cleats 1 x 1 1/2 inches. The cleats shall be equal in length to the width of the board and spaced at equal intervals not to exceed 24 inches. Nails shall be driven through and clinched on the underside. The crawling board shall extend from the ridge pole to the eaves when used in connection with roof construction, repair, or maintenance.~~

~~(b) A firmly fastened lifeline of at least 3/4 inch diameter rope, or equivalent, shall be strung beside each crawling board for a handhold.~~

~~(c) Crawling boards shall be secured to the roof by means of adequate ridge hooks or other effective means.)~~ All crawling boards or chicken ladders shall be installed and used in accordance with the requirements of WAC 296-155-50503(3).

(21) Float or ship scaffolds.

(a) Float or ship scaffolds shall not be used to support more than three persons and a few light tools, such as those needed for riveting, bolting, and welding. They shall be constructed as designed in subdivisions (b) through (f) of this subsection, unless substitute designs and materials provide equivalent strength, stability, and safety.

(b) The platform shall be not less than 3 feet wide and 6 feet long, made of 3/4-inch plywood, equivalent to American Plywood Association Grade B-B, Group I, Exterior, or other similar material.

(c) Under the platform, there shall be two supporting bearers made from 2- x 4-inch, or 1- x 10-inch rough, "selected lumber," or better. They shall be free of knots or

other flaws and project 6 inches beyond the platform on both sides. The ends of the platform shall extend 6 inches beyond the outer edges of the bearers. Each bearer shall be securely fastened to the platform.

(d) An edging of wood not less than 3/4 x 1 1/2 inches or equivalent shall be placed around all sides of the platform to prevent tools from rolling off.

(e) Supporting ropes shall be 1-inch diameter manila rope or equivalent, free from deterioration, chemical damage, flaws, or other imperfections and shall be well insulated to protect against damaging contacts of arcs, flames, or other mechanical objects. Rope connections shall be such that the platform cannot shift or slip. If two ropes are used with each float, they shall be arranged so as to provide four ends which are to be securely fastened to an overhead support. Each of the two supporting ropes shall be hitched around one end of bearer and pass under the platforms to the other end of the bearer where it is hitched again, leaving sufficient rope at each end for the supporting ties.

(f) Each employee shall be protected by an approved safety lifebelt or harness and lifeline, in accordance with chapter 296-155 WAC, Part C-1.

(22) Form scaffolds.

(a) Form scaffolds shall be constructed of wood or other suitable materials, such as steel or aluminum members of known strength characteristics. All scaffolds shall be designed and erected with a minimum safety factor of 4, computed on the basis of the maximum rated load.

(b) All scaffold planking shall be a minimum of 2- x 10-inch nominal scaffold grade, as recognized by approved grading rules for the species of lumber used, or equivalent material. Maximum permissible spans shall not exceed 8 feet on centers for 2- x 10-inch nominal planking. Scaffold planks shall be either nailed or bolted to the ledgers or of such length that they overlap the ledgers at least 6 inches. Unsupported projecting ends of scaffolding planks shall be limited to a maximum overhang of 12 inches.

(c) Scaffolds shall not be loaded in excess of the working load for which they were designed.

(d) Figure-four form scaffolds:

(i) Figure-four scaffolds are intended for light duty and shall not be used to support loads exceeding 25 pounds per square foot unless specifically designed for heavier loading. For minimum design criteria, see Table J-15.

(ii) Figure-four form scaffold frames shall be spaced not more than 8 feet on centers and constructed from sound lumber, as follows: The outrigger ledger shall consist of two pieces of 1- x 6-inch or heavier material nailed on opposite sides of the vertical form support. Ledgers shall project not more than 3 feet 6 inches from the outside of the form support and shall be substantially braced and secured to prevent tipping or turning. The knee or angle brace shall intersect the ledger at least 3 feet from the form at an angle of approximately 45°, and the lower end shall be nailed to a vertical support. The platform shall consist of two or more 2- x 10-inch planks, which shall be of such length that they extend at least 6 inches beyond ledgers at each end unless secured to the ledgers. When planks are secured to the ledgers (nailed or bolted), a wood filler strip shall be used between the ledgers. Unsupported projecting ends of planks shall be limited to an overhang of 12 inches.

(e) Metal bracket form scaffolds:

(i) Metal brackets or scaffold jacks which are an integral part of the form shall be securely bolted or welded to the form. Folding type brackets shall be either bolted or secured with a locking-type pin when extended for use.

(ii) "Clip-on" or "hook-over" brackets may be used, provided the form walers are bolted to the form or secured by snap ties or shea-bolt extending through the form and securely anchored.

(iii) Metal brackets shall be spaced not more than 8 feet on centers.

(iv) Scaffold planks shall be either bolted to the metal brackets or of such length that they overlap the brackets at each end by at least 6 inches. Unsupported projecting ends of scaffold planks shall be limited to a maximum overhang of 12 inches.

(v) Metal bracket form scaffolds shall be equipped with wood guardrails, intermediate rails, toeboards, and scaffold planks meeting the minimum dimensions shown in Table J-16. (Metal may be substituted for wood, providing it affords equivalent or greater design strength.)

(f) Wooden bracket form scaffolds:

(i) Wooden bracket form scaffolds shall be an integral part of the form panel. The minimum design criteria set forth herein and in Table J-17 cover scaffolding intended for light duty and shall not be used to support loads exceeding 25 pounds per square foot, unless specifically designed for heavier loading.

(ii) Scaffold planks shall be either nailed or bolted to the ledgers or of such length that they overlap the ledgers at each end by at least 6 inches. Unsupported projecting ends of scaffold planks shall be limited to a maximum overhang of 12 inches.

(23) Pump jack scaffolds.

(a) Pump jack scaffolds shall:

- (i) Not carry a working load exceeding 500 pounds;
- (ii) Be capable of supporting without failure at least four times the maximum intended load; and
- (iii) Shall not have components loaded in excess of the manufacturer's recommended limits.

(b) Pump jack brackets, braces, and accessories shall be fabricated from metal plates and angles. Each pump jack bracket shall have two positive gripping mechanisms to prevent any failure or slippage.

(c) The platform bracket shall be fully docked and the planking secured. Planking, or equivalent, shall conform with subsection (1) of this section.

(d)(i) When wood scaffold planks are used as platforms, poles used for pump jacks shall not be spaced more than 10 feet center to center. When fabricated platforms are used that fully comply with all other provisions of this subsection, pole spacing may exceed 10 feet center to center.

(ii) Poles shall not exceed 30 feet in height.

(iii) Poles shall be secured to the work wall by rigid triangular bracing, or equivalent, at the bottom, top, and other points as necessary, to provide a maximum vertical spacing of not more than 10 feet between braces. Each brace shall be capable of supporting a minimum of 225 pounds tension or compression.

(iv) For the pump jack bracket to pass bracing already installed, an extra brace shall be used approximately 4 feet above the one to be passed until the original brace is reinstalled.

(e) All poles shall bear on mud sills or other adequate firm foundations.

(f) Pole lumber shall be two 2 x 4's, of Douglas fir or equivalent, straight-grained, clear, free of cross-grain, shakes, large loose or dead knots, and other defects which might impair strength.

(g) When poles are constructed of two continuous lengths, they shall be two by fours, spiked together with the seam parallel to the bracket, and with 10d common nails, no more than 12 inches center to center, staggered uniformly from opposite outside edges.

(h) If two by fours are spliced to make up the pole, the splices shall be so constructed as to develop the full strength of the member. Three-eighths inch or one-half inch exterior grade plywood shall be used for a spacer between the two by fours. The joints for the splices shall be staggered on opposite sides of the pole at least four feet apart. Joints shall be no less than four feet from either end of the pole.

(i) A ladder, in accordance with WAC 296-155-480, shall be provided for access to the platform during use.

(j) Not more than two persons shall be permitted at one time upon a pump jack scaffold between any two supports.

(k) Pump jack scaffolds shall be provided with standard guardrails, unless full body harnesses with lifelines are used by employees.

(l) When a work bench is used at an approximate height of 42 inches, the top guardrail may be eliminated, if the work bench is fully decked, the planking secured, and is capable of withstanding 200 pounds pressure in any direction.

(m) Employees shall not be permitted to use a work bench as a scaffold platform.

(24) Factory-built scaffold units. Factory-built or prefabricated scaffold units intended for assembly on the job, prefabricated plank, staging, etc., mechanical hoisting units, or other devices for use on or in connection with any type scaffolds, shall be approved by an agency or laboratory approved by the department before being used.

(25) Waler bracket scaffolds.

(a) Waler brackets shall be constructed of 1 5/8" x 1 1/2" x 3/16" angle iron minimum size, or material of equivalent strength.

(b) All steel connections shall be welded and riveted or bolted, except where detrimental to strength of materials.

(c) The maximum length of horizontal leg shall not be more than 36" between bracket hook and railing standard.

(d) A 4" x 4" x 3/16" gusset plate shall be securely welded at inside of leg angle.

(e) Nailing holes shall be provided in lower end of vertical leg for purpose of securing bracket against lifting or shifting.

(f) Waler hook or hooks shall be a minimum of 4-inch depth and be constructed of material of a strength to support a minimum of 400 pounds at extreme outer end of bracket.

(26) Chimney, stack and tank bracket scaffolds.

(a) General. A chimney, stack or tank bracket scaffold shall be composed of a platform supported by brackets which are hooked over a steel cable which surrounds the circumference of the chimney, stack or tank approximately in a horizontal plane. The platform shall be not less than two 2 x 10 inch planks. For a minimum width of eighteen

inches wide and be designed with a safety factor of not less than 4.

(b) All brackets shall have a mild steel suspension hook 2 inches by 1/4-inch with at least 3 inches projecting beyond the throat of the hook. Hooks shall be integral with or securely attached to the bracket.

(c) Wood spacer blocks shall be provided to hold the suspending cable away from the structure at the points where brackets are hooked on. These spacer blocks shall be not less than 2 inches by 4 inches by 12 inches.

(d) All suspending cables shall be improved plow steel 6 x 19 wire rope or equivalent. In no case shall less than 1/2-inch diameter wire rope be used.

(e) The turnbuckle used to tighten suspending cables shall be not less than 1 inch drop forged steel. The cables shall be provided with thimbles and not less than 3 U-bolt type clips at each end and be attached to the turnbuckles by means of shackles. Open hooks shall not be used.

(f) All chimney, stack and tank bracket scaffolds shall be provided with standard guard rails, intermediate rails and toeboards.

(g) For access to a chimney, stack or tank bracket scaffold, ladders or a boatswain's chair shall be used.

(h) All chimney, stack or tank brackets for scaffolds shall be welded and riveted or bolted.

(27) Scaffold platforms supported by catenary or stretch cables.

(a) When a scaffold platform is supported by cables at least 4 cables shall be used, two near each end of the scaffold.

(b) The cables shall be attached to the scaffold by means of U-bolts or the equivalent through which the cables pass.

(c) Cables shall not be tightened beyond their safe working load. A hanger or set of falls shall be used approximately every 50 feet to pick up the sag in the cable.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-48533 Crane or derrick suspended personnel platforms.** (1) Scope, application, and definitions.

(a) Scope and application. This standard applies to the design, construction, testing, use and maintenance of personnel platforms, and the hoisting of personnel platforms on the load lines of cranes or derricks.

(b) Definitions. For the purposes of this section, the following definitions apply:

(i) "Failure" means load refusal, breakage, or separation of components.

(ii) "Hoist" (or hoisting) means all crane or derrick functions such as lowering, lifting, swinging, booming in and out or up and down, or suspending a personnel platform.

(iii) "Load refusal" means the point where the ultimate strength is exceeded.

(iv) "Maximum intended load" means the total load of all employees, tools, materials, and other loads reasonably anticipated to be applied to a personnel platform or personnel platform component at any one time.

(v) "Runway" means a firm, level surface designed, prepared, and designated as a path of travel for the weight

and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.

(2) General requirements. The use of a crane or derrick to hoist employees on a personnel platform is prohibited, except when the erection, use, and dismantling of conventional means of reaching the worksite, such as a personnel hoist, ladder, stairway, aerial lift, elevating work platform or scaffold, would be more hazardous, or is not possible because of structural design or worksite conditions.

(3) Cranes and derricks.

(a) Operational criteria.

(b) Hoisting of the personnel platform shall be performed in a slow, controlled, cautious manner with no sudden movements of the crane or derrick, or the platform.

(c) Load lines shall be capable of supporting, without failure, at least seven times the maximum intended load, except that where rotation resistant rope is used, the lines shall be capable of supporting without failure, at least ten times the maximum intended load. The required design factor is achieved by taking the current safety factor of 3.5 (required under WAC 296-155-525 (3)(b)) and applying the fifty percent derating of the crane capacity which is required by (f) of this subsection.

(d) Load and boom hoist drum brakes, swing brakes, and locking devices such as pawls or dogs shall be engaged when the occupied personnel platform is in a stationary working position.

(e) The crane shall be uniformly level within one percent of level grade and located on firm footing. Cranes equipped with outriggers shall have them all fully deployed following manufacturer's specifications, insofar as applicable, when hoisting employees.

(f) The total weight of the loaded personnel platform and related rigging shall not exceed fifty percent of the rated capacity for the radius and configuration of the crane or derrick.

(g) The use of machines having live booms (booms in which lowering is controlled by a brake without aid from other devices which slow the lowering speeds) is prohibited.

(h) Multiple-part line block: When a multiple-part line block is in use, a substantial strap shall be used between the crane hook and common ring, shackle, or other equivalent device, to eliminate employee exposure to the lines running through the block, and to the block itself.

(4) Instruments and components.

(a) Cranes and derricks with variable angle booms shall be equipped with a boom angle indicator, readily visible to the operator.

(b) Cranes with telescoping booms shall be equipped with a device to indicate clearly to the operator, at all times, the boom's extended length, or an accurate determination of the load radius to be used during the lift shall be made prior to hoisting personnel.

(c) A positive acting device shall be used which prevents contact between the load block or overhaul ball and the boom tip (anti-two-blocking device), or a system shall be used which deactivates the hoisting action before damage occurs in the event of a two-blocking situation (two block damage prevention feature).

(d) The load line hoist drum shall have a system or device on the power train, other than the load hoist brake,

which regulates the lowering rate of speed of the hoist mechanism (controlled load lowering). Free fall is prohibited.

(5) Rigging.

(a) Lifting bridles on box-type platforms shall consist of four legs of equal length, with one end securely shackled to each corner of the platform and the other end securely attached to a common ring, shackle, or other equivalent device to accommodate the crane hook, or a strap to the crane hook.

(b) Shackle bolts used for rigging of personnel platforms shall be secured against displacement.

(c) A substantial safety line shall pass through the eye of each leg of the bridle adjacent to the common ring, shackle, or equivalent device.

(d) Securely fastened with a minimum amount of slack to the lift line above the headache ball or to the crane hook itself.

(e) All eyes in wire rope slings shall be fabricated with thimbles.

(f) Wire rope, shackles, rings, master links, and other rigging hardware must be capable of supporting, without failure, at least five times the maximum intended load applied or transmitted to that component. Where rotation resistant wire rope is used for slings, they shall be capable of supporting without failure at least ten times the maximum intended load.

(g) Hooks on headache ball assemblies, lower load blocks, or other attachment assemblies shall be of a type that can be closed and locked, eliminating the hook throat opening. Alternatively, an alloy anchor type shackle with a bolt, nut and retaining pin may be used.

(h) Bridles and associated rigging for attaching the personnel platform to the hoist line shall be used only for the platform and the necessary employees, their tools and the materials necessary to do their work, and shall not be used for any other purpose when not hoisting personnel.

(6) Personnel platforms - design criteria.

(a) The personnel platform and suspension system shall be designed by a qualified engineer or a qualified person competent in structural design.

(b) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.

(c) The personnel platform itself, except the guardrail system and body harness anchorages, shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load based on a minimum allowance of five hundred pounds for the first person with light tools, and an additional two hundred fifty pounds for each additional person.

(d) Criteria for guardrail systems contained in chapter 296-155 WAC, Part K and body harness anchorages are contained in ~~(Part C-1 of)~~ chapter 296-155 WAC, Part C-1.

(e) The personnel platform shall be conspicuously posted with a plate or other permanent marking which indicates the weight of the platform and its rated load capacity or maximum intended load.

(7) Platform specifications.

(a) Each personnel platform shall be equipped with a guardrail system which meets the requirements of chapter 296-155 WAC Part ~~(C-1)~~ K and, shall be enclosed at least

from the toeboard to mid-rail with either solid construction or expanded metal having openings no greater than one-half inch (1.27 cm).

(b) A grab rail shall be installed inside the entire perimeter of the personnel platform.

(c) Access gates, if installed, shall not swing outward during hoisting.

(d) Access gates, including sliding or folding gates, shall be equipped with a restraining device to prevent accidental opening.

(e) Headroom shall be provided which allows employees to stand upright in the platform.

(f) In addition to the use of hard hats, employees shall be protected by overhead protection on the personnel platform when employees are exposed to falling objects.

(g) All rough edges exposed to contact by employees shall be surfaced or smoothed in order to prevent injury to employees from punctures or lacerations.

(h) All welding of the personnel platform and its components shall be performed by a qualified welder familiar with the weld grades, types, and material specified in the platform design.

(i) Occupants of all personnel platforms shall wear a safety belt or harness and lanyard which meets the requirements of chapter 296-155 WAC Part C-1.

(j) Box-type platform: The workers lanyard shall be secured to an anchorage within the platform meeting the requirements of chapter 296-155 WAC Part C-1.

(k) Rescue platform:

(i) If the platform is used as a rescue vehicle, the injured worker shall be strapped into the stretcher or basket.

(ii) The basket shall then be secured by lanyard to an anchorage within the platform meeting the requirements of chapter 296-155 WAC Part C-1.

(l) Boatswains chair: The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(m) Barrel-type platform:

(i) The workers lanyard shall be secured to the lift line above the headache ball or to the crane hook itself.

(ii) A solid bar or rod shall be substantially attached in a rigid position to the bottom or side of the platform.

(iii) The bottom of the barrel-type platform shall be of a convex shape to cause the platform to lay on its side when lowered to the ground or floor.

(iv) The bar or rod shall extend a minimum of eight feet above the floor of the platform.

(v) Workers shall enter and exit from barrel-type platforms only when they are in an upright position, stable, and securely attached to the load line.

(vi) The employer shall use methods or devices which allow employees to safely enter or exit barrel-type platforms.

(8) Personnel platform loading.

(a) The personnel platform shall not be loaded in excess of its rated load capacity.

(b) The number of employees occupying the personnel platform shall not exceed the number required for the work being performed.

(c) Personnel platforms shall be used only for employees, their tools, and the materials necessary to do their work, and shall not be used to hoist only materials or tools when not hoisting personnel.

(d) Materials and tools for use during a personnel lift shall be secured to prevent displacement.

(e) Materials and tools for use during a personnel lift shall be evenly distributed within the confines of the platform while the platform is suspended.

(9) Trial lift, inspection, and proof testing.

(a) A trial lift with the unoccupied personnel platform loaded at least to the anticipated liftweight shall be made from ground level, or any other location where employees will enter the platform, to each location at which the personnel platform is to be hoisted and positioned. This trial lift shall be performed immediately prior to placing personnel on the platform. The operator shall determine that all systems, controls, and safety devices are activated and functioning properly; that no interferences exist; and that all configurations necessary to reach those work locations will allow the operator to remain under the fifty percent limit of the hoist's rated capacity. Materials and tools to be used during the actual lift can be loaded in the platform, as provided in subsection (8)(d) and (e) of this section for the trial lift. A single trial lift may be performed at one time for all locations that are to be reached from a single set-up position.

(b) The trial lift shall be repeated prior to hoisting employees whenever the crane or derrick is moved and set up in a new location or returned to a previously used location. Additionally, the trial lift shall be repeated when the lift route is changed unless the operator determines that the route change is not significant (i.e., the route change would not affect the safety of hoisted employees).

(c) After the trial lift, and just prior to hoisting personnel, the platform shall be hoisted a few inches and inspected to ensure that it is secure and properly balanced. Employees shall not be hoisted unless the following conditions are determined to exist:

(i) Hoist ropes shall be free of kinks;

(ii) Multiple part lines shall not be twisted around each other;

(iii) The primary attachment shall be centered over the platform; and

(iv) The hoisting system shall be inspected if the load rope is slack to ensure all ropes are properly stated on drums and in sheaves.

(d) A visual inspection of the crane or derrick, rigging, personnel platform, and the crane or derrick base support or ground shall be conducted by a competent person immediately after the trial lift to determine whether the testing has exposed any defect or produced any adverse effect upon any component or structure.

(e) Any defects found during inspections which create a safety hazard shall be corrected before hoisting personnel.

(f) At each job site, prior to hoisting employees on the personnel platform, and after any repair or modification, the platform and rigging shall be proof tested to one hundred twenty-five percent of the platform's rated capacity by holding it in a suspended position for five minutes with the test load evenly distributed on the platform (this may be done concurrently with the trial lift). After prooftesting, a competent person shall inspect the platform and rigging. Any deficiencies found shall be corrected and another proof test shall be conducted. Personnel hoisting shall not be conducted until the proof testing requirements are satisfied.

## (10) Work practices.

(a) Employees shall keep all parts of the body inside the platform during raising, lowering, and positioning. This provision does not apply to an occupant of the platform performing the duties of a signal person.

(b) Before employees exit or enter a hoisted personnel platform that is not landed, the platform shall be secured to the structure where the work is to be performed, unless securing to the structure creates an unsafe situation.

(c) Tag lines shall be used unless their use creates an unsafe condition.

(d) The crane or derrick operator shall remain at the controls at all times when the crane engine is running and the platform is occupied.

(e) Hoisting of employees shall be promptly discontinued upon indication of any dangerous weather conditions or other impending danger.

(f) Employees being hoisted shall remain in continuous sight of and in direct communication with the operator or signal person. In those situations where direct visual contact with the operator is not possible, and the use of a signal person would create a greater hazard for that person, direct communication alone such as by radio may be used.

(g) Hand signals to the operator shall be in accordance with WAC 296-155-525 (1)(c).

(h) Except over water, employees occupying the personnel platform shall use a full body harness system with lanyard appropriately attached to the lower load block or overhaul ball, or to a structural member within the personnel platform capable of supporting a fall impact for employees using the anchorage as specified in chapter 296-155 WAC, Part C-1. When working over water, the requirements of WAC 296-155-235 shall apply.

(i) No lifts shall be made on another of the crane's or derrick's load lines while personnel are suspended on a platform.

## (11) Traveling.

(a) Hoisting of employees while the crane is traveling is prohibited, except for portal, tower and locomotive cranes, or where the employer demonstrates that there is no less hazardous way to perform the work.

(b) Under any circumstances where a crane would travel while hoisting personnel, the employer shall implement the following procedures to safeguard employees:

(i) Crane travel shall be restricted to a fixed track or runway;

(ii) Travel shall be limited to the load radius of the boom used during the lift; and

(iii) The boom must be parallel to the direction of travel.

(c) A complete trial run shall be performed to test the route of travel before employees are allowed to occupy the platform. This trial run can be performed at the same time as the trial lift required by subsection (9)(a) of this section which tests the route of the lift.

(d) If travel is done with a rubber tired-carrier, the condition and air pressure of the tires shall be checked. The chart capacity for lifts on rubber shall be used for application of the fifty percent reduction of rated capacity. Notwithstanding subsection (3)(e) of this section, outriggers may be partially retracted as necessary for travel.

## (12) Prelift meeting.

(a) A meeting attended by the crane or derrick operator, signal person(s) (if necessary for the lift), employee(s) to be lifted, and the person responsible for the task to be performed shall be held to review the appropriate requirements of this section and the procedures to be followed.

(b) This meeting shall be held prior to the trial lift at each new work location, and shall be repeated for any employees newly assigned to the operation.

## PART K FLOOR OPENINGS, WALL OPENINGS AND STAIRWAYS

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-500 ((Reserved.)) Definitions applicable to this part.** Built up roofing means a weatherproofing cover, applied over roof decks, consisting of either a liquid applied system, a single ply system, or a multiple ply system. Liquid applied systems generally consist of silicone rubber, plastics, or similar material applied by spray or roller equipment. Single ply systems generally consist of a single layer of synthetic rubber, plastic, or similar material, and a layer of adhesive. Multiple ply systems generally consist of layers of felt and bitumen, and may be covered with a layer of mineral aggregate.

Built up roofing work means the hoisting, storage, application, and removal of built up roofing materials and equipment, including related insulation, sheet metal, and vapor barrier work, but not including the construction of the roof deck.

Floor hole means an opening measuring less than 12 inches but more than 1 inch in its least dimension in any floor, roof, or platform through which materials but not persons may fall, such as a belt hole, pipe opening, or slot opening.

Floor opening means an opening measuring 12 inches or more in its least dimension in any floor, roof, or platform, through which persons may fall.

Handrail means a rail used to provide employees with a handhold for support.

Low pitched roof means a roof having a slope less than or equal to four in twelve.

Mechanical equipment means all motor or human propelled wheeled equipment except for wheelbarrows and mopcars.

Nose, nosing means that portion of a tread projecting beyond the face of the riser immediately below.

Platform means a walking/working surface for persons, elevated above the surrounding floor or ground, such as a balcony or platform for the operation of machinery and equipment.

Riser height means the vertical distance from the top of a tread to the top of the next higher tread or platform/landing or the distance from the top of a platform/landing to the top of the next higher tread or platform/landing.

Roof means the exterior surface on the top of a building. This does not include floors which, because a building has not been completely built, temporarily become the top surface of a building.

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**Runway** means a passageway for persons, elevated above the surrounding floor or ground level, such as a footwalk along shafting or a walkway between buildings.

**Safety monitoring system** means a safety system in which a competent person monitors the safety of all employees in a roofing crew, and warns them when it appears to the monitor that they are unaware of the hazard or are acting in an unsafe manner. The competent person must be on the same roof and within visual distance of the employees, and must be close enough to verbally communicate with the employees.

**Stair platform** means an extended step or landing breaking a continuous run of stairs.

**Stairrail system** means a vertical barrier erected along the unprotected sides and edges of a stairway to prevent employees from falling to lower levels. The top surface of a stairrail system may also be a "handrail."

**Stairs, stairways** means a series of steps leading from one level or floor to another, or leading to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment that are used more or less continuously or routinely by employees or only occasionally by specific individuals. For the purpose of this part, a series of steps and landings having three or more rises constitutes stairs or stairway.

**Standard railing** means a vertical barrier erected along exposed edges of a floor opening, wall opening, ramp, platform, or runway to prevent falls of persons.

**Standard strength and construction** means any construction of railings, covers, or other guards that meets the requirements of this part.

**Toeboard** means a vertical barrier at floor level erected along exposed edges of a floor opening, wall opening, platform, runway, or ramp to prevent falls of materials.

**Tread depth** means the horizontal distance from front to back of tread (excluding nosing, if any).

**Unprotected side or edge** means any side or edge of a roof perimeter where there is no wall three feet (.9 meters) or more in height.

**Wall opening** means an opening at least 30 inches high and 18 inches wide, in any wall or partition, through which persons may fall, such as an opening for a window, a yard arm doorway or chute opening.

**Work area** means that portion of a roof where built up roofing work is being performed.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-505 (Reserved.) Guardrails, handrails and covers.** (1) General provisions. This part applies to temporary or emergency conditions where there is danger of employees or materials falling through floor, roof, or wall openings, or from stairways, runways, ramps, open sided floors, open sides of structures, bridges, or other open sided walking or working surfaces. When guardrails or covers required by this section must be temporarily removed to perform a specific task, the area shall be constantly attended by a monitor to warn others of the hazard or shall be protected by a movable barrier.

(2) Guarding of floor openings and floor holes.

(a) Floor openings shall be guarded by a standard railing and toe boards or cover, as specified in subsections (2)(g) and (5) of this section. In general, the railing shall be provided on all exposed sides, except at entrances to stairways. All vehicle service pits shall have a cover or removable type standard guardrail. When not in use, pits shall be covered or guarded. Where vehicle service pits are to be used again immediately, and the service person is within a 50 foot distance of the unguarded pit and also within line of sight of the unguarded pit, the cover or guardrail need not be replaced between uses. Where vehicle service pits are used frequently, the perimeters of the pits shall be delineated by high visibility, luminescent, skid resistant paint. Such painted delineation shall be kept clean and free of extraneous materials.

(b) Ladderway floor openings or platforms shall be guarded by standard railings with standard toe boards on all exposed sides, except at entrance to opening, with the passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening.

(c) Hatchways and chute floor openings shall be guarded by one of the following:

(i) Hinged covers of standard strength and construction and a standard railing with only one exposed side. When the opening is not in use, the cover shall be closed or the exposed side shall be guarded at both top and intermediate positions by removable standard railings;

(ii) A removable standard railing with toe board on not more than two sides of the opening and fixed standard railings with toe boards on all other exposed sides. The removable railing shall be kept in place when the opening is not in use and shall be hinged or otherwise mounted so as to be conveniently replaceable.

(d) Wherever there is danger of falling through a skylight opening, and the skylight itself is not capable of sustaining the weight of a two hundred pound person with a safety factor of four, standard guardrails shall be provided on all exposed sides or the skylight shall be covered in accordance with (g) of this subsection.

(e) Pits and trap door floor openings shall be guarded by floor opening covers of standard strength and construction. While the cover is not in place, the pit or trap openings shall be protected on all exposed sides by removable standard railings.

(f) Manhole floor openings shall be guarded by standard covers which need not be hinged in place. While the cover is not in place, the manhole opening shall be protected by standard railings.

(g) All floor opening covers shall be capable of supporting the maximum potential load but never less than two hundred pounds (with a safety factor of four).

(i) The cover shall be recessed to conform to the level of the surrounding floor or to be flush with the perimeter of the opening.

(ii) The cover shall be secured by fastening devices to prevent unintentional removal.

(iii) If it becomes necessary to remove the cover, a monitor shall remain at the opening until the cover is replaced. The monitor shall advise persons entering the area of the hazard, shall prevent exposure to the fall hazard and shall perform no other duties.

(h) Floor holes, into which persons can accidentally walk, shall be guarded by either a standard railing with standard toe board on all exposed sides, or a floor hole cover of standard strength and construction that is secured against accidental displacement. While the cover is not in place, the floor hole shall be protected by a standard railing.

(3) Guarding of wall openings.

(a) Wall openings, from which there is a drop of more than 4 feet, and the bottom of the opening is less than 3 feet above the working surface, shall be guarded as follows:

(i) When the height and placement of the opening in relation to the working surface is such that either a standard rail or intermediate rail will effectively reduce the danger of falling, one or both shall be provided;

(ii) The bottom of a wall opening, which is less than 4 inches above the working surface, regardless of width, shall be protected by a standard toe board or an enclosing screen either of solid construction or as specified in subsection (5)(e)(ii) of this section.

(b) An extension platform, outside a wall opening, onto which materials can be hoisted for handling shall have standard guardrails on all exposed sides or equivalent. One side of an extension platform may have removable railings in order to facilitate handling materials.

(c) When a chute is attached to an opening, the provisions of (a) of this subsection shall apply, except that a toe board is not required.

(4) Guarding of open sided surfaces.

(a) Every open sided floor, platform or surface four feet or more above adjacent floor or ground level shall be guarded by a standard railing, or the equivalent, as specified in subsection (5)(a) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a standard toe board wherever, beneath the open sides, persons can pass, or there is moving machinery, or there is equipment with which falling materials could create a hazard.

(b) Runways shall be guarded by a standard railing, or the equivalent, as specified in subsection (5) of this section, on all open sides, 4 feet or more above the floor or ground level. Wherever tools, machine parts, or materials are likely to be used on the runway, a toe board shall also be provided on each exposed side.

(c) Runways used exclusively for special purposes may have the railing on one side omitted where operating conditions necessitate such omission, providing the falling hazard is minimized by using a runway not less than 18 inches wide.

(d) Where employees entering upon runways become thereby exposed to machinery, electrical equipment, or other danger not a falling hazard, additional guarding shall be provided.

(e) Regardless of height, open sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, and similar hazards, shall be guarded with a standard railing and toe board.

(f) Open sides of gardens, patios, recreation areas and similar areas located on roofs of buildings or structures shall be guarded by permanent standard railings or the equivalent. Where a planting area has been constructed adjacent to the open sides of the roof and the planting area is raised above

the normal walking surface of the roof area, the open side of the planting area shall also be protected with standard railings or the equivalent.

(5) Standard specifications.

(a) A standard railing shall consist of top rail, intermediate rail, toe board, and posts, and shall have a vertical height of 36 inches to 42 inches from upper surface of top rail to floor, platform, runway, or ramp level. Each length of lumber shall be smooth surfaced throughout the length of the railing. The intermediate rail shall be halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard. Minimum requirements for standard railings under various types of construction are specified in the following items:

(i) For wood railings, the posts shall be of at least 2 inch by 4 inch stock spaced not to exceed 8 feet; the top rail shall be of at least 2 inch by 4 inch stock; the intermediate rail shall be of at least 1 inch by 6 inch stock.

(ii) For pipe railings, posts and top and intermediate railings shall be at least 1 1/2 inches nominal OD diameter with posts spaced not more than 8 feet on centers.

(iii) For structural steel railings, posts and top and intermediate rails shall be of 2 inch by 2 inch by 3/8 inch angles or other metal shapes of equivalent bending strength, with posts spaced not more than 8 feet on centers.

(iv) For wire rope railings, the top and intermediate railings shall be at least 1/2 inch fibre core rope, or the equivalent to meet strength factor and deflection of (a)(v) of this subsection. Posts shall be spaced not more than 8 feet on centers. The rope shall be stretched taut, so as to present a minimum deflection.

(v) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least 200 pounds applied in any direction at any point on the top rail, with a minimum of deflection.

(vi) Railings receiving heavy stresses from employees trucking or handling materials shall be provided additional strength by the use of heavier stock, closer spacing of posts, bracing, or by other means.

(vii) Other types, sizes, and arrangements of railing construction are acceptable, provided they meet the following conditions:

(A) A smooth surfaced top rail at a height above floor, platform, runway, or ramp level of between 36 inches and 42 inches;

(B) A strength to withstand at least the minimum requirement of 200 pounds top rail pressure with a minimum of deflection;

(C) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(D) Elimination of overhang of rail ends unless such overhang does not constitute a hazard.

(b)(i) A standard toe board shall be 4 inches minimum in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place and have not more than 1/4 inch clearance above floor level. It may be made of any substantial material, either solid, or with openings not over 1 inch in greatest dimension.

(ii) Where material is piled to such height that a standard toe board does not provide protection, paneling, or screening from floor to intermediate rail or to top rail shall be provided.

(c) Floor opening covers shall be of any material that meets the following strength requirements:

(i) Conduits, trenches, and manhole covers and their supports, when located in roadways, and vehicular aisles shall be designed to carry a truck rear axle load of at least 2 times the maximum intended load;

(ii) All floor opening covers shall be capable of supporting the maximum potential load but never less than two hundred pounds (with a safety factor of four).

(A) The cover shall be recessed to conform to the level of the surrounding floor or to be flush with the perimeter of the opening.

(B) The cover shall be secured by fastening devices to prevent unintentional removal.

(C) If it becomes necessary to remove the cover, a monitor shall remain at the opening until the cover is replaced. The monitor shall advise persons entering the area of the hazard, shall prevent exposure to the fall hazard and shall perform no other duties.

(d) Skylight openings that create a falling hazard shall be guarded with a standard railing, or covered in accordance with (c)(ii) of this subsection.

(e) Wall opening protection shall meet the following requirements:

(i) Barriers shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward), with a minimum of deflection at any point on the top rail or corresponding member.

(ii) Screens shall be of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied horizontally at any point on the near side of the screen. They may be of solid construction of grill work with openings not more than 8 inches long, or of slat work with openings not more than 4 inches wide with length unrestricted.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-50503 ((Reserved)) Roofing brackets.**

(1) Roofing brackets shall be constructed to fit the pitch of the roof.

(2) Securing: Brackets shall be secured in place by nailing in addition to the pointed metal projections. When it is impractical to nail brackets, rope supports shall be used. When rope supports are used, they shall consist of first grade manila of at least 3/4 inch diameter, or equivalent.

(3) Crawling boards or chicken ladders.

(a) Crawling boards shall be not less than ten inches wide and one inch thick, having cleats 1 x 1 1/2 inches.

(i) The cleats shall be equal in length to the width of the board and spaced at equal intervals not to exceed twenty-four inches.

(ii) Nails shall be driven through and clinched on the underside.

(iii) The crawling board shall extend from the ridge pole to the eaves when used in connection with roof construction, repair, or maintenance.

(b) A firmly fastened lifeline of at least 3/4 inch diameter rope, or equivalent, shall be strung beside each crawling board for a handhold.

(c) Crawling boards shall be secured to the roof by means of adequate ridge hooks or other effective means.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-515 ((Reserved)) Ramps, runways, and inclined walkways.** (1) Width. Ramps, runways and inclined walkways shall be eighteen inches or more wide.

(2) Standard railings. Ramps, runways and inclined walkways shall be provided with standard railings when located four feet or more above ground or floor level.

(3) Ramp specifications. Ramps, runways and walkways shall not be inclined more than twenty degrees from horizontal and when inclined shall be cleated or otherwise treated to prevent a slipping hazard on the walking surface.

AMENDATORY SECTION (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-655 General protection requirements.**

(1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(d) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(3) Access and egress.

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) Exposure to vehicular traffic. Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.

(5) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) Hazardous atmospheres.

(a) Testing and controls. In addition to the requirements set forth in parts B-1, C, and C-1 of this chapter (296-155 WAC) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation in accordance with parts B-1 and C of this chapter respectively.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 20 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop

during work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a lifeline securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(b) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard

by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with chapter 296-155 WAC, Part ((C-1)) K shall be provided where walkways are 4 feet or more above lower levels.

(b) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-715 Bolting, riveting, fitting-up, and plumbing-up.** (1) General requirements.

(a) Containers shall be provided for storing or carrying rivets, bolts, and drift pins, and secured against accidental displacement when aloft.

(b) Pneumatic hand tools shall be disconnected from the power source, and pressure in hose lines shall be released, before any adjustments or repairs are made.

(c) Air line hose sections shall be tied together except when quick disconnect couplers are used to join sections.

(d) Eye protection shall be provided in accordance with Part C of this chapter.

(2) Bolting.

(a) When bolts or drift pins are being knocked out, means shall be provided to keep them from falling.

(b) Impact wrenches shall be provided with a locking device for retaining the socket.

(3) Riveting.

(a) Riveting shall not be done in the vicinity of combustible material unless precautions are taken to prevent fire.

(b) When workers are below and rivet heads are knocked off or backed out, means shall be provided to keep the rivet heads from falling on such workers.

(c) A safety wire shall be properly installed on the snap and on the handle of the pneumatic riveting hammer and shall be used at all times. The wire size shall be not less than No. 9 (B & S gauge), leaving the handle and annealed No. 14 on the snap or equivalent.

(d) The rivet heating equipment shall be kept as near as possible to the riveting gang with whom the rivet heater is working.

(e) Hot rivets shall never be thrown across shaftways or towards the outside of a building.

(f) When riveting is done on an outside wall, the rivets shall be passed by hand or thrown parallel to the wall.

(g) Metal cone shaped buckets shall be used for catching hot rivets.

(h) Riveters shall avoid allowing the air hose to become wrapped or tangled around their legs.

(i) Empty bolt and rivet kegs shall be removed from the floor as soon as possible.

(j) Pails and hand lines shall be used when raising or lowering bolts, rivets or small tools.

(k) The nozzle of the riveting gun shall be periodically inspected and the wire attachment not allowed to become worn so as to permit the nozzle to fly out with the air pressure.

(l) Electric welding equipment shall not be used where wire rope is used to suspend scaffolds.

(4) Plumbing-up.

(a) Connections of the equipment used in plumbing-up shall be properly secured.

(b) The turnbuckles shall be secured to prevent unwinding while under stress.

(c) Plumbing-up guys related equipment shall be placed so that employees can get at the connection points.

(d) Plumbing-up guys shall be removed only under the supervision of a competent person.

(5) Wood planking shall be of proper thickness to carry the working load, but shall be not less than 2 inches thick full size undressed, exterior grade plywood, at least 3/4-inch thick, or equivalent material.

(6) Metal decking of sufficient strength shall be laid tight and secured to prevent movement.

(7) Planks shall overlap the bearing on each end by a minimum of 12 inches.

(8) Wire mesh, exterior plywood, or equivalent, shall be used around columns where planks do not fit tightly.

(9) Provisions shall be made to secure temporary flooring against displacement.

(10) All unused openings in floors, temporary or permanent, shall be completely planked over or guarded in accordance with Part ((C-1)) K of this chapter.

(11) Temporary bracing and/or guying shall be utilized to stabilize a structure until construction has been completed.

(12) Employees shall use safety belts in accordance with Part C-1 of this chapter when they are working on float scaffolds.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-740 Cofferdams.** (1) If overtopping of the cofferdam by high waters is possible, means shall be provided for controlled flooding of the work area.

(2) Warning signals for evacuation of employees in case of emergency shall be developed and posted.

(3) Cofferdam walkways, bridges, or ramps with at least two means of rapid exit, shall be provided with guardrails as specified in Part ((C-4)) **K** of this chapter.

(4) Manways and ladderways shall be installed separately from the hoistways and partitioned off to prevent hoisted materials from protruding into or falling into manways and/or ladderways.

(5) Pumping equipment shall be located on substantially constructed platforms and where installed in such a position that persons must work below, toe boards shall be installed on the platform.

(6) Cofferdams located close to navigable shipping channels shall be protected from vessels in transit, where possible.

**AMENDATORY SECTION** (Amending WSR 95-10-016, filed 4/25/95, effective 10/1/95)

**WAC 296-155-745 Compressed air.** (1) General provisions.

(a) There shall be present, at all times, at least one competent person designated by and representing the employer, who shall be familiar with this part in all respects and responsible for full compliance with these and other applicable parts.

(b) Every employee shall be instructed in the rules and regulations which concern their safety or the safety of others.

(2) Medical attendance, examination, and regulations.

(a) There shall be retained one or more licensed physicians familiar with and experienced in the physical requirements and the medical aspects of compressed air work and the treatment of decompression illness. They shall be available at all times while work is in progress in order to provide medical supervision of employees employed in compressed air work. They shall be physically qualified and be willing to enter a pressurized environment.

(b) No employee shall be permitted to enter a compressed air environment until they have been examined by the physician and reported to be physically qualified to engage in such work.

(c) In the event an employee is absent from work for 10 days, or is absent due to sickness or injury, they shall not resume work until they are reexamined by the physician, and their physical condition reported, as provided in this subsection, to be such as to permit them to work in compressed air.

(d) After an employee has been employed continuously in compressed air for a period designated by the physician, but not to exceed 1 year, the employee shall be reexamined by the physician to determine if they are still physically qualified to engage in compressed air work.

(e) Such physician shall at all times keep a complete and full record of examinations made by themselves. The physician shall also keep an accurate record of any decompression illness or other illness or injury incapacitating any employee for work, and of all loss of life that occurs in the

operation of a tunnel, caisson, or other compartment in which compressed air is used.

(f) Records shall be available for the inspection by the director or his/her representatives, and a copy thereof shall be forwarded to the department within 48 hours following the occurrence of the accident, death, injury, or decompression illness. It shall state as fully as possible the cause of said death or decompression illness, and the place where the injured or sick employee was taken, and such other relative information as may be required by the director.

(g) A fully equipped first-aid station shall be provided at each tunnel project regardless of the number of persons employed. An ambulance or transportation suitable for a litter case shall be at each project.

(h) Where tunnels are being excavated from portals more than 5 road miles apart, a first-aid station and transportation facilities shall be provided at each portal.

(i) A medical lock shall be established and maintained in immediate working order whenever air pressure in the working chamber is increased above the normal atmosphere.

(j) The medical lock shall:

(i) Have at least 6 feet of clear headroom at the center, and be subdivided into not less than two compartments;

(ii) Be readily accessible to employees working under compressed air;

(iii) Be kept ready for immediate use for at least 5 hours subsequent to the emergence of any employee from the working chamber;

(iv) Be properly heated, lighted and ventilated;

(v) Be maintained in a sanitary condition;

(vi) Have a nonshatterable port through which the occupant(s) may be kept under constant observation;

(vii) Be designed for a working pressure of 75 p.s.i.g.;

(viii) Be equipped with internal controls which may be overridden by external controls;

(ix) Be provided with air pressure gauges to show the air pressure within each compartment to observers inside and outside the medical lock;

(x) Be equipped with a manual type sprinkler system that can be activated inside the lock or by the outside lock tender;

(xi) Be provided with oxygen lines and fittings leading into external tanks. The lines shall be fitted with check valves to prevent reverse flow. The oxygen system inside the chamber shall be of a closed circuit design and be so designed as to automatically shut off the oxygen supply whenever the fire system is activated.

(xii) Be in constant charge of an attendant under the direct control of the retained physician. The attendant shall be trained in the use of the lock and suitably instructed regarding steps to be taken in the treatment of employee exhibiting symptoms compatible with a diagnosis of decompression illness;

(xiii) Be adjacent to an adequate emergency medical facility;

(xiv) The medical facility shall be equipped with demand-type oxygen inhalation equipment approved by the U.S. Bureau of Mines or Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH);

(xv) Be capable of being maintained at a temperature, in use, not to exceed 90°F. nor be less than 70°F.; and

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(xvi) Be provided with sources of air, free of oil and carbon monoxide, for normal and emergency use, which are capable of raising the air pressure in the lock from 0 to 75 p.s.i.g. in 5 minutes.

(k) Identification badges shall be furnished to all employees, indicating that the wearer is a compressed air worker. A permanent record shall be kept of all identification badges issued. The badge shall give the employee's name, address of the medical lock, the telephone number of the licensed physician for the compressed air project, and contain instructions that in case of emergency of unknown or doubtful cause or illness, the wearer shall be rushed to the medical lock. The badge shall be worn at all times—off the job, as well as on the job.

(3) Telephone and signal communication. Effective and reliable means of communication, such as bells, whistles, or telephones, shall be maintained at all times between all the following locations;

- (a) The working chamber face;
- (b) The working chamber side of the man lock near the door;
- (c) The interior of the man lock;
- (d) Lock attendant's station;
- (e) The compressor plant;
- (f) The first-aid station;
- (g) The emergency lock (if one is required); and
- (h) The special decompression chamber (if one is required).

(4) Signs and records.

(a) The time of decompression shall be posted in each man lock as follows:

TIME OF DECOMPRESSION FOR THIS LOCK

..... pounds to ..... pounds in ..... minutes.

..... pounds to ..... pounds in ..... minutes.

(Signed by) .....  
(Superintendent)

This form shall be posted in the man lock at all times.

(b) Any code of signals used shall be conspicuously posted near workplace entrances and such other locations as may be necessary to bring them to the attention of all employees concerned.

(c) For each 8-hour shift, a record of employees employed under air pressure shall be kept by an employee who shall remain outside the lock near the entrance. This record shall show the period each employee spends in the air chamber and the time taken from decompression. A copy shall be submitted to the appointed physician after each shift.

(5) Compression.

(a) Every employee going under air pressure for the first time shall be instructed on how to avoid excessive discomfort.

(b) During the compression of employees, the pressure shall not be increased to more than 3 p.s.i.g. within the first minute. The pressure shall be held at 3 p.s.i.g. and again at 7 p.s.i.g. sufficiently long to determine if any employees are experiencing discomfort.

(c) After the first minute the pressure shall be raised uniformly and at a rate not to exceed 10 p.s.i. per minute.

(d) If any employee complains of discomfort, the pressure shall be held to determine if the symptoms are relieved. If, after 5 minutes the discomfort does not disappear, the lock attendant shall gradually reduce the pressure until the employee signals that the discomfort has ceased. If the employee does not indicate that the discomfort has disappeared, the lock attendant shall reduce the pressure to atmospheric and the employee shall be released from the lock.

(e) No employee shall be subjected to pressure exceeding 50 pounds per square inch except in an emergency.

(6) Decompression.

(a) Decompression to normal condition shall be in accordance with the decompression tables in Appendix A of this part.

(b) In the event it is necessary for an employee to be in compressed air more than once in a 24-hour period, the appointed physician shall be responsible for the establishment of methods and procedures of decompression applicable to repetitive exposures.

(c) If decanting is necessary, the appointed physician shall establish procedures before any employee is permitted to be decompressed by decanting methods. The period of time that the employees spend at atmospheric pressure between the decompression following the shift and recompression shall not exceed 5 minutes.

(7) Man locks and special decompression chambers.

(a) Man locks.

(i) Except in emergency, no employees employed in compressed air shall be permitted to pass from the working chamber to atmospheric pressure until after decompression, in accordance with the procedures in this part.

(ii) The lock attendant in charge of a man lock shall be under the direct supervision of the appointed physician. The lock attendant shall be stationed at the lock controls on the free air side during the period of compression and decompression and shall remain at the lock control station whenever there are persons in the working chamber or in the man lock.

(iii) Except where air pressure in the working chamber is below 12 p.s.i.g., each man lock shall be equipped with automatic controls which, through taped programs, cams, or similar apparatus, shall automatically regulate decompressions. It shall also be equipped with manual controls to permit the lock attendant to override the automatic mechanism in the event of an emergency, as provided in item (viii) of this subdivision.

(iv) A manual control, which can be used in the event of an emergency, shall be placed inside the man lock.

(v) A clock, thermometer, and continuous recording pressure gauge with a 4-hour graph shall be installed outside of each man lock and shall be changed prior to each shift's decompression. The chart shall be of sufficient size to register a legible record of variations in pressure within the man lock and shall be visible to the lock attendant. A copy of each graph shall be submitted to the appointed physician after each shift. In addition, a pressure gauge, clock, and thermometer shall also be installed in each man lock. Additional fittings shall be provided so that the test gauges may be attached whenever necessary

(vi) Except where air pressure is below 12 p.s.i.g. and there is no danger of rapid flooding, all caissons having a working area greater than 150 square feet, and each bulkhead in tunnels of 14 feet or more in diameter, or equivalent area, shall have at least two locks in perfect working condition, one of which shall be used exclusively as a man lock, the other, as a materials lock.

(vii) Where only a combination man-and-materials lock is required, this single lock shall be of sufficient capacity to hold the employees constituting two successive shifts.

(viii) Emergency locks shall be large enough to hold an entire heading shift and a limit maintained of 12 p.s.i.g. There shall be a chamber available for oxygen decompression therapy to 28 p.s.i.g.

(ix) The man lock shall be large enough so that those using it are not compelled to be in a cramped position and shall not have less than 5 feet clear head room at the center and a minimum of 30 cubic feet of air space per occupant.

(x) Locks on caissons shall be so located that the bottom door shall be not less than 3 feet above the water level surrounding the caisson on the outside. (The water level, where it is affected by tides, is construed to mean high tide.)

(xi) In addition to the pressure gauge in the locks, an accurate pressure gauge shall be maintained on the outer and inner side of each bulkhead. These gauges shall be accessible at all times and shall be kept in accurate working order.

(xii) Man locks shall have an observation port at least 4 inches in diameter located in such a position that all occupants of the man lock may be observed from the working chamber and from the free air side of the lock.

(xiii) Adequate ventilation in the lock shall be provided.

(xiv) Man locks shall be maintained at a minimum temperature of 70°F.

(xv) When locks are not in use and employees are in the working chamber, lock doors shall be kept open to the working chamber, where practicable.

(xvi) Provision shall be made to allow for rescue parties to enter the tunnel if the working force is disabled.

(xvii) A special decompression chamber of sufficient size to accommodate the entire force of employees being decompressed at the end of a shift shall be provided whenever the regularly established working period requires total time of decompression exceeding 75 minutes.

(b) Special decompression chamber.

(i) The headroom in the special decompression chamber shall be not less than a minimum 7 feet and the cubical content shall provide at least 50 cubic feet of airspace for each employee. For each occupant, there shall be provided 4 square feet of free walking area and 3 square feet of seating space, exclusive of area required for lavatory and toilet facilities. The rated capacity shall be based on the stated minimum space per employee and shall be posted at the chamber entrance. The posted capacity shall not be exceeded, except in case of emergency.

(ii) Each special decompression chamber shall be equipped with the following:

(A) A clock or clocks suitably placed so that the attendant and the chamber occupants can readily ascertain the time;

(B) Pressure gauges which will indicate to the attendants and to the chamber occupants the pressure in the chamber;

(C) Valves to enable the attendant to control the supply and discharge of compressed air into and from the chamber.

(D) Valves and pipes, in connection with the air supply and exhaust, arranged so that the chamber pressure can be controlled from within and without;

(E) Effective means of oral intercommunication between the attendant, occupants of the chamber, and the air compressor plant; and

(F) An observation port at the entrance to permit observation of the chamber occupants.

(iii) Seating facilities in special decompression chambers shall be so arranged as to permit a normal sitting posture without cramping. Seating space, not less than 18 inches by 24 inches wide, shall be provided per occupant.

(iv) Adequate toilet and washing facilities, in a screened or enclosed recess, shall be provided. Toilet bowls shall have a built-in protector on the rim so that an air space is created when the seat lid is closed.

(v) Fresh and pure drinking water shall be available. This may be accomplished by either piping water into the special decompression chamber and providing drinking fountains, or by providing individual canteens, or by some other sanitary means. Community drinking vessels are prohibited.

(vi) No refuse or discarded material of any kind shall be permitted to accumulate, and the chamber shall be kept clean.

(vii) Unless the special decompression chamber is serving as the man lock to atmospheric pressure, the special decompression chamber shall be situated, where practicable, adjacent to the man lock on the atmospheric pressure side of the bulkhead. A passageway shall be provided, connecting the special chamber with the man lock, to permit employees in the process of decompression to move from the man lock to the special chamber without a reduction in the ambient pressure from that designated for the next stage of decompression. The passageway shall be so arranged as to not interfere with the normal operation of the man lock, nor with the release of the occupants of the special chamber to atmospheric pressure upon the completion of the decompression procedure.

(8) Compressor plant and air supply.

(a) At all times there shall be a thoroughly experienced, competent, and reliable person on duty at the air control valves as a gauge tender who shall regulate the pressure in the working areas. During tunneling operations, one gauge tender may regulate the pressure in not more than two headings: Provided; That the gauges and controls are all in one location. In caisson work, there shall be a gauge tender for each caisson.

(b) The low air compressor plant shall be of sufficient capacity to not only permit the work to be done safely, but shall also provide a margin to meet emergencies and repairs.

(c) Low air compressor units shall have at least two independent and separate sources of power supply and each shall be capable of operating the entire low air plant and its accessory systems.

(d) The capacity, arrangement, and number of compressors shall be sufficient to maintain the necessary pressure without overloading the equipment and to assure maintenance of such pressure in the working chamber during periods of breakdown, repair, or emergency.

(e) Switching from one independent source of power supply to the other shall be done periodically to ensure that workability of the apparatus in an emergency.

(f) Duplicate low-pressure air feedlines and regulating valves shall be provided between the source of air supply and a point beyond the locks with one of the lines extending to within 100 feet of the working face.

(g) All high-pressure and low-pressure air supply lines shall be equipped with check valves.

(h) Low-pressure air shall be regulated automatically. In addition, manually operated valves shall be provided for emergency conditions.

(i) The air intakes for all air compressors shall be located at a place where fumes, exhaust gases, and other air contaminants will be at a minimum.

(j) Gauges indicating the pressure in the working chamber shall be installed in the compressor building, the lock attendant's station, and at the employer's field office.

(9) Ventilation and air quality.

(a) Exhaust valves and exhaust pipes shall be provided and operated so that the working chamber shall be well ventilated, and there shall be no pockets of dead air. Outlets may be required at intermediate points along the main low-pressure air supply line to the heading to eliminate such pockets of dead air. The quantity of ventilation air shall be not less than 30 cubic feet per minute.

(b) The air in the workplace shall be analyzed by the employer not less than once each shift, and records of such tests shall be kept on file at the place where the work is in progress. The test results shall be within the threshold limit values specified in part B of this chapter, for hazardous gases, and within 10 percent of the lower explosive limit of flammable gases. If these limits are not met, immediate action to correct the situation shall be taken by the employer.

(c) The temperature of all working chambers which are subjected to air pressure shall, by means of after-coolers or other suitable devices, be maintained at a temperature not to exceed 85°F.

(d) Forced ventilation shall be provided during decompression. During the entire decompression period, forced ventilation through chemical or mechanical air purifying devices that will ensure a source of fresh air shall be provided.

(e) Whenever heat-producing machines (moles, shields) are used in compressed air tunnel operations, a positive means of removing the heat build-up at the heading shall be provided.

(10) Electricity.

(a) All lighting in compressed-air chambers shall be by electricity exclusively, and two independent electric-lighting systems with independent sources of supply shall be used. The emergency source shall be arranged to become automatically operative in the event of failure of the regularly used source.

(b) The minimum intensity of light on any walkway, ladder, stairway, or working level shall be not less than 10 foot-candles, and in all workplaces the lighting shall at all times be such as to enable employees to see clearly.

(c) All electrical equipment, and wiring for light and power circuits, shall comply with requirements of Part I, of this standard, for use in damp, hazardous, high temperature, and compressed air environments.

(d) External parts of lighting fixtures and all other electrical equipment, when within 8 feet of the floor, shall be constructed of noncombustible, nonabsorptive, insulating materials, except that metal may be used if it is effectively grounded.

(e) Portable lamps shall be equipped with noncombustible, nonabsorptive, insulating sockets, approved handles, basket guards, and approved cords.

(f) The use of worn or defective portable and pendant conductors is prohibited.

(11) Sanitation.

(a) Sanitary, heated, lighted, and ventilated dressing rooms and drying rooms shall be provided for all employees engaged in compressed air work. Such rooms shall contain suitable benches and lockers. Bathing accommodations (showers at the ratio of one to 10 employees per shift), equipped with running hot and cold water, and suitable and adequate toilet accommodations, shall be provided. One toilet for each 15 employees, or fractional part thereof, shall be provided.

(b) When the toilet bowl is shut by a cover, there should be an air space so that the bowl or bucket does not implode when pressure is increased.

(c) All parts of caissons and other working compartments shall be kept in a sanitary condition.

(12) Fire prevention and protection.

(a) Fire fighting equipment shall be available at all times and shall be maintained in working condition.

(b) While welding or flame-cutting is being done in compressed air, a firewatch with a fire hose or approved extinguisher shall stand by until such operation is completed.

(c) Shafts and caissons containing flammable material of any kind, either above or below ground, shall be provided with a waterline and a fire hose connected thereto, so arranged that all points of the shaft or caisson are within reach of the hose stream.

(d) Fire hose shall be at least 1 1/2 inches in nominal diameter; the water pressure shall at all times be adequate for efficient operation of the type of nozzle used; and the water supply shall be such as to ensure an uninterrupted flow. Fire hose, when not in use, shall be located or guarded to prevent injury thereto.

(e) The power house, compressor house, and all buildings housing ventilating equipment, shall be provided with at least one hose connection in the waterline, with a fire hose connected thereto. A fire hose shall be maintained within reach of structures of wood over or near shafts.

(f) Tunnels shall be provided with a 2-inch minimum diameter waterline extending into the working chamber and to within 100 feet of the working face. Such line shall have hose outlets with 100 feet of fire hose attached and maintained as follows: One at the working face; one immediately inside of the bulkhead of the working chamber; and one immediately outside such bulkhead. In addition, hose outlets shall be provided at 200-foot intervals throughout the length of the tunnel, and 100 feet of fire hose shall be attached to the outlet nearest to any location where flammable material is being kept or stored or where any flame is being used.

(g) In addition to fire hose protection required by this part, on every floor of every building not under compressed air, but used in connection with the compressed air work, there shall be provided at least one approved fire extinguish-

er of the proper type for the hazards involved. At least two approved fire extinguishers shall be provided in the working chamber as follows: One at the working face and one immediately inside the bulkhead (pressure side). Extinguishers in the working chamber shall use water as the primary extinguishing agent and shall not use any extinguishing agent which could be harmful to the employees in the working chamber. The fire extinguisher shall be protected from damage.

(h) Highly combustible materials shall not be used or stored in the working chamber. Wood, paper, and similar combustible material shall not be used in the working chamber in quantities which could cause a fire hazard. The compressor building shall be constructed of noncombustible material.

(i) Man locks shall be equipped with a manual type fire extinguisher system that can be activated inside the man lock and also by the outside lock attendant. In addition, a fire hose and portable fire extinguisher shall be provided inside and outside the man lock. The portable fire extinguisher shall be the dry chemical type.

(j) Equipment, fixtures, and furniture in man locks and special decompression chambers shall be constructed of noncombustible materials. Bedding, etc., shall be chemically treated so as to be fire resistant.

(k) Head frames shall be constructed of structural steel or open frame-work fireproofed timber. Head houses and other temporary surface buildings or structures within 100 feet of the shaft, caisson, or tunnel opening shall be built of fire-resistant materials.

(l) No oil, gasoline, or other combustible materials shall be stored within 100 feet of any shaft, caisson, or tunnel opening, except that oils may be stored in suitable tanks in isolated fireproof buildings, provided such buildings are not less than 50 feet from any shaft, caisson, or tunnel opening, or any building directly connected thereto.

(m) Positive means shall be taken to prevent leaking flammable liquids from flowing into the areas specifically mentioned in the preceding subdivision.

(n) All explosives used in connection with compressed air work shall be selected, stored, transported, and used as specified in part T of this chapter.

(13) Bulkheads and safety screens.

(a) Intermediate bulkheads with locks, or intermediate safety screens or both, are required where there is danger of rapid flooding.

(b) In tunnels 16 feet or more in diameter, hanging walkways shall be provided from the face to the man lock as high in the tunnel as practicable, with at least 6 feet of head room. Walkways shall be constructed of noncombustible material. Standard railings shall be securely installed throughout the length of all walkways on open sides in accordance with Part ((E-1)) K of this chapter. Where walkways are ramped under safety screens, the walkway surface shall be skidproofed by cleats or by equivalent means.

(c) Bulkheads used to contain compressed air shall be tested, where practicable, to prove their ability to resist the highest air pressure which may be expected to be used.

**WSR 96-11-119**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**

[Filed May 21, 1996, 2:39 p.m.]

Continuance of WSR 96-06-082.

Preproposal statement of inquiry was filed as WSR 96-03-149.

Title of Rule: Public records disclosure for the Department of Agriculture. WAC 16-06-150 through 16-06-235.

Purpose: To establish the Department of Agriculture's procedures when responding to requests for public records, add additional exemptions to the public disclosure rule pursuant to 1996 legislation, explain the department's organization, the costs involved to copy documents, and who the public can contact in the department.

Statutory Authority for Adoption: RCW 42.17.290.

Statute Being Implemented: Chapters 42.17 and 43.23 RCW.

Summary: To establish the Department of Agriculture's procedures when responding to requests for public records, add additional exemptions to the department's public disclosure rule pursuant to 1996 legislation, explain the department's organization, the costs involved to copy documents, and who the public can contact in the department.

Reasons Supporting Proposal: The proposal will assist the public in following the agency's public disclosure process.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dannie McQueen, 1111 Washington Street S.E., 2nd Floor, (360) 902-1809.

Name of Proponent: Department of Agriculture, governmental.

Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This was originally filed as WSR 96-06-082 and is being continued to add additional public disclosure exemptions pursuant to 1996 legislation.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to ensure compliance by the Washington State Department of Agriculture with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340, and 34.05.220 through 34.05.240, and 34.05.330.

Proposal Changes the Following Existing Rules: The proposed rule repeals the agency's existing public disclosure rules and establishes new sections that will assist the public in following the public disclosure process by clarifying the department's procedures when responding to requests for public records, adding additional exemptions pursuant to 1996 legislation, explaining the department's organization, the costs involved to copy documents, and who the public can contact in the department.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact, this a procedural rule only.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201 and this is a procedural rule.

PROPOSED

Hearing Location: Washington State Department of Agriculture, 1111 Washington Street S.E., 2nd Floor, Conference Room 205, P.O. Box 42560, Olympia, WA 98504-2560, on June 25, 1996, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 18, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Dannie McQueen, Administrative Regional Manager, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2092, by June 25, 1996, at 5 p.m.

Date of Intended Adoption: June 26, 1996.

May 22 [21], 1996  
William E. Brookreson  
Assistant Director

#### NEW SECTION

**WAC 16-06-150 The reason for the rule.** The reason for this chapter is to ensure compliance by the Washington state department of agriculture with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340, and RCW 34.05.220 through 34.05.240 and RCW 34.05.330.

#### NEW SECTION

**WAC 16-06-155 Definitions.** (1) "Denial of disclosure" denotes any exempting from disclosure of any public record.

(2) "Department" means the Washington state department of agriculture.

(3) "Disclosure" means inspection and/or copying.

(4) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

(5) "Writing" means handwriting, typewriting, printing, photostating, telefaxing, photographing, and every other means of recording any form of communication or representation including letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

#### NEW SECTION

**WAC 16-06-160 Description of agency organization, address and telephone number of Olympia administrative offices.** The administrative offices of the department are located in the Natural Resources Building, 1111 Washington Street SE, P.O. Box 42560, Olympia, Washington 98504-2560. The information telephone number is (360) 902-1800. The department is organized into six divisions:

- (1) Agency operations division;
- (2) Commodity inspection division;
- (3) Consumer and producer protection division;
- (4) Food safety and animal health division;
- (5) Laboratory services division; and
- (6) Pesticide management division.

The department maintains service locations or major field offices around the state. Several of these offices are

headed by a supervisor or chief. The administrative offices located in Olympia will assist in determining office locations around the state. An organization chart of the department is available upon request from the Public Records Officer, Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560.

#### NEW SECTION

**WAC 16-06-165 Agency organization description by division and program.** An organizational description by division and program is as follows:

##### **Director's office:**

- Legislative affairs
- Internal program review
- Policy development and review

##### **Agency operations division:**

- Accounting, budget, payroll, forms and records, adjudicative proceedings, public disclosure, Washington administrative code filings, personnel office, data processing services, information office, international marketing and commodity commission and fairs commission activities

##### **Commodity inspection division:**

- Fruit and vegetable inspection program for quality, grade, condition, size and pack
- Conducts state-wide grain inspection

##### **Consumer and producer protection division:**

- Commission merchants program
- Livestock identification, brand registration and inspection
- Establishment of livestock markets
- Grain warehouse audit
- Weights and measures program
- Seed program regulates the quality and labeling of various crop seeds in Washington

##### **Food safety and animal health division:**

- Dairy inspection program
- Food processing program
- Organic food program
- Egg inspection program
- Animal health program

##### **Laboratory services division:**

- Performs chemical and micro-biological analyses in support of the food safety and pesticide management programs
- Administers hop inspection and analyses
- Pest management program is responsible for nonnative insect detection and control, and plant pest and disease identification; develops and enforces plant quarantines
- Apiary program provides education and registration over Washington apiarists
- Nursery program certifies nursery stock and issues phytosanitary certificates for materials moving out-of-state

##### **Pesticide management division:**

- Administers the regulations of pesticides, animal feeds and fertilizer laws, and waste disposal program broken down into three units of the division

- The compliance unit enforces state and federal pesticide laws, animal feed laws and fertilizer laws; investigates complaints of pesticide misuse
- The registration unit registers pesticides, fertilizers and animal feeds sold and used in the state
- The program development and certification unit conducts the waste pesticide disposal program; provides interagency coordination on pesticide-related issues; provides safety training on the use of pesticides, which includes public outreach and new program development; licenses pesticide application equipment, pesticide dealers, and commercial, public and private pesticide applicators, operators and consultants; approves recertification courses and tracks educational credits on pesticide licensees

(b) Coordinate departmental staff in this regard, generally ensuring the compliance of the staff with public records disclosure requirements;

(c) Make the final decision if a records request has been denied and a petition for review is filed under the procedures in WAC 16-06-220;

(d) Have the option of waiving the requirement that a records request be in written form;

(e) Maintain the agency's index as required under chapter 42.17 RCW.

(2) The address of the public records officer is: Department of Agriculture, 1111 Washington Street SE, P.O. Box 42560, Olympia, Washington 98504-2560; or call the Olympia administrative office at (360) 902-1809.

#### NEW SECTION

##### **WAC 16-06-185 Availability of public records.** (1)

All public records of the department are available for disclosure except as otherwise provided by law. Requests for public record may be initiated at any department office during customary business hours, Monday through Friday, excluding legal holidays.

(2) The department shall respond promptly to requests for disclosure. Within five business days of receiving a public record request, the department shall respond by:

(a) Providing the record;

(b) Acknowledging the department has received the request and providing a reasonable estimate of the time the department will require to respond to the request; or

(c) Deny the public record request.

(3) Additional time for the department to respond to a request may be based on 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.

(4) In acknowledging receipt of a public record request that is unclear, the department may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the department need not respond to it.

(5) If the department does not respond in writing within five business days of receipt of the request for disclosure, the person seeking disclosure shall be entitled to:

(a) Consider the request denied; and

(b) Petition the public records officer under WAC 16-06-180.

#### NEW SECTION

##### **WAC 16-06-190 Request public records in writing using a department-issued form or the format provided in this rule.** (1)

All requests for the disclosure of a public record shall be in writing on a department of agriculture disclosure form as prescribed by WAC 16-06-235, or a format which substantially complies with WAC 16-06-235, and identifies the record being sought with reasonable certainty. The written request shall include but is not limited to:

#### NEW SECTION

**WAC 16-06-170 For assistance with disclosure of agency documents, you may contact a public records designee.** The department shall designate in each departmental administrative unit including each office of the department located around the state, a public records designee from among its employees, who shall have the responsibility to respond to written requests for disclosure of the department's public records located in that office; or refer the person requesting disclosure to any other office where the record is located.

If you need help locating a department office in your location, please consult your local telephone directory; call the Olympia administrative office at (360) 902-1800; or write to the public records officer at the Olympia administrative offices at: Department of Agriculture, 1111 Washington Street SE, P.O. Box 42560, Olympia, Washington 98504-2560.

#### NEW SECTION

**WAC 16-06-175 You may also contact an agency public records coordinator for assistance.** (1) Each assistant director of the department's divisions is designated a public records coordinator who shall have the authority to:

(a) Respond to written requests for disclosure of the department's public records located in their division;

(b) Provide input to the public records officer in cases where nondisclosure of a record is an issue;

(c) Waive the requirement that a records request shall be made in written form.

(2) The address for the public records coordinator is: Department of Agriculture, 1111 Washington Street SE, P.O. Box 42560, Olympia, Washington 98504-2560; or you may also contact the information number of the Olympia administrative offices at (360) 901-1800 for assistance.

#### NEW SECTION

**WAC 16-06-180 The agency's public records officer is available for assistance, appeals of denial of disclosure and information about the agency's index.** (1) The department shall designate one public records officer, located in the agency operations division who shall:

(a) Be responsible for implementing the department's process regarding disclosure of public records;

- (a) The name, address and telephone number of the person requesting the record;
- (b) The calendar date on which the request is made; and
- (c) Sufficient information to readily identify documents being requested.
- (2) A request for disclosure shall be made during customary office hours.
- (3) In all cases in which a member of the public is making the request, it shall be the obligation of department staff to assist the member of the public to appropriately identify the public record being requested.
- (4) A form for requesting department documents can be obtained from any administrative office of the department or a person can format a request in a similar format as prescribed in WAC 16-06-235.

**NEW SECTION**

**WAC 16-06-195 Disclosure procedure.** (1) The public records designee and the public records coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public records designee or coordinator shall proceed with full disclosure.

(3) If the record is not maintained in the office directly contacted, the public records designee or public records coordinator records officer will retrieve the record processing or will forward the request to the appropriate office for processing.

(4) Responses to requests for public records shall be made promptly by agencies, following RCW 42.17.320 and WAC 16-06-185.

(5) A denial of a request for disclosure shall be accompanied by a written statement of the specific exemption authorizing the withholding of the record, or part of the record, and a brief explanation of how the exemption applies to the record withheld.

**NEW SECTION**

**WAC 16-06-200 Costs of disclosure.** (1) No fee shall be charged for the inspection of public records.

(2) The department shall charge a fee of fifteen cents per page of copy when copy charges exceed ten dollars for providing copies of public records. This charge is the amount necessary to reimburse the department for its costs incident to such copying and shall be payable at the time copies are furnished.

(3) The department may charge the actual cost involved for the duplication of tape recordings, video tapes, photographs, slides, postage, delivery, if these costs exceed ten dollars.

(4) The public records officer or the public records coordinator may waive any of the foregoing costs.

**NEW SECTION**

**WAC 16-06-205 Protection of public records.** In order to adequately protect the public records of the department, the following will apply:

(1) No public record shall be removed from the department's premises.

(2) Inspection of any public record shall be conducted in the presence of a designated department employee.

(3) No public record may be marked or altered in any manner during inspection.

(4) Public records that are maintained in a file or jacket, or in chronological order, may not be dismantled except by a designated department employee for purposes of copying.

(5) Upon request of a member of the public to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents, the department shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by chapter 42.17 RCW is contained therein.

(6) When copying public documents, the copy machine will be operated by staff persons of the department only.

**NEW SECTION**

**WAC 16-06-210 Exemptions.** The department reserves the right to determine if a requested public record is exempt or nondisclosable under RCW 42.17.250 et seq. Nondisclosable records include, but are not limited to:

(1) Personal information in any files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy pursuant to RCW 42.17.310 (1)(b).

(2) Investigative material pursuant to RCW 42.17.310 (1)(d) and (e).

(3) Test questions, scoring keys and other examination data used to administer a license, pursuant to RCW 42.17.310 (1)(f).

(4) Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with action (RCW 42.17.310 (1)(i)).

(5) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(6) Lists of individuals requested for commercial purposes. The department shall not disclose such records unless specifically authorized or directed to do so by law: *Provided*, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: *Provided further*, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW.

(7) Information on commercial fertilizer distribution, pursuant to RCW 42.17.317.

(8) Information on commercial feed pursuant to RCW 15.53.9018.

(9) Confidential information regarding individual company operations or production found in the Washington State Seed Act, RCW 15.49.370(8).

(10) Business related information obtained under the Organic Food Products Act concerning an entity certified under that act or an applicant for such certification, which is found under RCW 15.86.110.

(11) Privileged or confidential information or data required under the Washington Pesticide Control Act which contains trade secrets, commercial or financial information, which is found under RCW 15.58.065.

(12) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(13) Pursuant to chapter 43.23 RCW, except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects shall be kept confidential unless confidentiality is waived by the party supplying the information. For purposes of this section, persons include any natural person, joint venture, firm, partnership or association, private or public corporation, or governmental entity.

(14) The following agricultural business and commodity commission records are exempt from the disclosure requirements of chapter 42.17 RCW:

(a) Production or sales records required to determine assessment levels and actual assessment payments to commodity commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88 and 16.67 RCW or required by the department of agriculture under RCW 15.13.310(4) or 15.49.370(6);

(b) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49 and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States Department of Agriculture or on applications for phytosanitary certification required by the department of agriculture; and

(c) Financial and commercial information and records supplied by persons to commodity commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88 and 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

#### NEW SECTION

**WAC 16-06-215 Qualifications on nondisclosure.** (1) To the extent that nondisclosable information can be deleted from the specific record sought, the remainder of the record shall be disclosed.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of a superior court.

(4) Denial of disclosure of a public record will be in writing accompanied by a written statement of the reason the document was withheld.

(5) A person who is denied a request for a public record shall have the right to appeal the denial to the public records officer of the department in the manner prescribed by WAC 16-06-220.

#### NEW SECTION

**WAC 16-06-220 Review of denial of request for inspection for copying of public records.** (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by submitting a written request for review to the department's public records officer located in the Olympia administrative office. The written request shall specifically refer to the written statement that constituted or accompanied the denial of disclosure.

(2) Immediately after receiving a petition for review of a decision denying a public record, the public records designee or public records coordinator denying the request shall refer it to the public records officer. The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320. If the public records officer neither approves nor disapproves the denial of the request before the end of the second business day following the denial of inspection, the denial of inspection shall be deemed approved by the department, and constitutes a final agency action pursuant to RCW 42.17.320.

#### NEW SECTION

**WAC 16-06-225 Records index.** The public records officer of the department, located in the Olympia administrative office, shall develop and maintain an agency index of:

- (1)(a) Records issued prior to July 1, 1990, by relying on agency records retention schedules;
- (b) Final orders;
- (c) Declaratory orders entered after June 30, 1990;
- (d) Interpretative statements;
- (e) Policy statements;
- (f) Agency rule docket; and
- (g) Other agency information as required.

The schedule for revising and/or updating the index will occur annually on June 30 of each year.

(2) Information on obtaining or viewing the department's index should be directed to the public records officer at the department's headquarters office located at: Department of Agriculture, 1111 Washington Street, SE, P.O. Box 42560, Olympia, Washington 98504-2560.

#### NEW SECTION

**WAC 16-06-230 Interagency disclosure.** (1) Unless prohibited by law, information may be disclosed by the department to outside agencies, including other state of Washington agencies or other states.

(2) Outside agencies receiving information pursuant to subsection (1) of this section shall be subject to the same standards of disclosure as are required of the department.

#### NEW SECTION

**WAC 16-06-235 Request for public records disclosure form.** The department adopts the following "request for public records disclosure form" for use by all persons requesting inspection and/or copying of department public

records. The form may be secured from any office of the department by contacting the office in or near your area; calling the Olympia administrative office at (360) 902-1800;

or writing to the public records officer in Olympia at: Department of Agriculture, 1111 Washington Street SE, P.O. Box 42560, Olympia, Washington 98504-2460.



Washington State Department of Agriculture  
P.O. Box 42560  
Olympia, WA 98504-2560

PROPOSED

### REQUEST FOR PUBLIC RECORDS DISCLOSURE

Name of Requester: \_\_\_\_\_

Mailing Address of Requester: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number of Requester: (\_\_\_\_\_) \_\_\_\_\_

Date of Request: \_\_\_\_\_ Time of Request: \_\_\_\_\_

Identification of record(s) requested: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### AGREEMENT TO PROTECT RECORDS FROM USE FOR COMMERCIAL PURPOSES

*I hereby agree that the list of individuals and/or information provided to me by the:*

\_\_\_\_\_

*shall not be used for any commercial purpose by myself or by any organizations I represent. I will protect the list of individuals and/or information from access by anyone who may use it for purposes of contacting the individuals named therein or otherwise personally affecting them in furtherance of any profit-seeking activity.*

*I also understand that I may be charged for each page copied, or in the case of copied tape recordings and video tapes, the actual cost of duplication.*

*I understand the contents of the above provisions and will comply with the terms thereof.*

Requester's Signature \_\_\_\_\_

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 16-06-010 Purpose.
- WAC 16-06-020 Definitions.
- WAC 16-06-030 Description of organization.
- WAC 16-06-040 Operations and procedures.
- WAC 16-06-050 Public records designees.
- WAC 16-06-060 Availability of public records.
- WAC 16-06-070 Requests for public records.
- WAC 16-06-080 Fees.
- WAC 16-06-090 Protection of public records.
- WAC 16-06-100 Exemptions.
- WAC 16-06-110 Denial of request.
- WAC 16-06-120 Review of denial of request for inspection or copying of public records.
- WAC 16-06-130 Records index.
- WAC 16-06-140 Public records request form.

**WSR 96-11-120  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**

[Filed May 21, 1996, 2:40 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 96-07-086.

Title of Rule: Phyto-sanitary certification—Fees and charges.

Purpose: Change address contained in WAC 16-316-315 of the Idaho Department of Agriculture.

Statutory Authority for Adoption: Chapter 15.49 RCW. Statute Being Implemented: Chapter 15.49 RCW.

Summary: Clients sending samples to the Idaho Department of Agriculture need the correct address, therefore the rule is amended to correct the address.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South First Street, Yakima, WA, (509) 575-2750.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule corrects the address of the Idaho Department of Agriculture for use by clients sending samples.

Proposal Changes the Following Existing Rules: Amends the address.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No fiscal impact, procedural amendment.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Department of Agriculture, Agricultural Service Center, Conference Room, 2015 South First Street, Yakima, WA 98903-2263, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 17, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Max Long, Department of Agriculture, 2015 South First Street, Yakima, WA 98903-2263, FAX (509) 454-4395, by June 24, 1996.

Date of Intended Adoption: June 26, 1996.

May 17, 1996  
Julie Sandberg  
Assistant Director

**AMENDATORY SECTION** (Amending Order 2093, filed 6/9/92, effective 7/10/92)

**WAC 16-316-315 Phyto-sanitary certification—Fee and charges.** (1) Fee for area and field inspection:

(a) Field inspection (payable with application):

(i) All seed except wheat seed. For each required inspection (per acre or fraction thereof) . . . . . \$5.00  
(with minimum fee of \$20.00 per field per inspection)

(ii) Wheat seed only. For each required inspection (per acre or fraction thereof) . . . . . \$2.00

(b) Area inspection (per one hundred pounds) . . . . . \$0.05

Billed at time certificate is issued with a minimum of twenty dollars and a maximum of one hundred fifty dollars per certificate.

(2) Late application penalty fee . . . . . \$30.00

This additional fee shall be charged for each application received after due date.

(3) Sampling fee when sampling is required:

(a) Beans, peas, lentils, cereal grains (per one hundred pounds) . . . . . \$0.05

(b) Other crops (per one hundred pounds) . . . . . \$0.15

(4) Serology test: . . . . . Fee to be established by the state of Idaho.

An official five pound sample is required from each ten thousand pounds or portion thereof. Officially drawn samples will be submitted to: State Plant Pathologist, Idaho Department of Agriculture, (~~P.O. Box 410, Twin Falls, Idaho 83301~~) 2230 Penitentiary Road, Boise, Idaho 83712.

(5) Fees for services not listed in this rule shall be set on the basis of the actual cost to the department of agriculture or the most appropriate fee established shall be used.

(6) Laboratory analysis of plant material: An additional fee of actual cost shall be charged when necessary to examine plant material and/or seed in the laboratory to verify disease.

**WSR 96-11-121  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**

[Filed May 21, 1996, 2:42 p.m.]

**Continuance of WSR 96-07-087.**

Preproposal statement of inquiry was filed as WSR 96-04-057.

Title of Rule: Bean seed certification and phytosanitary rules.

PROPOSED

PROPOSED

Purpose: Rewrote the proposed language to make the proposed amendments more clear. The proposal is to update rules, allow for planting certain varieties of beans under sprinklers. New varieties are more disease resistant and can be grown under sprinklers if alternated with rill irrigation. Make growing conditions the same as in Idaho.

Hearing Location: Department of Agriculture, Agricultural Services Center, 2015 South First Street, Yakima, WA 98903, on June 25, 1996, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 17, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Max Long, Department of Agriculture, 2015 South First Street, Yakima, WA 98903, FAX (509) 454-4395, by June 25, 1996.

Date of Intended Adoption: June 27, 1996.

May 17, 1996  
Julie C. Sandberg  
Assistant Director

**AMENDATORY SECTION** (Amending Order 2092, filed 5/27/92, effective 5/27/92)

**WAC 16-316-280 Field tolerances.** Field tolerances shall be as follows:

(1)

	Field Producing		
	Found- ation	Regis- tered	Certi- fied
Other varieties or off-type plants	none found	0.1%	0.2%
Other crops	none found	0.1%	0.1%
Total seed-borne diseases	none found	none found	none found

Except as noted in subsection (6) of this section

(2) ~~Snap ((beans and kidney beans grown under sprinkler irrigation will not be eligible for certification. Further snap)) and Kidney Beans shall be isolated by 1320 feet from known bacterial blight.~~

(3)(a) To be eligible for certification, Pintos, Red Mexicans, Pinks, Great Northerns, Small Whites, Navy Beans, and Black Turtle Beans may be grown for an unlimited number of generations under rill or sprinkler irrigation.

(b) To be eligible for certification, Kidney Beans may be grown for an unlimited number of generations under rill irrigation or for one generation under rill irrigation and, subsequently, for two generations under sprinkler irrigation. The fourth and unlimited subsequent generations of these may be grown and inspected with the same alternation of irrigation types.

(c) To be eligible for certification, Cranberry types, Taylor horticultural types, and Borlotto types of beans may be grown for unlimited generations under rill irrigation or for one generation under rill irrigation and, subsequently, for two generations under sprinkler irrigation. These types shall be subject to the following additional requirements:

(i) A maximum of nine total generations of these types of beans may be grown under the alternation of irrigation types; and

(ii) Any lot grown under sprinkler irrigation shall be officially sampled, serology tested and found free from bean bacterial quarantine diseases listed in WAC 16-494-013, prior to replanting under either sprinkler irrigation or rill irrigation.

(4) Fields must be rogued of weeds, off-type plants, volunteer plants, and plants showing symptoms of seed-borne diseases. Excessive night-shade shall be a cause for rejection.

~~((4))~~ (5) A field to be eligible for certification must have clean, cultivated boundaries at least ten feet wide.

~~((5))~~ (6) Excessive weeds, poor stands, lack of vigor, or any other condition which is apt to make inspection inaccurate may be cause for rejection of the field.

~~((6))~~ (7) Bean fields, including those planted with a dominant I-gene cultivar, showing virus-like mosaic symptoms will not be accepted as free of seedborne virus diseases until seed samples are tested serologically, or with serology and a grow out test and found to be free of seedborne virus diseases.

**AMENDATORY SECTION** (Amending Order 2093, filed 6/9/92, effective 7/10/92)

**WAC 16-316-327 Phyto-sanitary certificate for beans.** (1) Specific bacterial diseases of beans for which phyto-sanitary certificates may be issued are:

(a) *Halo Blight - Pseudomonas phaseolicola* (Burk.) Dows.

(b) *Common Bean Blight - Xanthomonas phaseoli* (E.F. Sm.) Dows.

(c) *Fuscous Blight - Xanthomonas phaseoli var. fuscans* (Burk.)

(d) *Bean Bacterial Wilt - Corynebacterium flaccumfaciens* (Hedges) Dows.

(e) Or any varieties or new strains of these diseases.

(f) *Brown Spot Disease - Pseudomonas syringae*.

(g) *Bean Anthracnose - Colletotrichum lindemuthianum*.

(h) *Seedborne viral diseases.*

(2) Common bean seed to be eligible for a phyto-sanitary certificate covering the bacterial diseases listed above, shall be free of the diseases in question as determined by field inspection during the growing season and by a windrow inspection. (Serology test and greenhouse test may be accepted in lieu of windrow inspection at the discretion of the department of agriculture.)

~~(3) ((Snap beans and kidney beans grown under sprinkler irrigation shall not be eligible for phyto-sanitary certificates covering bacterial diseases.))~~ (a) To be eligible for a phyto-sanitary certificate covering bacterial diseases, Pintos, Red Mexicans, Pinks, Great Northerns, Small Whites, Navy Beans, and Black Turtle Beans may be grown for an unlimited number of generations under rill or sprinkler irrigation.

(b) To be eligible for a phyto-sanitary certificate covering bacterial diseases, Kidney Beans may be grown for an unlimited number of generations under rill irrigation or for one generation under rill irrigation and, subsequently, for two generations under sprinkler irrigation. The fourth and

unlimited subsequent generations of these may be grown and inspected with the same alternation of irrigation types.

(c) To be eligible for a phyto-sanitary certificate covering bacterial diseases, Cranberry types, Taylor horticultural types, and Borlotto types of beans may be grown for unlimited generations under rill irrigation or for one generation under rill irrigation and, subsequently, for two generations under sprinkler irrigation. These types shall be subject to the following additional requirements:

(i) A maximum of nine total generations of these types of beans may be grown under the alternation of irrigation types; and

(ii) Any lot grown under sprinkler irrigation shall be officially sampled, serology tested and found free from bean bacterial quarantine diseases listed in WAC 16-494-013, prior to replanting under either sprinkler irrigation or rill irrigation.

(4) To be eligible for phyto-sanitary certificate, field planted shall be free of halo blight the previous two years.

(5) To be eligible for phyto-sanitary certificate, fields shall be 1320 feet from an incident of diseases listed in subsection (1) of this section. It is recommended that equipment be disinfected between fields.

(6) Field inspection requirements:

At least two field inspections are required for beans being inspected for the bacterial diseases listed above:

(a) The first inspection is required when factors effecting diseases are most evident.

(b) The second inspection is required when the plants are in the windrow.

(7) All bean seed entered into the phyto-sanitary inspection program shall comply with the bean seed quarantine rules. See WAC 16-494-001 through 16-494-062.

**WSR 96-11-122**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed May 21, 1996, 2:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-07-086.

Title of Rule: Field tolerances—Alfalfa standards, WAC 16-316-455.

Purpose: Update the red clover standards to make them uniform with standards in Oregon, Idaho, and California. Because red clover seed is grown in four states (Washington, Oregon, Idaho and California) having uniform standards facilitates the interstate movement of seed.

Statutory Authority for Adoption: Chapter 15.49 RCW. Statute Being Implemented: Chapter 15.49 RCW.

Summary: Update red clover standards to make them uniform with standards in Oregon, Idaho, and California.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South First Street, Yakima, WA, (509) 575-2750.

Name of Proponent: Washington Seed Council, Washington/North Idaho Seed Association, Washington State Department of Agriculture, Seed Program, private and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Update red clover standards to make them uniform with standards in Oregon, Idaho, and California.

Proposal Changes the Following Existing Rules: Amends red clover standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No fiscal impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Department of Agriculture, Agricultural Service Center, Conference Room, 2015 South First Street, Yakima, WA 98903-2263, on June 25, 1996, at 10:15 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 17, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Max Long, Department of Agriculture, 2015 South First Street, Yakima, WA 98903-2263, FAX (509) 4541-4395 [454-4395], by June 24, 1996.

Date of Intended Adoption: June 26, 1996.

May 17, 1996

Julie Sandberg

Assistant Director

**AMENDATORY SECTION** (Amending Order 1457, filed 5/13/76)

**WAC 16-316-455 Field tolerances.** Field tolerances shall be as follows:

		Field Producing*	
		Foundation	Certified
Other varieties	(Max.)	0.00%	0.50%
Alfalfa	(Max.)	None	<del>((10 plants/acre))</del> 0.50%
Sweet Clover	(Max.)	None	20 plants/acre

\* Prohibited noxious weeds must be controlled to prevent seed formation.

**WSR 96-11-123**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed May 21, 1996, 2:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-07-086.

Title of Rule: Field standards—Corn seed, WAC 16-316-921.

Purpose: Update corn seed standards to bring them into compliance with Association of Official Seed Certifying Agencies (AOSCA) minimum standards.

Statutory Authority for Adoption: Chapter 15.49 RCW. Statute Being Implemented: Chapter 15.49 RCW.

Summary: Update corn seed standards to comply with the national minimum corn seed standards.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South First Street, Yakima, WA, (509) 575-2750.

Name of Proponent: Department of Agriculture, Seed Program, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Update seed standards to bring them into compliance with AOSCA minimum standards.

Proposal Changes the Following Existing Rules: Updates seed standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No fiscal impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Department of Agriculture, Agricultural Service Center Room, Conference LR, 2015 South First Street, Yakima, WA 98903-2263 on June 25, 1996, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 17, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Max Long, Department of Agriculture, 2015 South First Street, Yakima, WA 98903-2263, FAX (509) 454-4395, by June 24, 1996.

Date of Intended Adoption: June 26, 1996.

May 17, 1996

Julie Sandberg

Assistant Director

**AMENDATORY SECTION** (Amending Order 1852, filed 5/2/85)

**WAC 16-316-921 Field standards.** (1) Isolation requirements:

(a) An inbred shall be so located that it is not less than six hundred and sixty feet from other corn except when the inbred is grown as a pollinator in a single cross production field. In this case any ear parent(s) in the same isolated field shall be entered for certification, inspected, and meet all field requirements for certification.

(b) A specific foundation single cross shall be located so the seed parent is not less than six hundred and sixty feet from other corn for pollinator rows and other seed parent(s) in the same isolated field. In this case, all seed parent(s) in the same isolated field shall be applied for certification, inspected, and meet all field requirements for certification.

(c) Differential maturity dates are permitted for modifying isolation distances for inbred lines or male sterile inbred line increases provided there are no receptive silks in the ear or seed parent at the same time pollen is being shed in the contaminating field.

(d) Foundation inbred or single cross production fields of dent sterile popcorn need not be isolated from yellow dent field corn.

(e) Corrections for improper isolation shall be made by one of the following methods:

(i) By completely destroying or by detasseling the necessary contaminating corn before silks appear in the ear or seed parent in the field to be certified; or

(ii) By completely destroying, before the final field inspection, the plants which are improperly isolated from the contaminating corn.

(2) For single crosses, the maximum distance a seed parent row shall be from a pollen parent row is nine feet.

(3) For single crosses, the minimum population of pollen shedding plants per acre shall be two thousand. Ineffective pollen parent plants shall not be counted.

(4) Single cross fields being inspected for certification shall contain not less than four hundred pollen plants per acre that are actively shedding pollen when more than twenty-five percent of the seed parent silks are apparently receptive.

(5) Single cross detasseling or pollen control. More than five percent of the seed parent shall have apparently receptive silks for the following provisions to apply. Apparently receptive silks are emerged silks which are not wilted or brown.

(a) An isolation of a specific foundation single cross shall not be accepted for certification if at one inspection more than ~~((one))~~ one-half percent of the stalks of the seed parent have shed pollen, or if the total number having shed pollen on any three days of inspection exceeds ~~((two))~~ one percent.

(b) Cytoplasmic male sterile seed parent plants - detasseling (cutting or pulling) to control plant pollen shall be permitted.

(6) Roguing:

(a) Definitely off-type plants shall be destroyed completely so that suckers will not develop. Plants showing definite hybrid vigor or a definitely different type from the inbred or parent being inspected shall be classified as definitely off-type.

(b) For inbred lines, an isolation in which more than one-tenth of one percent (one per one thousand) of definitely off-type plants have shed pollen, when at the same time more than five percent of the plants have apparently receptive silks, shall not be certified.

(c) For single crosses, an isolation in which more than one-tenth of one percent of definitely off-type plants are present in the seed parent, when the silks have turned brown, shall not be eligible for certification.

(d) Sucker tassels and portions of tassels of off-type plants shall be counted as shedding pollen when two inches or more of the central stem, the side branches, or a combination of the two has the anthers extended from the glumes.

**WSR 96-11-124**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed May 21, 1996, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-07-085.

Title of Rule: Certification standards and fees, WAC 16-316-474 and 16-316-724.

Purpose: Amend standards under which buckwheat, chick pea, field pea, lentil, millet, soybean, sorghum and small grain seeds may be certified, and amending fees for inspection and certification activities of the department. In

addition, WAC 16-316-724(2) was rewritten for clarity. No actual amendments to this section are proposed.

Statutory Authority for Adoption: RCW 15.49.310.  
 Statute Being Implemented: Chapter 15.49 RCW.

Summary: Change the land standards minimum years for foundation class grains from one to two years; change isolation standards minimum feet for foundation class grains from ninety feet to three feet; add an isolation requirement of ninety feet between foundation class field of the same species.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South First Street, Yakima, WA, (509) 575-2750.

Name of Proponent: Washington Seed Council, Washington/North Idaho Seed Association, Washington State Crop Improvement Association, Washington State Department of Agriculture, private and governmental.

Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement and Fiscal Matters: The fee increase in the proposal is within the 1997 fiscal growth factor.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amend standards under which buckwheat, chick pea, field pea, lentil, millet, soybean, sorghum and small grain seeds may be certified; increase fees for inspection and certification activities of the department. The purpose is to change the growing conditions necessary to produce seed which is true to type, the effects will be to enhance seed quality and marketability.

Proposal Changes the Following Existing Rules: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not a significant impact on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Washington State Department of Agriculture, Agricultural Service Center, 2015 South First Street, Yakima, WA, on June 25, 1996, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 17, 1996, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Max Long, Department of Agriculture, 2015 South First Street, Yakima, WA 98903-2263, FAX (509) 454-4395, by June 25, 1996.

Date of Intended Adoption: June 29, 1996.

May 17, 1996  
 Julie Sandberg  
 Assistant Director

**AMENDATORY SECTION** (Amending Order 5087, filed 10/25/95, effective 11/25/95)

**WAC 16-316-474 Buckwheat—Chickpea—Field pea—Lentil—Millet—Soybean—Sorghum—Small grain—Application and fees.** (1) An application for seed certification with application fee, field inspection fee, and late application fee (if due) for each field shall be filed by or for each grower with Washington State Crop Improvement

Association, Inc., the certifying agency for seeds of buckwheat, chickpea (garbanzo beans), field pea, lentil, millet, soybean, sorghum and small grains.

(2) Due dates:

- (a) Buckwheat - June 1
- (b) Field pea - June 1
- (c) Chickpea - June 1
- (d) Lentil - June 1
- (e) Millet - June 1
- (f) Soybean - July 1
- (g) Sorghum - July 15
- (h) Small grains - June 1 for both winter varieties and spring varieties.

(i) After due date, an application with late application fee may be accepted for service.

(3) Fees:

- (a) Application fee per variety per grower ~~(\$16.82)~~ \$17.56
- (b) Field inspection fee per acre  
 except millet and hybrid sorghum . . . ~~(\$ 2.36)~~ \$ 2.46
- (c) Millet - first acre . . . . . ~~(\$25.00)~~ \$26.11  
 - each additional acre . . . . . ~~(\$ 5.00)~~ \$ 5.22
- (d) Hybrid sorghum - first acre . . . . . ~~(\$25.00)~~ \$26.11  
 - each additional acre . . . . . ~~(\$10.00)~~ \$10.44
- (e) Special field inspection fee per acre . . . ~~(\$ 2.10)~~ \$ 2.09
- (f) Late application fee . . . . . ~~(\$15.76)~~ \$16.46
- (g) Reinspection fee . . . . . ~~(\$31.53)~~ \$32.93

minimum for each field which did not pass field inspection plus \$ 0.40 for each acre over twenty-five. The reinspection fee for isolation requirements only for a field of any size is ~~(\$31.53)~~ \$32.93.

(h) Final certification fee . . . . . ~~(\$ 0.24)~~ \$ 0.215 per cwt. of clean seed sampled, which shall be charged to conditioning plant, or production fee . . . . . \$0.105 per cwt. of production from fields inspected which is utilized for seed, which shall be charged to the grower or the final seller prior to brokerage, retail sale, sale to plant not approved for conditioning certified seed, or transshipment out-of-state.

(i) Sampling fee . . . . . \$0.105 per cwt. of clean seed sampled, with minimum charge of ten dollars per sample, which shall be charged to conditioning plant in lieu of mechanical sampling.

(4) A field may be withdrawn upon notification by the applicant to the certifying agency's office before field inspection. In such case, the field inspection fee shall be refunded upon request until June 30 of the year following harvest.

(5) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

PROPOSED

**AMENDATORY SECTION** (Amending Order 5019, filed 11/23/93, effective 12/24/93)

**WAC 16-316-724 Small grains standards.** (1) Small grains (barley, oat, rye, triticale, wheat) - land, isolation, and field standards:

CLASS	LAND STANDARDS	ISOLATION STANDARDS	FIELD STANDARDS		
	MINIMUM YEARS	MINIMUM FEET	OFF-TYPE MAXIMUM HEAD RATIO	OTHER CROP MAXIMUM HEAD RATIO	WILD OAT MAXIMUM PLANTS/ACRE
Foundation	<del>((1*))</del> <u>2*</u>	<del>((90**))</del> <u>3**</u>	None found	None found***	None found
Registered	1*	3**	1/148,000	1/148,000***	5
Certified	1*	3**	1/49,000	1/49,000***	5

- \* Waived if the previous crop was grown from an equal or higher certified class of seed of the same variety.
- \*\* Refers to distance from other small grain fields. Foundation class fields shall be isolated ninety feet from fields of the same species. In addition, each rye field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other rye fields by six hundred sixty feet. Each triticale field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other triticale, rye and wheat fields by three hundred feet for foundation and registered class, and three feet for certified class, unless otherwise stated by plant breeder.
- \*\*\* Refers to other small grains, except that no rye or triticale is permitted in barley, oat, or wheat; no vetch is permitted.

(2) Small grains - seed standards:

CLASS	<del>((OTHER SMALL GRAINS AND/OR OFF TYPE</del>	<del>PURE SEED MINIMUM (2)</del>	<del>INERT MAXIMUM</del>	<del>OTHER CROP MAXIMUM (3)</del>	<del>WEED MAXIMUM</del>	<del>GERMINATION MINIMUM</del>
	<del>MAXIMUM (1) SEEDS/LB</del>	<del>%</del>	<del>%</del>	<del>%</del>	<del>%</del>	<del>%</del>
Foundation	<del>None found</del>	<del>98.00</del>	<del>2.00</del>	<del>None found</del>	<del>0.01**</del>	<del>85.00</del>
Registered	<del>2</del>	<del>98.00</del>	<del>2.00</del>	<del>0.03</del>	<del>0.01**</del>	<del>85.00</del>
Certified	<del>4</del>	<del>98.00</del>	<del>2.00</del>	<del>0.05</del>	<del>0.03**</del>	<del>85.00</del>

~~No rye, vetch, or triticale is permitted in barley, oat or wheat; no rye or vetch is permitted in triticale; no vetch or triticale is permitted in rye.~~

- ~~(1) Based on 500 grams examined.~~
- ~~(2) Based on 100 grams examined.~~
- ~~(3) Excluding off types and other small grains.~~

~~Note: For all classes the purity analysis shall be based on 100 grams examined. For Registered and Certified classes, noxious weed, vetch, off type, and other small grain determinations shall be based on 500 grams examined. For Foundation class, noxious weed, vetch, off type, and other small grain determinations shall be based on two pounds examined.~~

~~\*\* Other tolerances for weed seed:~~

	<del>OBJECTIONABLE WEED SEED</del>	<del>WILD OAT</del>
	<del>MAXIMUM</del>	<del>MAXIMUM</del>
Foundation	<del>None found</del>	<del>None found</del>
Registered	<del>None found</del>	<del>None found</del>
Certified	<del>1/lb</del>	<del>None found, except 1/lb in oat)</del>

Class:

	<u>Foundation</u>	<u>Registered</u>	<u>Certified</u>
<u>Pure seed (min)</u>	<u>98%</u>	<u>98%</u>	<u>98%</u>
<u>Inert (max)</u>	<u>2%</u>	<u>2%</u>	<u>2%</u>
<u>Off-type(*) (max)</u>	<u>None found</u>	<u>2/lb</u>	<u>4/lb</u>
<u>Other small grain(*) (max)</u>	<u>None found</u>	<u>1/lb</u>	<u>2/lb</u>
<u>Other crop(**) (max)</u>	<u>None found</u>	<u>0.03%</u>	<u>0.05%</u>
<u>Weed seed (max)</u>	<u>0.01%</u>	<u>0.01%</u>	<u>0.03%</u>
<u>Objectionable weed seed(***) (max)</u>	<u>None found</u>	<u>None found</u>	<u>1/lb</u>

PROPOSED

Wild oat (max)  
Germ or TZ (min)

None found  
85%

None found  
85%

None found(\*\*\*\*)  
85%

(\*) The combination of other small grain and off-type shall not exceed 2/lb for Registered class, and 4/lb for Certified class. No rye, triticale, or vetch is permitted in barley, oat, or wheat. No rye or vetch is permitted in triticale. No triticale or vetch is permitted in rye.

(\*\*) Excluding off-type and other small grain.

(\*\*\*) Excluding wild oat.

(\*\*\*\*) 1/lb for Certified class oat.

Note: For all classes the purity analysis shall be based on 100 grams examined. For Registered and Certified classes, noxious weed, vetch, off-type, and other small grain, determinations shall be based on 500 grams examined. For Foundation class, noxious weed, vetch, off-type, and other small grain determinations shall be based on two pounds examined.

PROPOSED

**WSR 96-11-127**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)  
[Filed May 21, 1996, 4:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-06-008.

Title of Rule: WAC 388-270-1125 Determination of intent.

Purpose: Establishes rule for determining intentionally caused overpayments.

Statutory Authority for Adoption: RCW 74.08.331.

Statute Being Implemented: RCW 74.08.331.

Summary: Corrects the statement that says the "department" may rebut the department's assumptions that an overpayment was intentionally caused. It should say "the recipient may rebut the department's assumption."

Reasons Supporting Proposal: This proposal corrects an error in the text.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Virginia Paynter, DIA/OAP, (360) 438-8319.

Name of Proponent: Division of Income Assistance, 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: To assist department employees to determine intentional overpayments. To establish criteria by which department can make an assumption of intention. To allow the recipient the right to rebut that presumption.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No effect on small business. Rule falls under the exceptions in RCW 19.85-.025.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not apply to the Department of Social and Health Services. The Department of Social and Health Services is not identified within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street South, Olympia, WA 98504, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry Kogut, Supervisor, by June 11, 1996, TDD (360) 753-0625, or (SCAN) 753-0625.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118, by June 18, 1996.

Date of Intended Adoption: June 26, 1996.

May 21, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3704, filed 2/9/94, effective 3/12/94)

**WAC 388-270-1125 Determination of intent.** (1) Recipients of public assistance shall notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department. When the department finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, ~~((#))~~ the department shall presume that such act was done intentionally.

(2) The department shall secure evidence regarding a misstatement or failure to reveal pertinent facts or circumstances, when ~~((ever))~~ possible, to determine if the act was committed intentionally. In the absence of further evidence, the presumption is not overcome; however, the ~~((department))~~ recipient may rebut such presumption.

**WSR 96-11-128**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed May 22, 1996, 9:00 a.m.]

Supplemental Notice to WSR 96-07-030.

Preproposal statement of inquiry was filed as WSR 95-21-094.

Title of Rule: Chapter 308-93 WAC, Vessel registration and certificates of title.

Purpose: To memorialize consent decree entered in *United States v. Washington*, Civ. No. 9213-Phase I-Sub 88-1 entered on November 28, 1994, and signed by the United States, the signatory tribes, and the state of Washington.

Statutory Authority for Adoption: RCW 88.02.100.

Statute Being Implemented: RCW 82.49.020 and chapter 88.02 RCW.

Summary: The consent decree set forth the provisions under which the signatory Indian tribes are exempt from the state of Washington watercraft excise tax and for maintaining Indian tribal vessel registration requirements for vessels used in their treaty fisheries.

Reasons Supporting Proposal: Without admission or adjudication of any covered claims, the parties have agreed to the provisions as specifically set forth in the consent decree.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, HLB, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Sandra Britton, HLB, 1125 Washington Street S.E., Olympia, WA, (360) 902-3811; and Enforcement: Nancy Kelly, HLB, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: State of Washington, Signatory Indian Tribes, United State Department of Justice, United States Western District Court at Seattle, governmental.

Rule is necessary because of state court decision, *United States v. Washington*, Civ. No. 9213-Phase I-Sub 88-1 entered on November 28, 1994.

Explanation of Rule, its Purpose, and Anticipated Effects: New sections WAC 308-93-700 through 308-93-770 proposed for adoption in chapter 308-93 WAC are proposed to implement the consent decree entered in *United States v. Washington*, Civ. No. 9213-Phase I-Sub 88-1 entered on November 28, 1994, and signed by the United States, the signatory Indian tribes, and the state of Washington.

Proposal Changes the Following Existing Rules: WAC 308-93-010, correct punctuation error; and WAC 308-93-050, amendment to indicate vessels owned by Indian tribes and tribal members are exempt from registration, titling, and assessment of excise tax pursuant to chapters 82.49 and 88.02 RCW as provided in that certain consent decree proposed for adoption in proposed WAC 308-93-700 through 308-93-770.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not impose costs on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are exempt from section 201, chapter 403, Laws of 1995 (RCW 34.05.328) pursuant to subsection (5)(b)(ii). The proposed rules relate only to internal governmental operations and are not subject to violation by a nongovernment party.

Hearing Location: Room No. 301, Third Floor East, Highways-Licenses Building, 1125 Washington Street S.E., Olympia, WA, on June 25, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by June 24, 1996, TDD (360) 664-8885.

Submit Written Comments to: Jack Lince, Department of Licensing, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 902-3773, by June 24, 1996.

Date of Intended Adoption: June 27, 1996.

May 22, 1996  
Nancy Kelly  
Administrator

AMENDATORY SECTION (Amending WSR 92-24-035, filed 11/25/92, effective 12/26/92)

**WAC 308-93-010 Definitions.** Unless the context clearly indicates otherwise, the following definitions apply to the rules in this chapter:

(1) "Alien vessel" means a vessel owned by a resident of a country other than the United States.

(2) "Carpenter certificate" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(3) "Commercial fishing vessel" means a vessel primarily used for commercial or charter fishing.

(4) "Declaration of value form" means the department of revenue form used to declare the value for purposes of assessing excise tax when a vessel is acquired by lease, trade, gift, homemade, or the most recent purchase price is not known to declare the value for purposes of assessing excise tax.

(5) "Director" means the director of the department of licensing.

(6) "Documented vessel" means a vessel that is documented by the United States Coast Guard and is issued a valid marine certificate.

(7) "Exclusively" means solely and without exception.

(8) "Foreign vessel" means a vessel owned by a resident of another state registered in accordance with the laws of the state in which the owner resides.

(9) "Legal owner" means a person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12.095 or the registered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest.

(10) "Lifeboat" means craft used exclusively for lifesaving purposes.

(11) "Manufacturer's statement of origin (MSO)" means a certificate issued by a manufacturer describing the vessel for which such certificate is issued and certifying the first conveyance of said vessel after its manufacture.

(12) "Overall length" means a straight line measurement of the overall distance from the foremost point of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins or boomkins, rudders, outboard motor brackets, outdrive units, propellers, and similar fittings or attachments are not included in the measurement.

(13) "Prebill" and "no bill" means the notice to renew a vessel registration that is mailed by the department to the registered owner.

(14) "Previous ownership document" means the last issued certificate of title and/or registration.

(15) "Primarily" means the principal purpose for which a vessel is used when considered in conjunction with all of its uses.

(16) "Propulsion machinery" means any device providing motion to a vessel through such means as combustion, steam, or electric machinery.

(17) "Registered owner, owner," synonymous terms used interchangeably, mean a person who has a lawful right to possession of a vessel, whether or not the vessel is subject to a security interest.

(18) "Tender" means a craft used exclusively to furnish transportation from a larger vessel to shore and return.

(19) "Use of waters" means to navigate, operate, employ, or moor any vessel upon the waters.

(20) "Valid marine document" means a document issued by the United States Coast Guard which declares a vessel to be a documented vessel of the United States.

(21) "Vessel data form" means the information application completed by the applicant showing all required description data for the vessel registration and title.

(22) "Waters of this state" means any waters within the territorial limits of this state.

(23) "Time share(=) charters" means leased vessels where none of the parties leasing the vessel under a "time share" option agreement are acquiring an equity in the vessel and there is no option to buy.

(24) "Houseboat" means any vessel as defined in RCW 88.02.010(1) and does not mean any building on a float used in whole or in part for human habitation as a single-family dwelling which is not designed for self propulsion by mechanical means, or for propulsion by means of wind, nor propelled by mechanical means or wind.

(25) "Cruising license" means an annual certificate issued by U.S. customs service pursuant to 19 C.F.R. Sec. 4.94, which exempts pleasure boats from certain countries from formal entry and clearance procedures, from payment of tonnage tax and clearance fees at all but the first port of entry.

**AMENDATORY SECTION** (Amending WSR 93-14-082, filed 6/30/93, effective 7/31/93)

**WAC 308-93-050 Vessels exempted from registration, excise tax and titling.** The following vessels are exempt from registration, titling, and the assessment of excise tax:

(1) Vessels exempt from registration (~~under~~) pursuant to RCW 88.02.030;

(2) Vessels that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation, unless the vessel is physically located in this state for a period of more than sixty days in any twelve-month period. A vessel that is validly registered in another state but is removed to this state for principal use is subject to titling, registration and assessment of excise taxes, unless otherwise exempt;

(3) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States, including but not limited to:

(a) Commercial fishing vessels;

(b) Barges;

(c) Charter vessels, including, bare boat and time share charters.

(4) Vessels owned by Indian tribes and tribal members as provided in WAC 308-93-700 through 308-93-770.

**NEW SECTION**

**WAC 308-93-700 Purpose.** WAC 308-93-700 through 308-93-770 are adopted to implement the Consent Decree entered in *United States v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 entered on November 28, 1994, and signed by the United States, the signatory tribes, and the

state of Washington. These rules do not repeat all of the sections of the Consent Decree and are not intended to set out all of the requirements and provisions of the Consent Decree. Nothing in these rules is intended to enact any rules inconsistent with the Consent Decree or to alter in any way the state of Washington's obligations under the Consent Decree. In the event of conflicting provisions, interpretations, or applications between these rules and the Consent Decree, resolution shall give precedence to the Consent Decree.

**NEW SECTION**

**WAC 308-93-710 Definitions.** The following terms used in WAC 308-93-700 through 308-93-770 shall have the meaning given to them in this section unless the context clearly indicates otherwise:

(1) "Indian tribe" and "tribal" means the Indian tribes which are signatory to the Consent Decree entered in *United State v. Washington*, Civ. No. 9213 - Phase I - Sub. 88-1 entered on November 28, 1994, including: Lower Elwha S'Klallam Tribe, Hoh Tribe, Jamestown S'Klallam Tribe, Lummi Nation, Makah Tribe, Muckleshoot Tribe, Nisqually Tribe, Nooksack Tribe, Port Gamble S'Klallam Tribe, Puyallup Tribe, Quileute Tribe, Quinault Indian Nation, Sauk-Suiattle Tribe, Skokomish Tribe, Squaxin Island Tribe, Stillaquamish Tribe, Suquamish Tribe, Swinomish Indian Tribal Community, Tulalip Tribes, Upper Skagit Tribe, and Yakama Nation.

(2) "Tribal member(s)" means those persons duly enrolled in the Indian tribes identified in subsection (1) of this section.

(3) The terms "vessels" or "boats" are synonymous and mean watercraft used in connection with the exercise of federally secured fishing rights.

(4) All other terms have the same meaning as used in chapter 88.02 RCW and chapter 308-93 WAC.

**NEW SECTION**

**WAC 308-93-720 Indian tribe exempt vessels.** (1) State ad valorem property and watercraft excise taxes shall not be imposed upon any vessel owned by a tribal member(s) and used in connection with the exercise of federally secured fishing rights, so long as the member's tribe imposes a treaty, fishing rights-related tax. The taxes also shall not apply to tribally owned boats used in connection with or in activities related to the exercise of tribal fishing rights, including but not limited to, management, regulation or enforcement thereof.

(2) State registration, numbering, and fee requirements otherwise applicable to a nontreaty vessel, shall not be applied to any tribally owned vessel or vessel owned by a tribal member(s) which is used in the exercise of treaty fishing rights and is tribally registered.

**NEW SECTION**

**WAC 308-93-730 Indian tribe vessel numbering system.** (1) A tribal vessel number conforming to the specifications of 33 C.F.R. sections 173.27 and 174.23 and a certificate of number conforming to 33 C.F.R. section 174.19, shall be assigned, and a "decal" shall be issued for

each Indian tribe and tribal member vessel and displayed thereon. Upon agreement of the Coast Guard and Indian tribes, different specification may be established for treaty fishing vessels.

(2) Each tribe shall be entitled to a block of numbers with a unique tribal suffix. Each tribe may select a unique, three-letter suffix for its state or tribally produced vessel number, unless otherwise agreed upon by the Coast Guard. The vessel numbers shall otherwise be of the same size and placed in the same location as specified for those vessels registered pursuant to chapter 88.02 RCW. The department shall not issue a plaque, sticker, or other form of number or annual registration to affix to a numbered vessel.

(3) The decal may be unique to each tribe, so long as otherwise conforming to the Coast Guard specifications regarding size and color. A tribe may choose to use department issued decals.

(4) By June 1st of each year, the department will provide each Indian tribe a list of vessel numbers, and state decals if the Indian tribe so requests, in the quantity, and with any particular three-letter suffix specified by the Indian tribe. Such quantity shall be sufficient to enable each Indian tribe to issue a vessel number to each of its tribal fishers for the vessels they use in the treaty fishery. Notwithstanding the foregoing, the department need not provide an Indian tribe the list of vessel numbers and decals sooner than thirty days after the Indian tribe has advised the department of its number and decal requirement.

(5) Failure of the department to provide a list of vessel numbers requested by an Indian tribe in the time frames outlined in this section shall not preclude the Indian tribe or tribal fishermen from lawfully fishing pursuant to the treaty fishing right, and shall be a complete defense in any action by the state to enforce its tax or vessel registration laws until the state complies with the terms of this section.

#### NEW SECTION

##### **WAC 308-93-740 Indian tribe vessel registration.**

Tribal and treaty fishing vessels shall be deemed by the state and Coast Guard to be properly registered so long as the following conditions are met:

(1) The individual tribal member has provided the Indian tribe of which he or she is a member, on forms satisfactory to the Indian tribe and the state information listed in subsection (3) of this section; and

(2) The appropriate Indian tribe has approved registration of the vessel and so advised the department, on agreed to forms, containing all the information about the vessel and its owner which the Indian tribe is required to collect pursuant to subsection (3) of this section;

(3) Contents of form for registration of Indian tribe vessel:

(a) Name and address of the owner, including zip code;

(b) State in which vessel is or will be principally used;

(c) The number previously issued by an issuing authority for the vessel, if any;

(d) Whether the application is for a new number, renewal of a number, or transfer of ownership;

(e) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial

passenger carrying, commercial fishing, or other commercial use;

(f) Make of vessel;

(g) Year vessel was manufactured or model year;

(h) Manufacturer's hull identification number, if any;

(i) Overall length of vessel;

(j) Type of vessel (open, cabin, house, or other);

(k) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other;

(l) Whether the propulsion is inboard, outboard, inboard-outdrive, sail, or other;

(m) Whether the fuel is gasoline, diesel, or other;

(n) The signature of the owner;

Application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit (f) through (m) of this subsection. An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit (l) and (m) of this subsection;

(4) The registering Indian tribe may issue a vessel number from the list obtained from the department, upon tribal approval of a tribal member's registration application; and such registration, which shall be for a term of one year, shall be in immediate effect and remain in effect until suspended or revoked by the tribe in accordance with the procedure set forth in WAC 308-93-750, or for any other reason the tribe determines appropriate.

#### NEW SECTION

**WAC 308-93-750 Improper Indian tribe registration.** (1) The department may object to and/or seek revocation of tribal issuance of a registration only if it appears that:

(a) Inaccurate or false information has been submitted; or

(b) Information required pursuant to WAC 308-93-740(3) is omitted; or

(c) The department obtains information that the vessel is stolen or otherwise is not beneficially owned by the registrant.

(2) The department shall serve notice upon the Indian tribe that the registration appears to be improper and the department's objection thereto either in person or by certified mail, return receipt requested. The Indian tribe shall within thirty days of receipt of the notice provide the information requested, take the requested action, clarify any misunderstanding, or inform the department that the tribe does not intend to take the action requested or provide the requested information.

(3) The department may request a tribally issued registration and number be revoked at any time should information demonstrate the information originally submitted was false, inaccurate, the vessel is stolen or not beneficially owned by the registrant. The registrant and Indian tribe shall have a reasonable opportunity to correct inaccurate information.

(4) Nothing herein shall act to revoke, nor shall any Indian tribe be required to revoke, the registration, number, and vessel decal issued by the Indian tribe to the tribal member until all dispute resolution procedures have been exhausted. If the state establishes the registration is improper

er, the Indian tribe shall revoke the registration, plaque, and decal.

#### NEW SECTION

**WAC 308-93-760 Indian tribe vessel computer data base.** (1) Each Indian tribe shall forward the proper forms and documentation to the department, attention: Vehicle licensing, within five working days after approval of the registration. The department shall store the registration data in a computer system, with twenty-four-hour availability, and procedures which will limit access to civil or criminal law enforcement entities seeking information for law enforcement purposes.

(2) If an Indian tribe becomes aware that information regarding a vessel authorized by that tribe to participate in the treaty fishery, and contained in the department vessel identification system, or the vessel identification system of another Indian tribe, may be erroneous or incomplete and should be corrected, the tribe will promptly notify the department or the tribe which operates the identification system. The notice to the department and the other Indian tribe shall state the reasons why it is believed the system information is incorrect or incomplete. The notifying tribe shall also identify the correct or additional information the tribe believes should be entered into the system. The department shall respond promptly to each such notice regarding inaccurate or incomplete information, explaining what, if any, changes or corrections have been made.

#### NEW SECTION

**WAC 308-93-770 Disclosure of Indian tribal vessel data.** (1) Indian tribes and tribal member vessel registration data shall be stored in the department's computer system, with twenty-four-hour availability, and procedures which will limit access to civil or criminal law enforcement entities seeking information for law enforcement purposes. Unless ordered by a court of competent jurisdiction, no access by business persons or other private individual shall be permitted unless the treaty fisher or tribe has authorized such release of information in writing. Release of information may be made to other persons or groups when specifically authorized in writing by all persons identified in the information to be released.

(2) Access to Indian tribe information shall be available via a modem, or other suitable electronic format, to all state, tribal, federal, and foreign law enforcement agencies. Information available by computer shall not be considered in the possession or control of any other party. On-line access is authorized between and among all parties' vessel registration information systems to permit state, tribal, and federal enforcement personnel to directly obtain vessel registration information from the various governments' vessel information systems, regarding treaty and nontreaty vessels. No altering of another party's information shall be made without that party's consent.

(3) The state shall defend against any private party's attempt to establish a legal right to obtain tribal registration data, shall notify the affected Indian tribe of any such private party claim at the time the claim is made, and shall keep the Indian tribe informed as to the status of the matter.

**WSR 96-11-131**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
[Filed May 22, 1996, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-08-050.

Title of Rule: Adult family home resident managers and providers.

Purpose: Chapter 18.48 RCW creates a new regulated profession, adult family home providers and resident managers. This rule will establish fees, time periods and procedures for the registration of providers and resident managers, not included in statutory language.

Other Identifying Information: The rule is being proposed in accordance with HB 2152, chapter 18, Laws of 1996.

Statutory Authority for Adoption: Chapter 18.48 RCW.  
Statute Being Implemented: Chapter 18.48 RCW.

Summary: This rule establishes a registration and renewal program for adult family home providers and resident managers. It requires AIDS education and training and establishes fees for adult family home registration and renewal. Further, this rule permits application of the Uniform Disciplinary Act, chapter 18.130 RCW, which allows management of unprofessional conduct.

Reasons Supporting Proposal: Prior to the adoption of HB 2152, this was an unregulated profession. Persons engaged in unprofessional conduct could not be disciplined or have their license revoked.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Hayes, P.O. Box 47869, Olympia, WA 98504, (360) 664-3245.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule establishes a registration and renewal program for adult family home providers and resident managers. It provides for proof of AIDS education and training and establishes fees for registration and renewal. It would have the effect of bringing this nonregulated profession under the disciplinary guidelines of the Uniform Disciplinary Act, which establishes a mechanism for managing unprofessional conduct. While the Department of Health now registers this profession, the Department of Social and Health Services licenses the facilities for service. The dual relationship provides the public with protections previously not available.

Proposal does not change existing rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### SMALL BUSINESS ECONOMIC IMPACT STATEMENT

**Background:** Proposed new rules will govern adult family home providers and resident managers who are responsible for services to residents in adult family homes

PROPOSED

licensed by the Department of Social and Health Services (DSHS). Rules implement chapter 18.48 RCW.

The DSHS licenses adult family homes but does not have authority to discipline individuals for unprofessional conduct. The industry, represented by an association of adult family homes, lobbied the legislature to create a new law that brought adult family home providers and resident managers under the authority of the Secretary, Department of Health (DOH), in order to bring this group under the Uniform Disciplinary Act (UDA), chapter 18.130 RCW. The purpose of this is to assure the public of adequate conduct by the individuals registered with DOH as a health professional. The estimated number of providers and resident managers is 2,300.

State law requires that health professions be funded by individual members of the profession and not be solely funded through the state general fund. The DOH must charge a fee adequate to cover costs of governing a health profession. Licensing and disciplinary costs are funded primarily through registration application fees and registration renewal fees. The DOH determined its cost for the first year of implementation to be \$90 per registration application and \$85 per registration renewal. The late renewal penalty fee of \$50 is determined by Health Professions Quality Assurance Division policy. If an annual renewal is \$51 to \$100, the late renewal penalty fee is \$50 flat fee. Imposition of a late renewal penalty fee is to deter unlicensed practice. This is a new health profession and therefore, providers and resident managers have not previously had the burden of paying these fees.

Since July 1, 1990, adult family home providers have paid licensing fees to DSHS in order to accept residents into an adult family home. The DSHS licensing fee of \$50 for both first license and annual renewal and \$50 application fee means that the individual, partnership, corporation, or other entity seeking a license from DSHS to operate an adult family home must pay these fees to DSHS. DSHS is not required to charge a fee adequate to cover costs, but receive moneys from the state general fund.

Since 1988, health professionals have been required to comply with the AIDS Omnibus Act, chapter 70.34 RCW. Because adult family home providers and resident managers are now health professionals, they must also comply with the requirement for HIV/AIDS education.

The impact of the proposed rule, \$90 for application and \$85 for annual renewal, is reasonable for the amount of projected expenditure noted in the fiscal note information relating to 1995 and 1996 legislative actions which created and amended chapter 18.48 RCW. The law shall take effect July 1, 1996.

**Impact to Small Business: (A) Reporting, record-keeping and professional services:**

The registration activity can be broken down into four clerical steps.

1. Requesting an application form. Applicants will either phone DOH, mail a written request or personally visit DOH to obtain an application form. Application forms are generally mailed out by third class mail. Initially, applications will be mailed to approximately 2,000 DSHS licensed adult family homes. DOH will also mail out applications upon request.

2. Filling out an application and mailing to DOH or bring to DOH personally. The components of the application form are in compliance with the uniform application policy for health professionals regulated by DOH through Health Professions Quality Assurance Division.

(a) Application form includes: Applicant's name; mailing address; telephone number; birthdate; other names the applicant has used; history of previous licenses in any state; nine personal data questions; if a corporation, copies of articles of incorporation and current bylaws together with names and addresses of its officers and directors; certification of completion of HIV/AIDS education and training.

(b) Application form includes applicant's attestation that the applicant has read the UDA, answered questions truthfully and completely, and that documentation provided to support application is accurate. The attestation includes authorization for release to DOH of any information or records required by DOH in connection with processing the application. The attestation includes an affirmation that the applicant will keep DOH informed of any criminal charges or physical or mental condition which jeopardizes the quality of care to the public. The attestation includes an agreement that the application agrees that false or misleading information on the application constitutes cause for denial, suspension or revocation of registration.

(c) Preparing a check, money order or cash in the amount of the appropriate registration fee and mailing to DOH or bring to DOH personally. Registration fee of \$90 to be calculated by applicant and DOH based upon the time between date of application and date of next birthdate. In the case of providers that are not individuals, the next birthdate will be designated as July 1.

3. Receiving the registration. Registrations are customarily mailed out by first class postage. Record keeping for some might include making a copy of the registration for mailing to DSHS for licensure application. Other costs might include staff cost to maintain files on resident managers employed by providers.

4. Application for renewal. Preparing a check, money order or cash in the amount of the annual renewal fee and mailing to DOH or bring to DOH personally.

**(B) Costs of compliance, including costs of equipment:** Costs of compliance include the time to fill out an application, postage cost and cost to obtain the HIV/AIDS education.

1. Fill out application and postage

(a) time to fill out application, avg. salary of \$20/hr for .25 hr—\$5.00

(b) postage for first class mail—\$0.32

2. Submit application and renewal fees.

(a) time to prepare payment, avg. salary of \$20/hr for .08 hr—\$1.60

(b) fee calculation—\$90.00 application fee for one full year to \$93.00 (\$8.00 prorate of application fee for one month plus \$85.00 annual renewal).

3. Obtain HIV/AIDS education

(a) cost of course—\$0.00 to \$89.00 \*

(b) cost of staff to care for residents in home while at training, avg. salary of \$20/hr for 8 hrs—\$0.00 to \$160.00

Total range of costs: \$95.32 to \$347.32

\* It should be noted that DSHS requires providers and resident managers to take a caregiving training course sponsored by DSHS. The \$89 cost to businesses is a cost that is imposed by DSHS. The DSHS course contains other education required for licensure by DSHS as well as the elements of HIV/AIDS education which satisfy requirements of DOH. Some applicants will already have the required HIV/AIDS education through another health profession regulation and will not need to get training again.

**(C) Consideration of whether compliance will cause businesses to lose revenue:**

Denial or revocation of a registration would cause a business to lose revenue if DSHS denied, delayed or revoked a license to operate an adult family home subsequent to DOH denial or revocation of registration. However, denial or revocation would only happen if DOH had proof that a public health risk existed. The process would include an opportunity for the applicant or registered provider or resident manager to contest charges of unprofessional conduct. The choice to incur costs would be made by the applicant or registered person. Compliance with the UDA will allow businesses to participate in the industry.

**(D) Comparison of the cost of compliance for small businesses and the cost of compliance for 10% of the largest businesses who must comply:**

RCW 19.85.020 defines small businesses. All businesses in the industry employ less than fifty employees, therefore all qualify as a small business. There cannot be a disproportionate cost to small business.

**(E) Steps taken by the agency to reduce the costs of the rule on small businesses or reasonable justification for not doing so:**

DOH will implement a method to prorate initial registration fee. Therefore, not all applicants will pay the full \$90 fee for registration application. Some will pay as little as \$8 for one month and then pay the annual renewal fee of \$85. Other than this accommodation to concerns of small businesses, the DOH has reasons for not mitigating small business costs. The proposed rule establishes fees sufficient to cover the DOH cost of doing business as required by law.

1. Application fee amount is the minimal fee required to cover estimated start-up costs and cover a portion of anticipated disciplinary costs.

2. Renewal fee amount is the minimal fee required to cover a portion of anticipated disciplinary costs.

**(F) How the agency involved small businesses in the development of the rule:**

In conducting this small business economic impact statement, the DOH used information gathered from adult family home providers and resident managers now engaged in the business who attended public input meetings regarding the preliminary draft of the rules, written comments in response to the preliminary draft of the rules, DOH Office on AIDS, providers of HIV/AIDS education, DSHS Residential Care Services Division and DSHS Home and Community Services Division.

**(G) Provide a list of industries that will be required to comply with the rule:**

An estimated 2,300 individuals will be required to comply with the rules. These individuals are either providers or resident managers of adult family homes.

A copy of the statement may be obtained by writing to Barbara Hayes, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 664-3245, or FAX (360) 586-7774.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. This rule is legislatively significant under section 201, chapter 403, Laws of 1995, because it adopts a new regulatory program. The agency has conducted the additional analysis required under section 201.

Hearing Location: Rodeway Inn, 3000 South 176th Street, in the Rainier Room, Seattle, WA 98188, (206) 242-0200, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Barbara Hayes by June 18, 1996, TDD (800) 525-0127, or (360) 664-3245.

Submit Written Comments to: Barbara Hayes, FAX (360) 586-7774, by June 18, 1996.

Date of Intended Adoption: June 25, 1996.

May 21, 1996

Bruce A. Miyahara  
Secretary

**Chapter 246-328 WAC  
ADULT FAMILY HOME RESIDENT MANAGERS  
AND PROVIDERS**

NEW SECTION

**WAC 246-328-100 Registration.** (1) Initial registration of an individual who is a provider or resident manager is effective until the first birth date of the individual after initial registration. Each individual who is a provider or resident manager shall file a renewal application, including a renewal fee, with the department on or before the person's birth date each year. Renewal applications postmarked after the birth date are subject to a late renewal penalty.

(2) Initial registration of a corporation that is a provider is effective until July 1 of the year following initial registration. A corporation that is a provider shall file a renewal application, including a renewal fee, with the department on or before July 1 each year. Renewal applications postmarked after July 1 are subject to a late renewal penalty.

NEW SECTION

**WAC 246-328-150 Responsibility for maintaining mailing address on file with the department.** It is the responsibility of each registered provider and resident manager to maintain a current address on file with the department.

NEW SECTION

**WAC 246-328-200 HIV/AIDS prevention and information education requirements.** (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the department of health or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

PROPOSED

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(2) Application for registration. Persons applying for registration shall successfully complete the HIV/AIDS education requirements of subsection (3) of this section.

(3) HIV/AIDS education and training requirements.

(a) The secretary shall accept education and training that is consistent with the model curriculum available from the office on AIDS. Such education and training shall be a minimum of seven clock hours and shall include, but is not limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(b) The department shall accept the department of social and health services fundamentals of caregiving training or modified fundamentals of caregiving as meeting HIV/AIDS education requirements.

(4) Persons applying for registration shall attest to the department that HIV/AIDS education and training is successfully completed. If the person applying is a corporation, the corporation must verify and certify that the resident manager has successfully completed the minimum education and training.

**NEW SECTION**

**WAC 246-328-990 Fees for adult family home provider or resident manager.** The following fees shall be charged by the health professions quality assurance division of the department of health:

Title of Fee	Fee
Registration application	\$90.00
Registration renewal	85.00
Late renewal penalty	50.00
Duplicate registration	15.00
Verification of registration	15.00

**WSR 96-11-136**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Filed May 22, 1996, 10:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-18-021.

Title of Rule: Amendments to chapter 173-09 WAC, Coordinated permit process.

Purpose: Amendments provide for an expedited appeals at the Department of Ecology by which the timeliness of permit decision making (per a project-specific coordinated permit process timeline) can be appealed.

Statutory Authority for Adoption: RCW 90.60.140.

Statute Being Implemented: Chapter 90.60 RCW, Environmental permit assistance.

Summary: Implements RCW 90.60.140 and establishes an expedited appeals process at the Department of Ecology pursuant to (1) the state Administrative Procedure Act and (2) the provisions of RCW 34.05.425, [34.05].458, and [34.05].482 through 34.05.494 regarding "brief adjudicative proceedings." Expedited appeals process is for appealing the

timeliness of permit decision making (per a project-specific coordinated permit process timeline).

Reasons Supporting Proposal: Rule required under RCW 90.60.140.

Name of Agency Personnel Responsible for Drafting: Scott Boettcher, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7564; Implementation and Enforcement: Permit Assistance Center, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7037.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Amendments provide a process to appeal permit decision-making timeliness, not substance (e.g., issuance, denial, conditions, etc.). Substantive matters are addressed via existing adjudicative bodies, e.g., PCHB.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed rule amendments provide an expedited appeals process at the Department of Ecology by which the timeliness of permit agency permit decision making (i.e., per a project-specific coordinated permit process timeline) can be appealed. The proposed expedited appeals process follows the "brief adjudicative proceedings" procedures of the state Administrative Procedure Act. The proposed rule amendments are not intended to provide an additional appeals process for appealing actual permit decisions, e.g., issuance, denial, conditions, etc. Such appeals are beyond the scope of authorizing legislation (i.e., ESHB 1724, 1995 legislative session), and are addressed through such existing appeals mechanisms as the Pollution Control Hearings Board. The primary anticipated effect of the proposed rule amendments is that a mechanism is put in place whereby the timeliness of project-specific permit decision making (i.e., per a coordinated permit process permit decision-making timeline) can be appealed.

Proposal Changes the Following Existing Rules: Proposal amends chapter 173-09 WAC, Coordinated permit process. Proposed amendments provide a new appeals process under the state coordinated permit process, and do not modify existing provisions of the existing rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared for the proposed rule amendments because the proposed rule amendments are exempt from this requirement under section 401(2), chapter 403, Laws of 1995, as discussed below. The proposed rule amendments will not impose more than minor costs on small businesses because the amendments (1) are nonregulatory, (2) relate to an administrative hearings and appeals process, and (3) pertain to the optional, applicant-initiated state coordinated permit process. The proposed rule amendments also primarily affect the Washington Departments of Ecology, Fish and Wildlife, Health, Natural Resources, and the state's local air pollution control authorities (i.e., the coordinated permit process "permit agencies"), as these agencies will be the defendants, and thus subject to the penalty provisions of RCW 90.60.140(2), in appeals brought before the proposed expedited appeals process.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201, chapter 403, Laws of 1995, does not apply to the proposed rule amendments because the proposed rule amendments are not a "significant legislative rule" per section 201 (5)(a)(i), chapter 403, Laws of 1995. The state coordinated permit process is not a regulatory program, and does not meet the definition of a significant legislative rule in section 201 (5)(a)(iii). The proposed rule is a "procedural rule" because it establishes procedures, practices, and requirements related to agency hearings (i.e., adjudicative proceedings), per section 201 (5)(c)(i)(A), chapter 403, Laws of 1995. Rule making for the coordinated permit process includes rules relating only to internal governmental operations that are not subject to violation by a nongovernmental party; rules that adopt state statutes without material change; and rules the content of which is explicitly and specifically directed by statute. See section 201 (5)(b)(ii), (iii), and (v).

Hearing Location: On June 26, 1996, at 6:30 p.m., at the Ecology Spokane Office, 4601 North Monroe Street; and on June 27, 1996, at 6:30 p.m., at the Ecology Lacey Office, 300 Desmond Drive.

Assistance for Persons with Disabilities: Contact Scott Boettcher by June 24, 1996, (360) 407-7564, TDD (360) 407-6006.

Submit Written Comments to: Scott Boettcher, Washington Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, FAX (360) 407-6904, by July 8, 1996.

Date of Intended Adoption: July 22, 1996.

May 9, 1996  
Mary Riveland  
Director

**AMENDATORY SECTION** (Amending Order 95-13, filed 11/30/95, effective 12/31/95)

**WAC 173-09-010 Authority and purpose.** (1) This chapter is promulgated under the authority of chapter 90.60 RCW (Environmental permit assistance).

(2) The purpose of this chapter is to establish rules to implement the state coordinated permit process.

(3) The purpose of the coordinated permit process is to:

(a) Assist individuals, businesses, and public agencies in complying with environmental quality laws in an expedited fashion, without reducing protection of public health and safety and the environment;

(b) Promote effective dialogue and facilitate the transfer and clarification of technical information, while preventing duplication and minimizing potential conflict between applicable regulatory procedures;

(c) Ensure, where possible, that applicable permit requirements, criteria, and hearings and comment periods are identified, integrated, coordinated, and run concurrently, rather than consecutively;

(d) Promote active coordination of all applicable regulatory and land-use permitting procedures; and

(e) Provide consolidated, effective, and easier opportunities for members of the public to receive information and present their views about proposed projects.

(4) The coordinated permit process is optional for project proponents and intended to provide predictability, administrative consolidation, and, where possible, consolida-

tion of appeal processes. The process is not intended to replace individual laws, nor diminish the substantive decision-making role of individual jurisdictions. The process is also not intended to limit nor abridge the authority of individual permit agencies to make all decisions on all nonprocedural matters regarding their respective component permits, including but not limited to, the determination of permit application completeness, permit approval or approval with conditions, or permit denial.

(5) This chapter implements the requirements of RCW 90.60.140 and establishes an expedited appeals process pursuant to the state Administrative Procedure Act and the provisions of RCW 34.05.425, 34.05.458, and 34.05.482 through 34.05.494 regarding brief adjudicative proceedings.

**AMENDATORY SECTION** (Amending Order 95-13, filed 11/30/95, effective 12/31/95)

**WAC 173-09-020 Definitions.** The following definitions shall apply throughout this chapter, unless the context clearly requires otherwise:

(1) "Applicant" means any person or entity, including an agency, applying for a permit from a permit agency. For the purposes of this chapter, "applicant," "project applicant," and "project proponent" are synonymous terms.

(2) "Center" means the permit assistance center established in the department by RCW 90.60.030.

(3) "Coordinating permit agency" means the permit agency that is the lead agency for purposes of chapter 43.21C RCW (State Environmental Policy Act (SEPA)), or has the greatest overall jurisdiction over a project as determined under WAC 173-09-030 (coordinated permit process rule).

~~((3))~~ (4) "Department" means the department of ecology.

(5) "Lead agency" means the agency with the main responsibility for complying with SEPA's procedural requirements as set forth in WAC 197-11-758 (SEPA rules).

~~((4))~~ (6) "Participating permit agency" means a permit agency, other than the coordinating permit agency, that is responsible for the issuance of a permit for a project.

~~((5))~~ (7) "Permit" means any license, certificate, registration, permit, or other form of authorization required by a permit agency to engage in a particular activity.

~~((6))~~ (8) "Permit agency" means:

(a) The department of ecology, an air pollution control authority, the department of natural resources, the department of fish and wildlife, and the department of health; and

(b) Any other state or federal agency or county, city, or town that participates at the request of the permit applicant and upon the agency's agreement to be subject to this chapter.

~~((7))~~ (9) "Permit assistance center" or "center" means the center established in the department of ecology by RCW 90.60.030 (Permit assistance center—Duties).

~~((8))~~ (10) "Petitioner" means an applicant, person, or party filing an appeal pursuant to RCW 90.60.140.

(11) "Presiding officer" means the director of the department or any employee of the department designated in writing by the director as presiding officer.

(12) "Project" means a proposed activity, the conduct of which requires permits from one or more permit agencies.

(13) "Service" means posting in the United States mail, properly addressed, postage prepaid; telefacsimile transmission; or personal service. Service by mail is complete upon deposit in the United States mail. Service by telefacsimile transmission is effective only where copies are simultaneously mailed or sent by commercial service delivery company.

(14) "Time limits" mean project-specific permit decision dates set and agreed to by the applicant, the coordinating permit agency, each permit agency, and each participating permit agency, pursuant to RCW 90.60.070.

(15) "Timely action" means an action taken within the time limits, as defined by subsection (14) of this section.

#### NEW SECTION

#### **WAC 173-09-040 Brief adjudicative proceedings—Expedited appeal of coordinated permit process timelines.**

(1) *When will the department use brief adjudicative proceedings?* The department herein adopts by rule the provisions of RCW 34.05.425, 34.05.458, and 34.05.482 through 34.05.494, except where otherwise prohibited by law, for the following: Failure by a permit agency to take timely action on the issuance or denial of a permit in accordance with the time limits established pursuant to RCW 90.60.070. The department will use brief adjudicative proceedings for this matter where:

(a) Their use will not violate any provision of law;

(b) Protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties;

(c) The matter is entirely within one or more categories for which the department has, by rule, adopted the provisions of RCW 34.05.425, 34.05.458, and 34.05.482 through 34.05.494; and

(d) The issue and interests involved in the controversy do not warrant use of the procedures of RCW 34.05.413 through 34.05.479.

(2) *Who will preside over brief adjudicative proceedings held by the department?* The director of the department, or any employee of the department designated in writing by the director, may serve as presiding officer over matters which the department has by rule adopted the provisions of RCW 34.05.425, 34.05.458, and 34.05.482 through 34.05.494.

(3) *How are brief adjudicative proceedings conducted at the department?*

(a) What may be appealed? The following may be appealed: Failure by a permit agency to take timely action on the issuance or denial of a permit in accordance with the time limits established pursuant to RCW 90.60.070.

(b) How is an appeal initiated? Requests for appeal shall:

(i) Be in writing;

(ii) Be plainly labeled "request for expedited appeal of coordinated permit process timelines";

(iii) Specify the factual basis for the appeal and the issue to be adjudicated in the proceeding;

(iv) Identify the subject project or site;

(v) Provide the name, mailing address, telephone number, and fax number (if available) of the petitioner and, if known, the applicant (if different from the petitioner);

(vi) Include a statement, followed by the petitioner's signature, that the petitioner has read the request for appeal and believes the contents to be true; and

(vii) Be simultaneously served upon the following parties:

(A) The Washington State Department of Ecology; Permit Assistance Center; PO Box 47600; Olympia, WA 98504-7600;

(B) The coordinating permit agency for the subject project;

(C) The permit agencies and participating permit agencies party to the coordinated permit process timeline agreement established for the subject project or site pursuant to RCW 90.60.070; and

(D) The applicant, if different from the petitioner, for the subject project.

(c) Who may initiate an appeal? A request for appeal may be initiated by a petitioner pursuant to RCW 90.60.140.

(d) When may an appeal be initiated? A request for appeal may be initiated between the period of time when a permit agency or participating permit agency fails to act on the issuance or denial of a permit, as set forth in a coordinated permit process timeline agreement established pursuant to RCW 90.60.070, and when that permit agency or participating permit agency does act.

(e) What happens after the department receives a request for appeal? After the department receives a request for appeal, the presiding officer:

(i) Shall, within seven days following the date of service of the petitioner's request for appeal, serve upon the petitioner and parties identified in (b)(vii) of this subsection a written statement that:

(A) Acknowledges receipt of the petitioner's request for appeal;

(B) Requests submittal of the petitioner's and parties' written views on the matter; and

(C) States that submittal of written views must be made to the presiding officer within fourteen days following the date of service of such request for written views;

(ii) May, within seven days following the date for submittal of written views, either:

(A) Request that the petitioner and the parties submit additional written information within ten days following the date of service of such request for additional written information; or

(B) Require the parties to present their views on the matter in person at a hearing to be held not more than twenty days following the date of service of such requirement for a hearing, unless the date for such a hearing is extended by mutual agreement of the parties;

(iii) Shall, within ten days following the later of either the date for submittal of written views per (e)(i) of this subsection, or the date for submittal of additional written information per (e)(ii)(A) of this subsection, or the date for a hearing per (e)(ii)(B) of this subsection, serve upon the petitioner and the parties:

(A) A decision on the matter and a brief written statement explaining the reason for that decision; and

(B) A statement that the decision may be appealed to the pollution control hearings board pursuant to RCW 43.21B.110 (1)(f), 43.21B.230, and 43.21B.310(1); and

(iv) Shall discontinue the appeal process, and notify the petitioner and parties accordingly, if the subject permit agency acts on the issuance or denial of the subject permit or permits before conclusion of the appeal process per (e)(iii) of this subsection.

(4) *What happens after a brief adjudicative proceeding decision?* The center shall adopt the findings of the presiding officer, and if necessary implement the provisions of RCW 90.60.140.

(5) *Is there an official record of the proceeding?* The department record of brief adjudicative proceedings shall, at a minimum, consist of:

(a) The petitioner's request for appeal;

(b) All documents and written material submitted by the petitioner and parties at the request of the presiding officer;

(c) Any recording or written transcript made pursuant to a hearing requested and held by the presiding officer;

(d) All other documentation considered by the presiding officer in deciding the case; and

(e) All decisions issued in the case.

(6) *Is there a right to appeal a brief adjudicative proceeding decision?* A decision of the presiding officer may be appealed to the pollution control hearings board within thirty days pursuant to RCW 43.21B.110 (1)(f), 43.21B.230, and 43.21B.310(1).

(7) *Do the state's model rules of procedure apply to brief adjudicative proceedings held by the department?* For purposes of this chapter, the model rules of procedure contained in chapter 10-08 WAC are adopted by reference except where they are not consistent with the rules of this chapter.

**WSR 96-11-137**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 22, 1996, 10:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-09-067.

Title of Rule: Chapter 392-141 WAC, Transportation—State allocation for operations.

Purpose: The purpose is to amend chapter 392-141 WAC to implement the requirements set forth in SB 6684.

Statutory Authority for Adoption: SB 6684, RCW 28A.150.290.

Statute Being Implemented: RCW 28A.160.160.

Summary: The amendments provide for the changes in operation allocation funding which is based on kindergarten through fifth grade students enrolled and living one radius mile or less. The calculated funding may be used to mitigate hazards by funding crossing guards, transporting students or matching local or state funds for projects.

Reasons Supporting Proposal: The changes are required by SB 6684 and 6251A (Biennial Appropriations Act) passed by the 1997 [1996] legislature.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: John Pearson, Superintendent of Public Instruction, Olympia, 753-1545; and

Enforcement: Marcie Senger, Superintendent of Public Instruction, Olympia, 753-0235.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for the transportation operation funding for school districts. The anticipated effect is the reduction of work required by school districts concerning hazardous walking criteria and documentation and the ability to utilize a variety of ways to reduce or eliminate hazardous walking conditions.

Proposal Changes the Following Existing Rules: The proposed change requires the Office of Superintendent of Public Instruction to calculate funding based on kindergarten through fifth grade students enrolled and living within one radius mile, rather than those transported within one mile.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will have a minor or negligible economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on June 26, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by June 12, 1996, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by June 25, 1996.

Date of Intended Adoption: June 27, 1996.

May 16, 1996

Judith A. Billings  
 Superintendent of  
 Public Instruction

AMENDATORY SECTION (Amending Order 95-04, filed 8/30/95, effective 9/30/95)

**WAC 392-141-115 Definition—Eligible student.** As used in this chapter, "eligible student" means any student served by a school district transportation program either by bus, district car, or individual arrangements meeting one or more of the following criteria:

(1) Students whose route stop is more than one radius mile from the student's destination school site or learning center; or

~~(2) ((Students whose route stop is established because of hazardous walking conditions in accordance with WAC 392-141-175 and whose route stop is less than one radius mile from the student's destination school site or learning center and for which the school district is making a good faith effort to alleviate the hazard; or~~

~~(3))~~ Students whose handicap is defined by RCW 28A.155.020 and who is either not ambulatory or capable of protecting his or her own welfare while traveling to or from schools or agencies where special education services are provided and whose route stop is one radius mile or less from the destination school site or learning center.

AMENDATORY SECTION (Amending Order 95-04, filed 8/30/95, effective 9/30/95)

**WAC 392-141-135 Definition—Prorated bus.** As used in this chapter, "prorated bus" means a whole or fractional bus calculated by dividing the total number of ~~((each type of route))~~ all basic or special to and from routes by the total of all basic and special routes ((run by)) combined for each individual bus.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

**WAC 392-141-140 Definition—Radius mile.** As used in this chapter, "radius mile" means the straight line distance representing one mile measured between any two points ~~((on a map))~~.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

**WAC 392-141-155 Definition—Weighted student unit.** As used in this chapter, "weighted student unit" means the numeric value assigned to each student based upon the radius mile interval in which each student's route stop is located; except the one radius mile or less basic, transit tripper and midday kindergarten students.

AMENDATORY SECTION (Amending WSR 94-17-058, filed 8/12/94, effective 9/12/94)

**WAC 392-141-160 District reporting and record-keeping requirements.** Annual or supplementary reports shall be submitted by each school district to the superintendent of public instruction prior to the third Monday in October. This report shall reflect to the extent practical the planned pupil transportation program for the entire school year and which is in operation during ridership count week. Reports shall be submitted with a cover letter signed by the chief school district administrator attesting to the completeness of the requirements below and the accuracy of the data contained therein. The superintendent shall have the authority to make modifications or adjustments in accordance with the intent of RCW 28A.160.150, 28A.160.160, and 28A.160.170. Each district shall submit the data required on a timely basis as a condition to the continuing receipt of student transportation allocations. These reports shall be maintained for a period of three school years or until audited and include the following but are not limited to:

- (1) School bus route logs completed in ink by bus drivers for five consecutive days. These logs shall include state school bus numbers, each bus stop, the number of students boarding the bus at each stop, and destination schools, transfer points, learning centers, or agencies; and
- (2) ~~((Maps showing student route stop locations, and schools, learning centers, transfer points, or agency locations shall be in a format in accordance with instructions issued by the superintendent of public instruction))~~ The number of kindergarten through fifth grade students enrolled during ridership count week and living one radius mile or less from their destination school; and
- (3) Other operational data and descriptions, as required by the superintendent of public instruction to determine operation allocation requirements for each district; and

(4) An annual school bus mileage report including the beginning and ending year odometer reading, the total miles for each bus for the school year, an estimate of to and from school mileage for the upcoming school year, and miles for extended day routes, field trips, extracurricular, and other contractual uses of school buses; and

(5) Copies of any and all correspondence, publications, news articles, or campaign materials which encourage ridership during count week of the report that is beyond the normal activity experienced during the school year. School districts shall not utilize incentive programs that provide tangible gifts to reward increases in ridership counts.

School districts shall maintain at least a weekly one-day route log containing the school bus driver's name, state bus number, route number, route type, day of the week, beginning and ending odometer readings, destinations, destination times and student counts. These route logs shall be maintained in the school district files for a period of three years or until audited.

AMENDATORY SECTION (Amending Order 95-04, filed 8/30/95, effective 9/30/95)

**WAC 392-141-170 Factors used to determine allocation.** The method of determining the transportation operation allocation for each district shall be based on the following factors:

- (1) The number of eligible students transported as defined in WAC 392-141-115;
- (2) The radius mile distances from route stops to the destination schools, transfer route stops, learning centers, or agencies;
- (3) A basic or special transportation distance weighting factor per radius mile interval as listed below:

Distance Weighting Factors Per Radius Miles

Miles	Basic	Special
1	2.85	4.75
2	3.20	4.89
3	3.55	5.05
4	3.90	5.19
5	4.25	5.34
6	4.60	5.49
7	4.97	5.64
8	5.30	5.78
9	5.65	5.94
10	6.00	6.08
11	6.36	6.23
12	6.71	6.38
13	7.07	6.53
14	7.43	6.67
15	7.79	6.83
16	8.13	6.97
17 and over	8.50	7.13

(4) The basic average load which is calculated by dividing the total number of basic and transit tripper students by the total number of prorated basic buses;

(5) A minimum load factor for districts with a basic average load of less than seventy-four students transported per bus for all home to school routes, except routes designed exclusively for handicapped or kindergarten students. This

PROPOSED

factor is calculated by dividing the whole number seventy-four by the basic average load and subtracting the whole number one;

(6) The special education average load is derived by dividing the total number of home to school special education students by the total number of special education prorated buses; ((and))

(7) The number of kindergarten through fifth grade students enrolled during the five consecutive day count and living one radius mile or less from their destination school; and

(8) A special education load factor is based on the special education average load. To determine the special education load factor, use the following chart:

Special Average Load

From	To	Factor
0.01	1.24	24.42
1.25	1.49	22.94
1.50	1.74	21.46
1.75	1.99	19.98
2.00	2.24	18.50
2.25	2.49	17.89
2.50	2.74	17.27
2.75	2.99	16.67
3.00	3.24	16.04
3.25	3.49	15.73
3.50	3.74	15.42
3.75	3.99	15.11
4.00	4.24	14.80
4.25	4.49	14.43
4.50	4.74	14.06
4.75	4.99	13.69
5.00	5.24	13.32
5.25	5.49	12.92
5.50	5.74	12.52
5.75	5.99	12.11
6.00	6.24	11.71
6.25	6.49	11.32
6.50	6.74	10.93
6.75	6.99	10.55
7.00	7.24	10.14
7.25	7.49	9.85
7.50	7.74	9.56
7.75	7.99	9.26
8.00	8.24	8.97
8.25	8.49	8.74
8.50	8.74	8.51
8.75	8.99	8.28
9.00	9.24	8.05
9.25	9.49	7.87
9.50	9.74	7.69
9.75	9.99	7.50
10.00	10.49	7.32
10.50	10.99	7.02
11.00	11.49	6.72
11.50	11.99	6.47
12.00	12.49	6.22
12.50	12.99	6.01
13.00	13.49	5.80
13.50	13.99	5.62
14.00	14.49	5.43

14.50	14.99
15.00	15.54
15.55	16.54
16.55	17.54
17.55	18.54
18.55	19.54
19.55	20.54
20.55	21.54
21.55	22.54
22.55	23.54
23.55	24.54
24.55	25.54
25.55	26.54
26.55	27.54
27.55	28.54
28.55	29.54
29.55	30.54
30.55	31.54
31.55	32.54
32.55	33.54
33.55	34.54
34.55	35.54
35.55	36.54
36.55	37.54
37.55	38.54
38.55	39.54
39.55	40.54
40.55	41.54
41.55	42.54
42.55	43.54
43.55	44.54
44.55	45.54
45.55	46.54
46.55	47.54
47.55	48.54
48.55	49.54
49.55	50.54
50.55	51.54
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65.55	66.54
66.55	67.54
67.55	68.54
68.55	69.54
69.55	70.54
70.55	71.54
71.55	72.54
72.55	73.54
73.55	74.00
74.01+	

5.28
5.12
4.85
4.61
4.39
4.20
4.03
3.87
3.69
3.53
3.38
3.25
3.12
3.01
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1.10
1.00

PROPOSED

AMENDATORY SECTION (Amending Order 95-04, filed 8/30/95, effective 9/30/95)

**WAC 392-141-185 Operation allocation computation.** The computation of the transportation operation allocation shall be as follows:

(1) All basic and transit tripper students defined in WAC 392-141-115 who are transported to school shall be measured by radius mile intervals between the bus route stop and the destination sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip totals in each distance interval;

(2) All midday students defined in WAC 392-141-115 and basic shuttle students transported shall be measured by radius mile intervals between the bus route stop and the destination school in accordance with WAC 392-141-170(3);

(3) The total students in subsections (1) and (2) of this section in each distance interval, multiplied by the applicable distance weighting factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Midday transportation students whose schedule is one day per week shall have the weighted student units multiplied by twenty percent;

(4) The district's minimum load factor, if applicable, is calculated pursuant to WAC 392-141-170(5). This factor is multiplied by the total weighted student units generated by basic and tripper students. This total is the additional weighted units attributable to the district's small average bus load;

(5) The sum of the cumulative weighted student units calculated in subsections (3) and (4) of this section, if applicable, ~~((less the weighted units for students who do not qualify under WAC 392-141-175))~~ equals the total basic transportation weighted units;

(6) The basic allocation is the total basic transportation weighted units calculated in subsection (5) of this section multiplied by the standard student mile allocation rate;

(7) All special students defined in RCW 28A.155.020 transported on special transportation bus routes to school or agencies for related services shall be measured by radius mile intervals between their bus route stops and destinations sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip total in each distance interval;

(8) All special shuttle students transported between schools or agencies less frequently than five days a week shall be measured by radius mile intervals between the bus route stop and destination sites in accordance with WAC 392-141-170(3);

(9) The total students in subsections (7) and (8) of this section in each distance interval multiplied by the applicable distance weighting factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Special shuttle transportation whose schedule is less than five days a week shall have the weighted units multiplied by the appropriate percent shown in the table below:

No. of days per week	Percent factor
1	20%
2	40%
3	60%
4	100%

(10) The district's special transportation load factor, if applicable, is calculated pursuant to WAC 392-141-170. The factor is multiplied by the total weighted student units generated by special students (not special shuttle students);

(11) The weighted student units calculated in subsections (9) and (10) of this section, if applicable, equals the total special transportation weighted units;

(12) The special allocation is the total special transportation weighted units calculated in subsection (11) of this section, multiplied by the standard student mile allocation rate;

(13) The one radius mile allocation for basic trippers and midday kindergarten students shall be calculated by the number of kindergarten through fifth grade students enrolled during the five consecutive day count week and living one radius mile or less from their enrollment school, multiplied by the allocation rate, and further multiplied by a factor established by the biennial appropriations act;

(14) The district car allocation is computed for each vehicle and then totaled to equal the district car allocation. The computation is based on one hundred eighty days and fifty mile increments multiplied by the appropriate district car operation and depreciation rates published by the superintendent of public instruction. All vehicles traveling over two hundred fifty miles receive only the depreciation rate for miles in excess of two hundred fifty for the one hundred eighty day period;

~~((14))~~ (15) The district's annual allocation for transportation operation is the total of the calculations made in subsections (6), (12), ~~((and))~~ (13) and (14) of this section;

~~((15))~~ (16) The allocation for kindergarten through fifth grade students living one radius mile or less from their school of enrollment may be used for transporting students, funding crossing guards or local and the state matching funds for capital projects. Projects managed by the federal government are ineligible;

(17) When a district submits a revised report pursuant to WAC 392-141-165, to the extent funds are available, the district's operation allocation shall be recalculated. Any increase in operations allocations shall be prorated for the remainder of the annual school term or until termination of activities before the end of the scheduled school term. The date that the district documents first meeting the ten percent increase in eligible students transported shall be used to prorate any increase in annual transportation operation allocations.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-141-125	Definition—Hazardous walking conditions.
WAC 392-141-151	Definition—Good faith efforts.
WAC 392-141-175	Hazardous walking conditions.

PROPOSED

WAC 392-141-176 Alleviating hazardous walking conditions.

May 16, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

**WSR 96-11-138**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed May 22, 1996, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-09-068.

Title of Rule: Chapter 392-142 WAC, Transportation—Replacement and depreciation allocation.

Purpose: The purpose is to amend chapter 392-142 WAC to implement SB 6251A which changes the school bus lifetimes for twenty and fifteen year school bus categories.

Statutory Authority for Adoption: SB 6251A, RCW 28A.150.290.

Statute Being Implemented: RCW 28A.160.200.

Summary: These amendments provide for implementing a shorter lifetime for school bus replacement for twenty and fifteen year school bus categories.

Reasons Supporting Proposal: This change is required by SB 6251A passed by the 1996 legislature.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: John Pearson, Superintendent of Public Instruction, Olympia, 753-1545; and Enforcement: Marcie Senger, Acting Director, Superintendent of Public Instruction, Olympia, 753-0235.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the rule is to provide for replacement of school buses. The shorter lifetimes will increase the rate at which school districts will be able to replace older buses.

Proposal Changes the Following Existing Rules: The lifetimes of the twenty year categories are changed to eighteen years, and the fifteen year categories are changed to thirteen years.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will have a minor or negligible economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on June 26, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by June 12, 1996, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by June 25, 1996.

Date of Intended Adoption: June 27, 1996.

AMENDATORY SECTION (Amending WSR 95-17-011, filed 8/4/95, effective 9/4/95)

**WAC 392-142-155 Definition—School bus categories for those buses purchased after September 1, 1982.** As used in this chapter, "school bus categories for those buses purchased after September 1, 1982," means the following:

	Student Capacity	Fuel Type	Transmission Type	Useful Life	(Bus Type)
(1)	10 to 22	Gas	Automatic	8	A
(2)	10 to 22	Diesel	Automatic	8	A
(3)	10 to 22	Gas	Automatic	8	B
(4)	10 to 22	Diesel	Automatic	8	B
(5)	23 to 34	Gas	Automatic	8	B
(6)	23 to 34	Diesel	Automatic	8	B
(7)	35 to 48	Diesel	Automatic	((+5)) <u>13</u>	€
(8)	35 to 48	Diesel	Automatic	((+5)) <u>13</u>	⊘
(9)	49 to 60	Diesel	Automatic	((+5)) <u>13</u>	€
(10)	49 to 60	Diesel	Automatic	((+5)) <u>13</u>	⊘
(11)	61 to 77	Diesel	Automatic	((+5)) <u>13</u>	€
(12)	61 to 84	Diesel	Automatic	((+5)) <u>13</u>	⊘
(13)	Heavy 78 to 84	Diesel	Automatic	((20)) <u>18</u>	⊘
(14)	85 to 90	Diesel	Automatic	((20)) <u>18</u>	⊘))

**WSR 96-11-139**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed May 22, 1996, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-09-069.

Title of Rule: Chapter 392-143 WAC, Transportation—Specifications for school bus.

Purpose: To amend chapter 392-143 WAC to revise the definitions of school buses and school bus specifications and clarify language.

Statutory Authority for Adoption: RCW 46.61.380.

Statute Being Implemented: RCW 46.61.380.

Summary: The definitions of school buses need to coincide with the definitions outlined in the 1995 National Standards for School Buses and update the school bus specifications.

Reasons Supporting Proposal: 1995 national standards and the transportation industry have changed the definitions of the different types of school buses.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: John Pearson, Superintendent of Public Instruction, Olympia, 753-1545; and

PROPOSED

Enforcement: Marcie Senger, Acting Director, Superintendent of Public Instruction, Olympia, 753-0235.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule defines specifications for Washington state public school buses. The effect of the change is to provide definitions for school buses which coincide with the transportation industry and national standards.

Proposal Changes the Following Existing Rules: The changes align Washington state with the new definitions of school buses adopted by the 1995 National Conference on School Transportation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule will have a minor or negligible economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on June 26, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by June 12, 1996, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by June 25, 1996.

Date of Intended Adoption: June 27, 1996.

May 16, 1996  
Judith A. Billings  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending Order 84-39, filed 10/2/84)

**WAC 392-143-010 Definitions.** As used in this chapter and subject to the "School bus specifications," as now or hereafter established by the superintendent of public instruction, the term:

(1) "School bus" shall mean every vehicle with a seating capacity of more than ten persons including the driver regularly used to transport students to and from school or in connection with school activities.

(2) A Type "A" school bus shall mean a conversion or body constructed upon a van-type (~~compact truck or a~~) or cutaway front-section vehicle with a ((gross vehicle weight rating of 10,000 pounds or less and)) left side driver's door designed for carrying more than ten persons((including the driver)). This definition shall include: Type A-I, with a gross vehicle weight rating over 10,000 pounds; and Type A-II, with a gross vehicle weight rating of 10,000 pounds and under.

(3) A Type "B" school bus shall mean a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons(~~and where most~~). Part of the engine is beneath and/or behind the windshield and

beside the driver's seat, and the entrance door is behind the front wheels.

(4) A Type "C" school bus shall mean a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons(~~and where~~). All of the engine is in front of the windshield and the entrance door is behind the front wheels. A Type "C" school bus shall also mean a body installed on a stripped chassis with a vehicle weight rating of more than 10,000 pounds, designed for carrying 35/36 passengers or more, and where part of the engine is beneath and/or behind the windshield and beside the driver's seat and the entrance door is behind the front wheels.

(5) A Type "D" school bus shall mean a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons(~~and where~~). The engine ((is)) may be behind the windshield and beside the driver's seat ((or)), at the rear of the bus((or)) behind the rear wheels, or midship between the front and rear axles ((and)). The entrance door is ahead of the front wheels.

(6) A school bus designed to transport students with special ((education students)) needs shall mean any Type A, B, C, or D school bus as defined in this section which has been modified to transport students with special ((education students)) needs.

#### WSR 96-11-144

#### PROPOSED RULES

#### INSURANCE COMMISSIONER'S OFFICE

[Filed May 2, 1996, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-23-100.

Title of Rule: Long-term care partnership.

Purpose: These rules effectuate chapter 48.85 RCW, the Long-Term Care Partnership Act.

Other Identifying Information: Insurance Commissioner Matter No. R 95-16.

Statutory Authority for Adoption: RCW 48.02.060, 48.17.150, 48.85.030, and 48.85.040.

Statute Being Implemented: RCW 48.01.030, 48.85.030, 48.85.040, and 48.17.150.

Summary: These proposed rules define terms and set minimum standards for the Long-Term Care Partnership Act, chapter 48.85 RCW. The rules will set standards for contract forms, rates, conversion from group contracts, disclosure, suitability of sale, application forms, marketing, advertising, education of agents, case management services, and records retention. In addition, an additional six hours of continuing education for agents soliciting long-term care insurance and long-term care partnership contracts is required.

Reasons Supporting Proposal: RCW 48.85.030 and 48.85.040 require the Insurance Commissioner to adopt certain rules; additional rules are needed to clarify some sections of the statutes.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, Olympia, Washington, (360) 586-3574;

Implementation and Enforcement: Patrick Musick, Olympia, Washington, 664-2093.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules effectuate chapter 48.85 RCW, as amended by the 1995 legislature, which established the long-term care partnership to provide asset protection for purchasers of certain long-term care insurance policies. RCW 48.85.030 and 48.85.040 require the Insurance Commissioner to adopt certain rules; additional rules are needed to clarify some sections of the statutes. These rules will assure that all licensees have a reasonable understanding of how the long-term care partnership works, the special record keeping which will be necessary, and the required public education measure. These proposed rules define terms and set minimum standards for the Long-Term Care Partnership Act, chapter 48.85 RCW. The rules will set standards for: Contract forms, rates, conversion from group contracts, disclosure, suitability of sale, application forms, marketing, advertising, education of agents, case management services, and records retention. In addition, an additional six hours of continuing education for agents soliciting long-term care insurance and long-term care partnership contracts is required.

Proposal Changes the Following Existing Rules: WAC 284-17-220 and 284-17-230 are amended to require six hours of agent continuing education for agents soliciting long-term care or long-term care partnership contracts in this state.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required because less than 20% of the affected industries will issue long-term care partnership contracts. Of the 895 licensed disability insurers, HCSCs, and HMOs, about 3-7 are likely to issue these contracts.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This is not a "significant legislative rule" as defined at RCW 34.05.328 (5)(c)(iii).

Hearing Location: Insurance Commissioner's Office, Insurance Building, 2nd Floor Conference Room, Olympia, Washington 98504, on June 27, 1996, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Lori Villaflores by June 24, 1996, TDD (360) 407-0198.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, or electronically at inscomr@aol, FAX (360) 586-3535, by June 27, 1996, 5:00 p.m.

Date of Intended Adoption: July 11, 1996.

May 22, 1996  
Deborah Senn  
Insurance Commissioner

## Chapter 284-85 WAC LONG-TERM CARE PARTNERSHIP

### NEW SECTION

**WAC 284-85-005 Purpose and authority.** This chapter is adopted pursuant to RCW 48.85.030 and 48.85.040. The purpose of this chapter is to effectuate chapter 48.85 RCW, the Washington Long-Term Care Partnership Act. Pursuant to RCW 48.85.030, this chapter establishes minimum standards and disclosure requirements to be met by insurers, health care service contractors, health maintenance organizations, and fraternal benefit societies with respect to long-term care partnership insurance and long-term care partnership policies and contracts. In addition, pursuant to RCW 48.85.040, this chapter sets standards and criteria for a consumer education program developed in cooperation with the state department of social and health services and members of the long-term care insurance industry. This program shall be designed to educate consumers as to the need for long-term care, the availability of long-term care insurance, and the availability and eligibility requirements of the asset protection program provided by chapter 48.85 RCW.

Recognizing that the persons most likely to purchase long-term care partnership coverage are particularly sensitive to rate and premium increases, the goals of this chapter are: To ensure that long-term care partnership policies provide value to insureds both when issued and at time of claim; to encourage a competitive marketplace, stable premiums, and low-lapse rates; and to foster a long-term commitment to long-term care partnership coverage in this state by issuers of the coverage.

### NEW SECTION

**WAC 284-85-010 Applicability and scope.** (1) This chapter applies to all long-term care insurance policies, contracts, certificates, riders, and endorsements delivered or issued for delivery to a resident of this state or that provide coverage to a resident of this state, that claim to provide asset protection under the Washington Long-Term Care Partnership Act, chapter 48.85 RCW.

(2) This chapter shall not apply to Medicare supplement policies regulated under chapter 48.66 RCW and chapter 284-55 or 284-66 WAC; policies or contracts between a continuing care retirement community and its residents; or to long-term care insurance policies that do not claim to provide asset protection under chapter 48.85 RCW.

(3) Policies claiming to provide asset protection under the Washington Long-Term Care Partnership Act that do not meet the requirements of this chapter may not be issued or delivered in this state.

### NEW SECTION

**WAC 284-85-015 Standards for definitions used in this chapter and chapter 48.85 RCW.** The following definitions are applicable to long-term care partnership policies, contracts, certificates, riders, and endorsements and the implementation of chapter 48.85 RCW. No contract may be advertised, solicited, or issued for delivery in this state as a long-term care partnership contract which uses definitions more restrictive or less favorable to an insured than the following:

(1) "Adult day health care" means a program of community-based social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the individual's home.

(2) "Advertising" is defined and described at RCW 48.30.040, 48.30.050, 48.30.080, 48.30.090 and WAC 284-50-030, 284-50-050, 284-50-060, 284-50-070, 284-50-080, 284-50-090, 284-50-100, 284-50-110, 284-50-120, 284-50-130, 284-50-140, 284-50-150, 284-50-160, 284-50-170, 284-50-180, 284-50-190 and 284-50-200. These standards are specifically incorporated in this chapter and shall apply to all long-term care contracts issued pursuant to this chapter and chapter 48.85 RCW.

(3) "Alternative plan of care" means a plan of health care or other care which provides a benefit to an insured and meets the standards of WAC 284-85-030(4).

(4) "Case manager" or "case coordinator" means an individual qualified by training and/or experience to coordinate the overall medical, personal, and social service needs of the long-term care patient. Such coordination activities shall include but are not limited to: Assessing the individual's condition to determine what services and resources are necessary and by whom they might most appropriately be delivered; coordination of elements of a treatment or care plan and referral to the appropriate medical or social services personnel or agency; control coordination of patient services and continued monitoring of the patient to assess progress and assure that services are delivered. Such activities shall be conducted in consultation with the insured's attending physician or other primary care provider.

(5) "Case management services" includes, but is not limited to, a comprehensive individualized face-to-face assessment conducted in the insured's place of residence which takes an all-inclusive look at the patient's total needs and resources, and links the patient to a full range of appropriate services using all available funding sources. The assessment is reevaluated at least once every six months. When desired by the insured and when it is determined to be necessary by the case manager, case management services shall include coordination of appropriate services and ongoing monitoring of the delivery of such services. For purposes of this chapter, case management services may, but need not, include deductibles or coinsurance provisions.

(6) "Community-based care" means services including, but not limited to:

- (a) Home delivered nursing services or therapy;
- (b) Custodial or personal care;
- (c) Day care;
- (d) Home and chore aid services;
- (e) Nutritional services, both in-home and in a communal dining setting;
- (f) Respite care;
- (g) Adult day health care services; or
- (h) Other similar services furnished in a home-like or residential setting that does not provide overnight care.

Such services shall be provided at all levels of care from skilled care to custodial or personal care.

(7) "Contract" means long-term care partnership coverage, regardless of the kind of issuer, unless the context clearly indicates otherwise. The term specifically includes

any policy, contract, certificate, rider, or endorsement delivered, issued for delivery, or that provides coverage to a resident of this state, if that contract claims to provide asset protection under the Washington Long-Term Care Partnership Act, chapter 48.85 RCW.

(8) "Direct response issuer" means an issuer who, as to a particular contract, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance agent.

(9) "Gatekeeper provision" has the meaning of WAC 284-54-160.

(10) "Guaranteed renewable" means that renewal of a contract may not be declined by an issuer for any reason except for nonpayment of premium; but the insurer or issuer may revise rates on a class basis.

(11) "Institutional care" means care provided in a hospital, skilled or intermediate nursing home, or other facility certified or licensed by the state primarily affording diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services. Such facility provides twenty-four-hour nursing services on its premises or in facilities available to the institution on a formal prearranged basis.

(12) "Insured" means any beneficiary of a long-term care partnership contract, regardless of the type of issuer.

(13) "Issuer" means any entity that delivers, issues for delivery, or provides coverage to, a resident of this state, any contract that claims to provide asset protection under the Washington Long-Term Care Partnership Act, chapter 48.85 RCW. Issuer as used in this chapter specifically includes insurance companies, fraternal benefit societies, health care service contractors, and health maintenance organizations.

(14) "Long-term care contract" means a contract that is primarily advertised, marketed, or designed to provide coverage for or resulting from long-term care services over a prolonged period of time. Services provided may range from direct skilled medical care performed by trained medical professionals as prescribed by a physician or other primary care provider, or a qualified case manager, in consultation with the patient's attending physician or rehabilitative services or assistance with the basic necessary functions of daily living for people who have lost some or complete capacity to function on their own. This term also includes a contract that provides for payment of benefits based upon cognitive impairment or loss of functional capacity without regard to receipt of specific services.

(15) "Long-term care partnership contract" means a contract of long-term care insurance that claims to provide asset protection under the Washington Long-Term Care Partnership Act, chapter 48.85 RCW to a resident of this state.

(16) "Medicaid eligibility" means that an insured has exhausted the benefits of his or her long-term care partnership contract and it has been determined, in accordance with Medicaid rules, that the insured is eligible for a "Medicaid waiver" program as determined by the state department of social and health services, or as provided at chapter 43.20B RCW, chapter 388-527 or 388-96 WAC.

(17) "Medicaid estate recovery" refers to the federal and state Medicaid estate recovery program which requires recovery by the state from the insured's estate after the death of the insured, certain costs of programs or services provided

by the state during the lifetime of the insured. For example: The cost of Medicaid personal care, adult day health care, private duty nursing services, and related hospital and prescription drugs provided on behalf of an insured after the insured's age fifty-five; and the cost of state-funded long-term care services and related hospital and prescription drug services provided on behalf of an insured, without regard to age, including chore services, assisted living care, adult family home care, congregate care facility or adult residential care, and enhanced residential care. The "estate" of an insured includes all real and personal property in which the insured had an interest at the insured's date of death. Some property of an insured transferred prior to his or her death, may be considered an asset of the insured at his or her death under certain circumstances. If an insured is survived by a spouse, the recovery may be delayed until the death of the surviving spouse. The rules of the federal and state Medicaid estate recovery program change from time to time; the rules in effect at the date of the insured's death will govern the Medicaid estate recovery process.

(18) "Plan of care" means a written, individualized plan of services approved by the case manager that specifies the type, frequency, and providers of all formal and informal long-term care services required for the insured. Changes in the plan of care shall be documented to show alterations which have been agreed to and are required by a change in the medical situation or condition of the insured.

(19) "Premium" is defined and described at RCW 48.18.170, 48.18.180, and WAC 284-54-020(8).

#### NEW SECTION

**WAC 284-85-030 Minimum standards for long-term care partnership policies.** No long-term care partnership contract may be advertised, solicited, issued for delivery, or provide coverage to a resident of this state if it does not meet the following standards and the standards of chapter 48.85 RCW. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards. Long-term care partnership contracts that provide for payment of benefits based on cognitive impairment or loss of functional capacity without regard to receipt of specific services are subject to the standards only of subsections (1), (2), (3), (5), and (6) of this section.

(1) Every long-term care partnership contract shall meet the standards for long-term care policies or contracts in chapters 48.84 and 48.85 RCW and chapter 284-54 WAC, unless specifically provided otherwise.

(2) All long-term care partnership contracts shall provide benefits for nursing home or institutional care.

(a) If the contract provides coverage for only nursing home or institutional care, that fact shall be prominently displayed on the first page of the contract form. Coverage in such policies shall include benefits for care received in alternative types of facilities or institutions if care is provided at a place where the patient incurs room and board charges.

(b) Pursuant to RCW 48.85.030, a long-term care partnership policy that provides coverage for only nursing home or institutional care benefits, shall provide for the written rejection of coverage or eligibility of coverage for

home and community-based services as part of the application. A copy of the written rejection shall be made a part of the contract.

(3) Except upon the written rejection of the applicant or insured, every long-term care partnership contract shall include coverage for home and community-based services.

(4) Every long-term care partnership contract shall provide for an alternative plan of care benefit.

(a) This benefit shall be unstructured to allow for flexibility, to include coverage for types of care that might develop after the issue date of the insured's contract, and to allow for different levels of care.

(b) This benefit shall not be designed or advertised as a substitute for home or community-based care.

(c) This benefit shall include but need not be limited to coverage for the following: Home-delivered meals, in-home safety devices, or care provided in licensed or certified Alzheimer's centers, assisted living facilities, congregate care facilities, or similar arrangements which may not have twenty-four-hour nursing services on their premises. An issuer may limit such options by imposing a condition that such care be in a facility regulated by the state only if such class of facility is subject to state regulation.

(d) The alternate plan of care shall be agreeable to the insured's primary care giver, the issuer, and the insured, and shall be part of a plan of care developed by or with the assistance of health care professionals.

(5) Every long-term care partnership contract shall provide automatic inflation protection through the applicant's age seventy-nine. Inflation protection coverage shall be optional in contracts issued for delivery to an applicant age eighty or older. This coverage shall automatically increase at a rate of no less than five percent, annual, simple interest.

(6) Every long-term care partnership contract shall provide benefits designed to provide coverage for an extended period of time.

(7) If nonforfeiture benefits are included, such benefits shall not be based on return of premium. All nonforfeiture benefits shall be consistent with asset protection purpose of long-term care partnership program, as determined by the commissioner.

#### NEW SECTION

**WAC 284-85-040 Standards related to rates.** In order to assure stability of premiums and rates for long-term care partnership contracts, rates shall be designed to remain level over the life of the policy and shall be based on the insured's age at the time of application. Every rate filing of an issuer shall be accompanied by a detailed explanation of how the issuer intends to comply with this section.

(1) Requests for rate increases must be actuarially supported to the satisfaction of the commissioner.

(2) Rates may be increased no more than one hundred percent over the lifetime of the policy.

(3) All long-term care partnership contracts of an issuer shall be pooled together for purposes of rate making and may be pooled with the experience of long-term care contracts issued pursuant to chapter 48.84. RCW. Any pooling arrangement shall be approved in advance by the commissioner.

(4) No issuer may reduce or increase the rate of a long-term care partnership contract form except on the written, prior approval of the commissioner.

(5) Rate increases shall be made only on a class basis.

(6) The insured shall be notified in writing of the amount of any rate increase no fewer than sixty days in advance of charging an approved increase in rates and shall be permitted to reduce benefits to defray the increased premium and guard against lapsation.

#### NEW SECTION

**WAC 284-85-045 Conversion from group to individual coverage or replacement of coverage.** (1) If the insured is no longer eligible for group long-term care partnership coverage, the insured shall have the option to convert to an individual contract of long-term care insurance or to a long-term care partnership contract. The conversion policy offered shall include substantially similar benefits to the group contract. The insured shall not be required to provide evidence of good health or insurability. Such a transaction shall be treated as a conversion and the premium charged shall be based on either: The insured's original issue age of the long-term care partnership contract being converted, or the insured's attained age, if a credit is provided, either as to benefit or premium.

(2) Except where an individual is no longer eligible for group long-term care partnership coverage, no issuer may require an insured to convert his or her policy to a new form or benefit level.

(3) Insureds in claim status on the effective date of any conversion provided for by this section may be excluded. An issuer may provide that there will be no difference between the benefits of the prior contract and the benefits of the resulting contract.

#### NEW SECTION

**WAC 284-85-050 Disclosure and suitability standards.** (1) At no time shall any statement contained in the contract, advertising related to solicitation or preservation of the contract, or representations made by the issuer or its agent, state or have the appearance of representing that the insured will be guaranteed to be automatically eligible for Medicaid or that Medicaid will deliver the same benefits as the insured's long-term care partnership policy.

(2) Every issuer and every agent shall make reasonable efforts to determine whether the issuance of a long-term care partnership policy will duplicate benefits under another disability insurance policy, long-term care insurance contract, or duplicate other sources of coverage such as Medicare supplemental insurance coverage; and shall take reasonable steps to determine that the purchase of the coverage being applied for is suitable for the applicant based on the financial circumstances of the applicant or insured.

(3) Every applicant shall be provided a copy of the long-term care partnership publication which is developed jointly by the commissioner and the department of social and health services no later than when the long-term care partnership application is signed by the applicant.

(4) Every long-term care partnership contract shall state that it is designed to qualify for Medicaid asset protection on the first page of the contract. A similar statement shall be

included on every application for a long-term care partnership contract and on any outline or summary of coverage provided to applicants or insureds.

#### NEW SECTION

**WAC 284-85-055 Termination of participation in the Washington long-term care partnership program.** If an issuer terminates its participation in the Washington long-term care partnership program, the issuer shall cause as little disruption to insured residents of this state as possible. Such issuer shall first obtain written permission of the commissioner to cease the issuance of new long-term care partnership contracts. The issuer shall continue in force the then-existing contracts of insurance or may make arrangements satisfactory to the commissioner for another admitted issuer to assume all of the issuer's in force long-term care partnership policies. Such a transaction shall be subject to the assumption reinsurance rules for transfer of contracts of chapter 284-95 WAC, whereby the ceding issuer remains liable for obligations of the contract, unless issuer first obtains the written agreement of the insured to the transfer.

#### NEW SECTION

**WAC 284-85-060 Applications for long-term care partnership coverage.** Every application shall be signed by the applicant and agent and shall certify that:

(1) The person received a description of the Washington long-term care partnership, the disclosure pamphlet set forth at WAC 284-85-050(3), including a description of the state's asset recovery program;

(2) The person understands that eligibility for Medicaid upon exhaustion of the benefits of the long-term care partnership policy is neither guaranteed nor automatic;

(3) The person understands that the benefits provided under Medicaid may not be the same as those provided under the long-term care partnership contract;

(4) The person agrees to permit the issuer to release information included in the application to the commissioner, solely for the purpose of data collection in preparation of the commissioner's report to the legislature, which release will advise the person that the issuer will act to preserve confidentiality of all medical information and document eligibility for the asset disregard provisions of Medicaid and the department of social and health services; and

(5) If a person elects to purchase nursing home-only coverage, that the person understands that he or she has voluntarily waived coverage for home and community-based care.

#### NEW SECTION

**WAC 284-85-070 Marketing and advertising standards.** Every issuer of long-term care partnership contracts shall submit its marketing and advertising materials to the commissioner no fewer than thirty days prior to use in this state. In addition to the standards of this chapter, all advertising materials are subject to the advertising rules in chapter 284-50 WAC.

**NEW SECTION****WAC 284-85-075 Summary of insurance benefits.**

(1) Upon request of an insured, an issuer shall prepare promptly a summary of the total services paid and the total amount of benefits remaining under the contract as of the date of the summary.

(2) A summary of insurance benefits paid and remaining shall be provided to the insured or his or her representative approximately ninety days prior to exhaustion of benefits.

(3) A reasonable fee may be charged for the preparation of a summary if requested more than once in any twelve-month period.

**NEW SECTION****WAC 284-85-080 Consumer education program.**

Issuers shall demonstrate to the satisfaction of the commissioner that they have and use procedures to provide notice to each purchaser of long-term care insurance about the state's long-term care consumer education program. The program will include information regarding the need for long-term care, the methods of financing long-term care, the availability of long-term care insurance, the availability and eligibility requirements of the state's asset protection program, and the impact of Medicaid estate recovery rules.

**NEW SECTION**

**WAC 284-85-085 Standards for education of agents soliciting long-term care partnership contracts.** Every agent involved in the solicitation of a long-term care partnership policy or the conversion of a long-term care policy or partnership policy, shall certify to the commissioner once every two years that he or she has passed six hours of specialized education specifically related to insurance coverage under the Washington Long-Term Care Partnership Act, as required at WAC 284-17-220 and 284-17-230.

**NEW SECTION**

**WAC 284-85-090 Standards for case management services.** In order to assure covered services are used in a cost-effective and beneficial manner, objectivity in claims payment or benefit eligibility decisions, and to effectuate RCW 48.85.030 (2)(b):

(1) The issuer shall demonstrate to the satisfaction of the commissioner that it has case management services sufficiently adequate to provide the necessary level of management throughout the state of Washington, that the case manager is able to supply or arrange for the recommended professional services in a plan of care, and that the case manager is able to adequately monitor the quality of services provided.

(2) The issuer shall employ or contract with case management services that are objectively provided and the issuer must be able to demonstrate that the services provided are in the best interests of the insured.

(3) Case management services shall recognize the dignity of insureds. An insured or the insured's representative shall be provided sufficient information to make an informed choice of how to receive services, shall be permitted to participate in the development of the plan of care. The insured or the insured's representative shall be permitted

access to the case record of the insured upon reasonable request.

(4) Case management services used by the issuer shall provide for a grievance or complaint procedure, the use of which is made known to the insured or the insured's representative.

(5) Each case manager shall exercise reasonable care to keep the insured's medical information confidential.

(6) The plan of care shall be agreed to in advance by the insured or the insured's representative, the issuer, and the insured's physician or primary care provider, and it shall be updated no less frequently than once every six months.

(7) In order to assure compliance with this chapter, the issuer shall make records of the case manager available to the commissioner upon request for purposes of audit.

**NEW SECTION**

**WAC 284-85-100 Recordkeeping.** Issuers shall demonstrate to the satisfaction of the commissioner that they have procedures to provide for the special recordkeeping required by RCW 48.85.030 and this chapter.

**NEW SECTION**

**WAC 284-85-110 Records retention.** Records of all policies issued shall be kept a minimum of ten years after exhaustion of benefits or nonrenewal, rescission, death of insured, or other termination of the contract by the issuer.

**NEW SECTION**

**WAC 284-85-900 Chapter not exclusive.** Nothing contained in this chapter shall be construed to limit the authority of the commissioner to regulate a long-term care partnership contract under other sections of Title 48 RCW.

**AMENDATORY SECTION** (Amending Order R 94-14, filed 6/28/94, effective 7/29/94)

**WAC 284-17-220 Continuing education requirement.**

(1) Twenty-four credit hours of approved continuing education must be presented as a prerequisite to each license renewal or reinstatement.

(2)(a) Effective July 1, 1996, the number of required continuing education credit hours will be increased from twenty-four to thirty-two hours for each two-year licensing period.

(b) Effective January 1, 1997, an additional six hours in every two-year period of continuing education credits will be required of agents and brokers engaged in the transaction of long-term care or long-term care partnership insurance business. The commissioner will prescribe the course of study. Each course shall be approved by the commissioner for these special lines of insurance in advance.

(c) Each course credit applied toward satisfaction of the continuing education requirement must have been completed within the twenty-four month period immediately preceding the licensee's assigned license renewal date and the credit may not have been used previously to comply with the continuing education requirement.

(3) The course participated in and for which credit is received shall be reported to the commissioner as part of the

application for license renewal and shall be subject to verification by audit.

(4) Repeating an approved course for which the licensee has previously claimed credit will not satisfy the continuing education requirement.

(5) The licensee must retain the certificate of completion for three years from the date on the certificate and must present the original of such certificate upon request of or audit by the commissioner.

**AMENDATORY SECTION** (Amending Order R 89-10, filed 9/15/89, effective 10/16/89)

**WAC 284-17-230 Eligible courses—Advance approval required.** (1) Courses eligible for approval to satisfy the continuing education requirement are those courses demonstrating a direct and specific application to insurance.

(a) General education courses and sales motivation courses shall not be eligible for approval.

(b) Courses shall present accurately all statutory and regulatory requirements then applicable or published by the code reviser at the time the course is offered.

(2) All courses (~~must~~) shall be approved prior to the beginning of study in order to be applied toward the satisfaction of the continuing education requirement.

(3) Approval of the course is valid for the provider that originally submitted the course to the commissioner, and is not transferable to any other entity.

(4) The commissioner shall assign an identifying certification number to each approved course. The certification number shall be listed on each certificate of completion issued by the provider.

(5) The provider shall issue a certificate of completion to each licensee who has satisfactorily completed the course, within fifteen days after completion or within fifteen days of the date the course was approved by the commissioner, whichever event is later.

(6) Effective January 1, 1997, every issuer shall establish procedures to ensure that every agent transacting long-term care or long-term care partnership insurance business, completes the continuing education credit requirement specified at WAC 284-17-220 (2)(b).

**WSR 96-11-145  
PROPOSED RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**  
[Filed May 22, 1996, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-19-083.

Title of Rule: Public records rules.

Purpose: To establish consistent public records rules for all divisions of the department.

Statutory Authority for Adoption: RCW 43.320.040 and 42.17.250.

Statute Being Implemented: Chapter 42.17 RCW.

Summary: These rules provide guidance for any public records request received by the department, recognizing the

statutory exemptions for records pertaining to some financial institutions.

Reasons Supporting Proposal: The department needs standard public records rules instead of different rules for each division.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Victoria W. Sheldon, 300 General Administration Building, Olympia, (360) 902-8775.

Name of Proponent: Department of Financial Institutions, governmental.

Explanation of Rule, its Purpose, and Anticipated Effects: Divisions currently have separate, outdated rules governing access to public records. The proposed rules establish standard procedures for the department. The adoption of these rules will provide consistent guidance for the department and the public regarding access to public records and the procedures to obtain them.

Proposal Changes the Following Existing Rules: Currently, divisions within the department have different rules governing public records. The department will repeal those separate rules when the rules are adopted.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules are procedural and exempt from the requirement to prepare a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are procedural only.

Hearing Location: 300 General Administration Building, Olympia, WA, on June 27, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Victoria W. Sheldon by June 25, 1996, TDD (360) 664-8126.

Submit Written Comments to: FAX (360) 586-5068, by June 27, 1996.

Date of Intended Adoption: June 28, 1996.

May 22, 1996

Mark Thomson

Assistant Director

Division of Admin. and CS

**Chapter 208-12 WAC  
PUBLIC RECORDS**

NEW SECTION

**WAC 208-12-010 Purpose—Scope—Conflict with other regulations.** The purpose of this chapter is to ensure compliance with chapter 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular RCW 42.17.250 through 42.17.348 dealing with public records. It establishes general, consistent rules regarding public records. Divisions may adopt additional rules to supplement this chapter. If specific rules adopted by a division conflict with this chapter, the specific rules control in those situations.

NEW SECTION

**WAC 208-12-020 Definitions.** "Person" means any individual, partnership, joint venture, public or private corporation, limited liability company, association, federal, state or local government entity or agency however constituted, or any other organization or group of persons, however organized.

"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 the department regardless of physical form or characteristics.

"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 combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

#### NEW SECTION

**WAC 208-12-030 Description of organization of department.** The department is an administrative, supervisory, licensing, regulatory and chartering agency.

(1) The department is organized pursuant to chapter 43.320 RCW under a director and four assistant directors. The director has delegated authority to each assistant director to act in a specific functional area. The four functional areas are: The division of banks; the consumer services and administration division; the division of credit unions; and the securities division. These divisions regulate various programs, such as banks, trust companies, savings banks, savings and loan associations, alien banks, bank holdings companies, agricultural credit corporations, consumer loan companies, check cashers and sellers, mortgage brokers, escrow agents, credit unions, securities, mutual funds, commodities, franchises, business opportunities, and other similar institutions or areas.

(2) The department is charged with protecting the public interest, protecting the safety and soundness of depository institutions and entities under the jurisdiction of the department, ensuring access to the regulatory process for all concerned parties, and protecting the interests of investors.

(3) The governor appoints the director, with the consent of the senate. The director holds office at the pleasure of the governor.

(a) The director has complete charge of the department. The director may deputize one of the assistant directors to exercise the powers and duties of the director in the event of his or her absence. The director may delegate duties to assistant directors, but there are statutory limitations in RCW 43.320.060 to his power to delegate, and the director remains responsible for all official acts of the employees.

(b) By specific powers of legislation and delegation the director has the responsibility and authority to act and direct in the following areas:

(i) Administer the laws pertaining to licensing and regulation of state banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, mutual funds, franchises, business opportunities, commodities, escrow agents, mortgage brokers, and other similar institutions or areas. A full-time staff, including field examiners, carries out these duties.

(ii) Adopt and enforce rules consistent with and necessary to carry out the provisions of existing laws.

(4) Chapter 34.05 RCW, the Administrative Procedure Act, and department rules govern the formal and informal proceedings conducted by the department.

#### NEW SECTION

**WAC 208-12-040 Location of administrative offices.** The administrative offices of the department and all divisions are located in Room 300 of the General Administration Building, 210 - 11th Avenue SW, Olympia, Washington; P.O. Box 41200, Olympia, WA 98504-1200.

#### NEW SECTION

**WAC 208-12-050 Office hours.** Public records are available for inspection and copying during customary office hours. For the purposes of this chapter, customary office hours are from 8:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

#### NEW SECTION

**WAC 208-12-070 Procedure to request public records.** (1) Members of the public may inspect, copy or obtain copies of public records by making a request on the public records request form prescribed by the division holding the record. The form is available at the administrative office and should be given or mailed to the appropriate division. The request shall include the following information:

- (a) The name of the person requesting the records;
- (b) The date and time of day on which the request was made;
- (c) The nature of the request;
- (d) If the record requested is referenced within the index, a reference to the requested record as it is described in the index; and
- (e) If the requested matter is not identifiable by reference to the index, an appropriate description of the record requested.

(2) The staff person to whom the request is made will assist in identifying the public record requested.

(3) The department may inquire about the reason for a request for a list of individuals to determine whether the list will be used for commercial purposes.

(4) All requests for public records will be acknowledged within five working days after receipt with:

- (a) The information requested;
- (b) An estimated time required to respond to the request; or
- (c) A denial of the request.

#### NEW SECTION

**WAC 208-12-080 Protection of public records.** It is the department's responsibility to prevent unreasonable invasions of privacy, protect public records from destruction, damage or disorganization, and prevent excessive interference with essential functions of the department. Before a person may review original records, that person must agree to the following conditions:

- (1) The records may not be removed from the area designated for review;
- (2) The records may not be destroyed;
- (3) The records may not be altered in any way;
- (4) The records may not be defaced in any way, including marking upon, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that already exist in the file;
- (5) The records may not be cut, torn or mutilated in any way;
- (6) The records must be kept in the order in which received; and
- (7) The records will be returned to the department when no longer required by the requester, but no later than the end of customary business hours.

**NEW SECTION**

**WAC 208-12-090 Copying.** The department does not charge a fee for inspecting public records. The department may charge fifteen cents per page for providing copies of public records. If copies are requested, the department will make copies or make the department's copying facilities available.

**NEW SECTION**

**WAC 208-12-100 Exemptions.** All public records of the department are available for public inspection and copying pursuant to these rules, unless the department determines that a requested public record is exempt under the provisions of RCW 42.17.310 or other statute.

(1) Various statutes exempt certain records from disclosure, including but not limited to: Securities, RCW 19.100.242, 19.110.140, 21.30.170, 21.30.370, 21.20.480, 21.20.510, 21.20.700, 21.20.855; Banks, RCW 30.04.075; Savings and Loan Associations, RCW 33.04.110; Agricultural Lenders, RCW 31.35.070; Savings Banks, RCW 32.04.220; and Credit Unions, RCW 31.12.565.

(2) Other statutory exemptions may cover records received by the department from another regulatory agency or under interagency agreement.

(3) In addition, pursuant to RCW 42.17.260, the department reserves the right to delete identifying details when it makes available or publishes any public record, if there is reason to believe that disclosure of such details would be an invasion of personal privacy. All deletions will be justified in writing.

**NEW SECTION**

**WAC 208-12-110 Denials of public records requests—Review.** (1) If a request for a public record is denied, the person denying it will send the requester a written statement giving the reason for the denial. If based on an exemption, the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. A copy of the denial will be immediately forwarded to the director or designee for review.

(2) The director or designee will consider the denial and affirm or reverse it within two business days. The original

denial becomes final if the director does not respond within two business days.

(3) Administrative remedies are not exhausted until the close of the second full business day following the original denial of inspection.

**NEW SECTION**

**WAC 208-12-120 Records index.** Each division maintains an index of its records available to the public. The index is attached to the department's public records request procedure. Current indices are available upon request.

**NEW SECTION**

**WAC 208-12-130 Information—Address.** Requests for specific public records should be addressed to the appropriate division. General communications regarding public records and requests for copies of department's records shall be addressed as follows: Department of Financial Institutions, Records Officer, PO Box 41200, Room 300, General Administration Building, Olympia, Washington 98504-1200.

**WSR 96-11-146**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Filed May 22, 1996, 11:53 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-07-094.

Title of Rule: WAC 388-49-160 Certification periods.

Purpose: This rule lengthens the food stamp certification period for certain households.

Statutory Authority for Adoption: 7 CFR 273.10(F).

Statute Being Implemented: RCW 74.04.050 and 7 CFR 273.10 (f)(2).

Summary: Reduces the number of times a client must come to an office for an interview for food stamp program recertification. Reduces paperwork for financial worker.

Reasons Supporting Proposal: This change reduces the time spent in client interviews and gives workers more time to convert cases to ACES.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana Beck, Division of Income Assistance, (360) 438-8308.

Name of Proponent: Dana Beck, Division of Income Assistance, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Recommend implementation. It would improve client service and ease paperwork.

Rule is necessary because of federal law, 7 CFR 273.10 (f)(2).

Explanation of Rule, its Purpose, and Anticipated Effects: Allows clients who report earned income monthly to be certified for the food stamp program for up to twelve

months. This will reduce the number of times a client must come to an office for an interview.

Eliminates the food stamp program requirement for face-to-face interview at the six-month desk review for aid to families with dependent children. A face-to-face [interview] is required every twelve months.

Proposal Changes the Following Existing Rules: Clients who report earned income monthly were certified for six months. The certification period has been extended to twelve months.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Social and Health Services is not a named agency within RCW 34.05.328.

Hearing Location: OB-2 Auditorium, 1115 Washington Street S.E., Olympia, WA 98504, on June 25, 1996, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Merry A. Kogut by June 11, 1996, TDD (360) 753-0625, or (360) 664-2954.

Submit Written Comments to and Identify WAC Numbers: Sharon Staley, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 664-0118, by June 18, 1996.

Date of Intended Adoption: June 26, 1996.

May 22, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3841, filed 2/22/95, effective 4/1/95)

**WAC 388-49-160 Certification periods.** The department shall certify households:

(1) Receiving assistance to coincide with the assistance review or to the end of the assistance period whichever is earlier;

(2) Consisting of migrants up to ~~((three))~~ four months;

(3) Without earned income in which all members are disabled or all members are disabled or elderly for up to twelve months;

(4) Without earned income in which all members are elderly for up to twenty-four months;

(5) With little likelihood of change for six months;

(6) Reporting monthly with earned income for ~~((six))~~ up to twelve months;

(7) Reporting monthly with recent work history for up to six months.

(8) Consisting of an individual with a minor child living with the individual's parent or sibling and purchasing and preparing food separately per WAC 388-49-190 (1)(e) up to six months; and

~~((8))~~ (9) All other households for up to ~~((three))~~ four months.

PROPOSED



**WSR 96-10-014**  
**PERMANENT RULES**  
**HORSE RACING COMMISSION**

[Filed April 19, 1996, 3:45 p.m., effective June 11, 1996]

Date of Adoption: April 16, 1996.

Purpose: To bring into conformance with the nationally accepted model rules pertaining to parimutuel wagering. The entire chapter, WAC 260-48-010 through 260-48-350, will be repealed and replaced with WAC 260-48-500 through 260-48-930.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 260-48-010 through 260-48-350.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 96-04-066 on February 7, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 260-48-560 (2)(d), added clarifying wording; WAC 260-48-600(1), clarified wording about trifecta type pools; WAC 260-48-620, defined scheduled to start, eliminated wording for superfecta; WAC 260-48-640(1), added clarifying wording; WAC 260-48-660 Cooperation with parimutuel department, deleted this section and renumbered following sections; WAC 260-48-670 Limit payoffs, moved wording from twin trifecta rules to make new section; WAC 260-48-800, deleted subsection (2) and renumbered the following subsections; WAC 260-48-800(6), clarified wording; WAC 260-48-850 (3)(b), clarified wording. Added subsection (8) allowing to name wager; WAC 260-48-890(8), clarified wording; WAC 260-48-900 Superfecta, deleted this section and renumbered following sections; WAC 260-48-900 (7)(9)(19), clarified wording, removed wording and created new subsection. Limit payoffs; and WAC 260-48-920 (1)(4), clarified wording.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 30, amended 0, repealed 43.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: June 11, 1996.

April 18, 1996  
 Bruce Batson  
 Executive Secretary

**NEW SECTION**

**WAC 260-48-500 General provisions.** Each association shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a parimutuel system approved by the commission. The totalisator shall be tested prior to and during the meeting as required by the commission.

**NEW SECTION**

**WAC 260-48-510 Records.** (1) The association shall be responsible for the maintenance of records of all wagering so the commission may review such records for any race including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each association and/or totalisator company and safeguarded for one year after the last day of the meet or as specified by the commission.

(2) The association shall provide at the request of the commission a list of the licensed individuals afforded access to parimutuel records and equipment at the wagering facility.

**NEW SECTION**

**WAC 260-48-520 Parimutuel tickets.** A parimutuel ticket is evidence of a contribution to the parimutuel pool operated by the association and is evidence of the obligation of the association to pay to the holder thereof such portion of the distributable amount of the parimutuel pool as is represented by such valid parimutuel ticket. The association shall cash all valid winning parimutuel tickets when such are presented for payment.

(1) To be deemed a valid parimutuel ticket, such ticket shall have been issued by a parimutuel ticket machine operated by the association and recorded as a ticket entitled to a share of the parimutuel pool, and contain imprinted information as to:

- (a) The name of the association operating the meeting.
- (b) A unique identifying number or code.
- (c) Identification of the terminal at which the ticket was issued.
- (d) A designation of the performance for which the wagering transaction was issued.
- (e) The race number for which the pool is conducted.
- (f) The type or types of wagers represented.
- (g) The number or numbers representing the betting interests for which the wager is recorded.
- (h) The amount or amounts of the contributions to the parimutuel pool or pools for which the ticket is evidence.

(2) No parimutuel ticket recorded or reported as previously paid, cancelled, or nonexistent shall be deemed a valid parimutuel ticket by the association.

(3) Every association shall maintain a record of outstanding parimutuel tickets, which represent the winning tickets not presented for payment. A record of such tickets so cashed shall be retained for a period of thirty months from the date they were cashed. This record shall be made available for inspection by commission or its authorized representative upon request.

**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 260-48-530 Parimutuel ticket sales.** (1) Parimutuel tickets shall not be sold by anyone other than an association licensed to conduct parimutuel wagering.

(2) No parimutuel ticket may be sold on a race for which wagering has already been closed and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalisator is closed for wagering on such race.

(3) Parimutuel tickets may be exchanged or cancelled prior to the running of a race based upon the written policies of the association. Such policy shall be filed with the commission.

(4) Payment on winning parimutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official". Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the stewards or commission shall in no way affect the parimutuel payoff. If an error in the posted order of finish or payoff figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.

(5) The association shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

(6) No person under the age of 18 shall purchase or cash any parimutuel ticket. No employee of the association shall knowingly sell to or cash for a person under the age of 18 any parimutuel ticket. Unattended persons under the age of 18 are not permitted in wagering areas.

#### NEW SECTION

**WAC 260-48-540 Advance wagering.** No association shall permit wagering to begin more than one hour before scheduled post time of the first race unless it has first obtained the authorization of the commission.

#### NEW SECTION

**WAC 260-48-550 Claims for payment from parimutuel pool.** At a designated location, a written, verified claim for payment from a parimutuel pool shall be accepted by the association. In any case where the association has withheld payment or has refused to cash a parimutuel wager the claimant shall be informed that they may register a complaint with the commission. In the case of a claim made for payment on a parimutuel wager, the commission may adjudicate the claim and order payment thereon from the parimutuel pool or by the association, or may deny the claim, or may make such other order as it may deem proper.

#### NEW SECTION

**WAC 260-48-560 Payment for errors.** If an error occurs in the payment amounts for parimutuel tickets which are cashed or entitled to be cashed and as a result of such error the parimutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

(1) In the event the error results in an overpayment to the ticket holders the association shall be responsible for such payment.

(2) In the event the error results in an underpayment to tickets holders:

(a) The association shall accept timely claims for such underpayment, shall investigate such claims and shall pay each claim, or a part thereof, which it determines to be valid, and shall notify the claimant if the claim is rejected as invalid.

(b) Any person whose claim is rejected by the association may, within 15 days from the date the rejection notice was received, request the commission to determine the validity of the claim. The failure to file such request with the commission within the said time shall constitute a waiver of the claim.

(c) A hearing shall be held on each such rejected claim timely filed with the commission. The commission shall give notice of such hearing to the claimant and the association. The commission may determine a claim to be valid, in whole or in part, and thereafter order the association to pay the claimant the amount of the claim determined to be valid, or may deny the claim in whole or in part. Any such determination shall be final and binding to all parties.

(d) If no valid claims are presented, or after all filed claims have been resolved, the amount of the underpayment or any part thereof, shall be applied to the next available corresponding pool (i.e. exacta pools). If there is no similar pool the underpayment shall be applied to the win pool of the first race. Such payment shall be publicly announced prior to this day.

(3) Any claim not filed with the association within 30 days inclusive of the date on which the underpayment was publicly announced shall be deemed waived and the association shall have no further liability therefor.

#### NEW SECTION

**WAC 260-48-570 Betting explanation.** A summary explanation of parimutuel wagering and each type of betting pool offered shall be published in the program each race day. The rules of racing relative to each type of parimutuel pool offered must be prominently displayed on association grounds and available upon request through association representatives.

#### NEW SECTION

**WAC 260-48-580 Display of betting information.** (1) Approximate odds for win pool betting shall be posted on display devices within view of the wagering public and updated for the first change when the total win pool has reached a minimum dollar amount established by the association, and thereafter shall update at intervals of not more than 90 seconds, but in no event shall the first change in odds occur later than 12 minutes to post.

(2) The probable payoff or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the commission.

(3) Official results and payoffs must be displayed upon each race being declared official.

NEW SECTION

**WAC 260-48-590 Cancelled races.** If a race is cancelled or declared "no race", refunds shall be granted on valid wagers in accordance with these rules.

NEW SECTION

**WAC 260-48-600 Refunds.** (1) Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:

(a) Win pools, exacta pools, and first-half double pools, offered in races in which the number of betting interests has been reduced to fewer than two.

(b) Place pools and quinella pools, offered in races in which the number of betting interests has been reduced to fewer than three (3).

(c) Show pools, in races in which the number of betting interests has been reduced to fewer than four.

(d) Trifecta pools and first half twin trifecta pools, offered in races in which the number of betting interests has been reduced to fewer than six (6).

(2) Authorized refunds shall be paid upon presentation and surrender of the affected parimutuel ticket.

NEW SECTION

**WAC 260-48-610 Coupled entries and mutuel field.** (1) Horses coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any horse in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining horses in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all horses within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.

(2) For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading horse in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

NEW SECTION

**WAC 260-48-620 Pools dependent upon betting interests.** Unless the commission otherwise provides, at the time the pools are opened for wagering, the association:

(1) Shall offer win, place, and show wagering on all races with five or more betting interests.

(2) May be allowed to prohibit show wagering on any race with four or fewer betting interests.

(3) May be allowed to prohibit place wagering on any race with three or fewer betting interests.

(4) May be allowed to prohibit quinella wagering on any race with three or fewer betting interests.

(5) May be allowed to prohibit exacta wagering on any race with three or fewer betting interests.

(6) Shall prohibit trifecta wagering on any race with seven or fewer betting interests scheduled to start one hour prior to the first scheduled post time of the day.

(7) Shall prohibit twin trifecta wagering on any race with seven or fewer betting interests scheduled to start one hour prior to the first scheduled post time of the day.

NEW SECTION

**WAC 260-48-630 Closing of wagering in a race.** (1) Coincident with the start of a race, a commission representative shall close wagering for the race after which time no parimutuel tickets shall be sold for that race.

(2) The association shall maintain in good order an electrical or other system approved by the commission for locking of parimutuel machines.

NEW SECTION

**WAC 260-48-640 Complaints pertaining to parimutuel operations.** (1) When a patron makes an unresolvable complaint regarding the parimutuel department to an association, the association shall immediately issue a complaint report, setting out:

(a) The name of the complainant;

(b) The nature of the complaint;

(c) The name of the persons, if any, against whom the complaint was made;

(d) The date of the complaint;

(e) The action taken or proposed to be taken, if any, by the association.

(2) The association shall submit every complaint report to the commission within 48 hours after the complaint was made.

NEW SECTION

**WAC 260-48-650 Licensed employees.** All licensees shall report any known irregularities or wrong doings by any person involving parimutuel wagering immediately to the commission and cooperate in subsequent investigations.

NEW SECTION

**WAC 260-48-660 Emergency situations.** Should any emergency arise in connection with the operation of the parimutuel department of the association, not covered by these rules, and an immediate decision is necessary, the mutuel manager may make the decision.

NEW SECTION

**WAC 260-48-670 Limit payoffs.** An association may have the option to limit payoffs, at satellite locations, approved in accordance with Sec. 01. RCW 67.16.200, to \$2,500 in cash, with the balance delivered in the form of a check or by an electronic fund transfer by the end of the next business day.

NEW SECTION

**WAC 260-48-800 Parimutuel wagering pools.** (1) All permitted parimutuel wagering pools shall be separately and independently calculated and distributed. Takeout shall be deducted from each gross pool as stipulated by law. The remainder of the monies in the pool shall constitute the net pool for distribution as payoff on winning wagers.

(2) The standard price calculation procedure shall be used to calculate wagering pools. Standard price calculation procedure:

**SINGLE PRICE POOL (WIN POOL)**

- Gross Pool = Sum of Wagers on all Betting Interests - Refunds
- Takeout = Gross Pool x Percent Takeout
- Net Pool = Gross Pool - Takeout
- Profit = Net Pool - Gross Amount Bet on Winner
- Profit Per Dollar = Profit/Gross Amount Bet on Winner
- \$1 Unbroken Price = Profit Per Dollar + \$1
- 1 Broken Price = \$1 Unbroken Price Rounded Down to the Break Point
- Total Payout = \$1 Broken Price x Gross Amount Bet on Winner
- Total Breakage = Net Pool - Total Payout

**PROFIT SPLIT (PLACE POOL)**

Profit is net pool less gross amount bet on all place finishers. Finishers split profit 1/2 and 1/2 (place profit), then divide by gross amount bet on each place finisher for two unique prices.

**PROFIT SPLIT (SHOW POOL)**

Profit is net pool less gross amount bet on all show finishers. Finishers split profit 1/3 and 1/3 and 1/3 (show profit), then divide by gross amount bet on each show finisher for three unique prices.

(3) If a profit split results in only one covered winning betting interest or combinations it shall be calculated the same as a single price pool.

(4) The individual pools outlined in these rules may be given alternative names by each association, provided prior approval is obtained from the commission.

(5) In the event a minus pool occurs in any parimutuel pool, the expense of said minus pool shall be borne by the association.

(6) The association must pay to the holder of any ticket or tickets entitling the holder to participate in the distribution of a parimutuel pool the amount wagered by such holder plus a minimum of five percent thereof. This requirement is unaffected by the existence of a parimutuel pool which does not contain sufficient money to distribute said five percent to all persons holding such tickets.

(7) No person or corporation shall directly or indirectly purchase parimutuel tickets or participate in the purchase of any part of a parimutuel pool for another for hire or for any gratuity.

**NEW SECTION**

**WAC 260-48-810 Win pools.** (1) The amount wagered on the betting interest which finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to win on that betting interest.

(2) The net win pool shall be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish:

- (a) To those whose selection finished first; but if there are no such wagers, then
- (b) To those whose selection finished second; but if there are no such wagers, then
- (c) To those whose selection finished third; but if there are no such wagers, then
- (d) The entire pool shall be refunded on win wagers for that race.
- (3) If there is a dead heat for first involving:
  - (a) Horses representing the same betting interest, the win pool shall be distributed as if no dead heat occurred.
  - (b) Horses representing two or more betting interests, the win pool shall be distributed as a profit split.

**NEW SECTION**

**WAC 260-48-820 Place pools.** (1) The amounts wagered to place on the first two betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two equal portions, one being assigned to each winning betting interest and divided by the amount wagered to place on that betting interest, the resulting quotient is the profit per dollar wagered to place on that betting interest.

(2) The net place pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

- (a) If horses of a coupled entry or mutuel field finished in the first two places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise
- (b) As a profit split to those whose selection is included within the first two finishers; but if there are no such wagers on one of those two finishers, then
- (c) As a single price pool to those who selected the one covered betting interest included within the first two finishers; but if there are no such wagers, then
- (d) As a single price pool to those who selected the third-place finisher; but if there are no such wagers, then
- (e) The entire pool shall be refunded on place wagers for that race.
- (3) If there is a dead heat for first involving:
  - (a) Horses representing the same betting interest, the place pool shall be distributed as a single price pool.
  - (b) Horses representing two or more betting interests, the place pool shall be distributed as a profit split.
  - (4) If there is a dead heat for second involving:
    - (a) Horses representing the same betting interest, the place pool shall be distributed as if no dead heat occurred.
    - (b) Horses representing two or more betting interests, the place pool is divided with one-half of the profit distributed to place wagers on the betting interest finishing first and the remainder is distributed equally amongst place wagers on those betting interests involved in the dead heat for second.

**NEW SECTION**

**WAC 260-48-830 Show pools** (1) The amounts wagered to show on the first three betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three equal portions, one

PERMANENT

being assigned to each winning betting interest and divided by the amount wagered to show on that betting interest, the resulting quotient being the profit per dollar wagered to show on that betting interest. The net show pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

- (a) If horses of a coupled entry or mutuel field finished in the first three places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise
  - (b) If horses of a coupled entry or mutuel field finished as two of the first three finishers, the profit is divided with two-thirds distributed to those who selected the coupled entry or mutuel field and one-third distributed to those who selected the other betting interest included within the first three finishers; otherwise
  - (c) As a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those three finishers, then
  - (d) As a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then
  - (e) As a single price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then
  - (f) As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then
  - (g) The entire pool shall be refunded on show wagers for that race.
- (2) If there is a dead heat for first involving:
    - (a) Two horses representing the same betting interest, the profit is divided with two-thirds distributed to those who selected the first-place finishers and one-third distributed to those who selected the betting interest finishing third.
    - (b) Three horses representing a single betting interest, the show pool shall be distributed as a single price pool.
    - (c) Horses representing two or more betting interests, the show pool shall be distributed as a profit split.
  - (3) If there is a dead heat for second involving:
    - (a) Horses representing the same betting interest, the profit is divided with one-third distributed to those who selected the betting interest finishing first and two-thirds distributed to those who selected the second-place finishers.
    - (b) Horses representing two betting interests, the show pool shall be distributed as a profit split.
    - (c) Horses representing three betting interests, the show pool is divided with one-third of the profit distributed to show wagers on the betting interest finishing first and the remainder is distributed equally amongst show wagers on those betting interests involved in the dead heat for second.
  - (4) If there is a dead heat for third involving:
    - (a) Horses representing the same betting interest, the show pool shall be distributed as if no dead heat occurred.
    - (b) Horses representing two or more betting interests, the show pool is divided with two-thirds of the profit distributed to show wagers on the betting interests finishing first and second and the remainder is distributed equally amongst show wagers on those betting interests involved in the dead heat for third.

## NEW SECTION

**WAC 260-48-840 Double pools.** (1) The double requires selection of the first-place finisher in each of two specified races.

(2) The net double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

- (a) As a single price pool to those whose selection finished first in each of the two races; but if there are no such wagers, then
  - (b) As a profit split to those who selected the first-place finisher in either of the two races; but if there are no such wagers, then
  - (c) As a single price pool to those who selected the one covered first-place finisher in either race; but if there are no such wagers, then
  - (d) As a single price pool to those whose selection finished second in each of the two races; but if there are no such wagers, then
  - (e) The entire pool shall be refunded on double wagers for those races.
- (3) If there is a dead heat for first in either of the two races involving:
    - (a) Horses representing the same betting interest, the double pool shall be distributed as if no dead heat occurred.
    - (b) Horses representing two or more betting interests, the double pool shall be distributed as a profit split if there is more than one covered winning combination.
  - (4) Should a betting interest in the first-half of the double be scratched prior to the first double race being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.
  - (5) Should a betting interest in the second-half of the double be scratched prior to the close of wagering on the first double race, all money wagered on combinations including the scratched betting interest shall be deducted from the double pool and refunded.
  - (6) Should a betting interest in the second-half of the double be scratched after the close of wagering on the first double race, all wagers combining the winner of the first race with the scratched betting interest in the second race shall be allocated a consolation payoff. In calculating the consolation payoff the net double pool shall be divided by the total amount wagered on the winner of the first race and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first race combined with the scratched betting interest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net double pool before calculation and distribution of the winning double payoff. Dead heats including separate betting interests in the first race shall result in a consolation payoff calculated as a profit split.
  - (7) If either of the double races are cancelled prior to the first double race, or the first double race is declared "no race", the entire double pool shall be refunded on double wagers for those races.
  - (8) If the second double race is cancelled or declared "no race" after the conclusion of the first double race, the net double pool shall be distributed as a single price pool to

wagers selecting the winner of the first double race. In the event of a dead heat involving separate betting interests, the net double pool shall be distributed as a profit split.

(9) Before the running of the second double race the association shall announce and/or post the payoff of each combination coupled with the winner of the first half of the double race.

#### NEW SECTION

**WAC 260-48-850 Pick three.** (1) The pick three requires selection of the first-place finisher in each of three specified races.

(2) The net pick three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose selection finished first in each of the three races; but if there are no such wagers, then

(b) As a single price pool to those who selected the first-place finisher in any two of the three races; but if there are no such wagers, then

(c) As a single price pool to those who selected the first-place finisher in any one of the three races; but if there are no such wagers, then

(d) The entire pool shall be refunded on pick three wagers for those races.

(3) If there is a dead heat for first in any of the three races involving:

(a) Horses representing the same betting interest, the pick three pool shall be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the pick three pool shall be distributed as follows:

(i) As a profit split to those whose selection finished first in each of the three races, if there are no such wagers,

(ii) As a single price pool to those who selected the first place finisher in any of the three races, if there are no such wagers,

(iii) As a single price pool to those who selected the first place finisher in any one of the three races, if there are no such wagers,

(iv) The entire pool shall be refunded on pick three wagers for those races.

(4) Should a betting interest in any of the three pick three races be scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that race, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(5) If all three pick three races are cancelled or declared "no race", the entire pool shall be refunded on pick three wagers for those races.

(6) If one or two of the pick three races are cancelled or declared "no race", the pick three pool will remain valid and

shall be distributed in accordance with subsection 2 of this rule.

(7) Before the running of the third pick three race the association shall announce and/or post the payoff of each combination coupled with the winners of the first and second races of the pick three.

(8) The pick three may be given a distinctive name to be selected by the association conducting such races, such as "TRIPLE," subject to the prior approval of the commission.

#### NEW SECTION

**WAC 260-48-860 Quinella pools.** (1) The quinella requires selection of the first two finishers, irrespective of order, for a single race.

(2) The net quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) If horses of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(b) As a single price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

(c) As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then

(d) As a single price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then

(e) The entire pool shall be refunded on quinella wagers for that race.

(3) If there is a dead heat for first involving:

(a) Horses representing the same betting interest, the quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) Horses representing two betting interests, the quinella pool shall be distributed as if no dead heat occurred.

(c) Horses representing three or more betting interests, the quinella pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the quinella pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two or more betting interests, the quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:

(a) As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(b) As a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(c) As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

(d) As a profit split to those whose combination included the winner and any other betting interest and

wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then

(e) The entire pool shall be refunded on quinella wagers for that race.

#### NEW SECTION

**WAC 260-48-870 Exacta pools.** (1) The exacta requires selection of the first two finishers, in their exact order, for a single race.

(2) The net exacta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) If horses of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise

(b) As a single price pool to those whose combination finished in correct sequence as the first two betting interests; but if there are no such wagers, then

(c) As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one of those two finishers, then

(d) As a single price pool to those whose combination included the one covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then

(e) The entire pool shall be refunded on exacta wagers for that race.

(3) If there is a dead heat for first involving:

(a) Horses representing the same betting interest, the exacta pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.

(b) Horses representing two or more betting interests, the exacta pool shall be distributed as a profit split.

(4) If there is a dead heat for second involving horses representing the same betting interest, the exacta pool shall be distributed as if no dead heat occurred.

(5) If there is a dead heat for second involving horses representing two or more betting interests, the exacta pool shall be distributed to ticket holders in the following precedence, based upon the official order of finish:

(a) As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then

(b) As a single price pool to those combining the first-place betting interest with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

(c) As a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then

(d) The entire pool shall be refunded on exacta wagers for that race.

#### NEW SECTION

**WAC 260-48-890 Trifecta pools.** (1) The trifecta requires selection of the first three finishers, in their exact order, for a single race.

(2) The net trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire pool shall be refunded on trifecta wagers for that race.

(3) If less than three betting interests finish and the race is declared official, payoffs will be made based upon the order of finish of those betting interests completing the race. The balance of any selection beyond the number of betting interests completing the race shall be ignored.

(4) If there is a dead heat for first involving:

(a) Horses representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

(b) Horses representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

(5) If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

(6) If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

(7) Coupled entries and mutuel fields shall be prohibited in trifecta races.

(8) There shall be only one instance of two horses having common ties through a trainer in any trifecta race.

#### NEW SECTION

**WAC 260-48-900 Twin trifecta pools.** (1) The twin trifecta requires selection of the first three finishers, in their exact order, in each of two designated races. Each winning ticket for the first twin trifecta race must be exchanged for a free ticket on the second twin trifecta race in order to remain eligible for the second-half twin trifecta pool. Winning first-half wagers will receive both an exchange and a monetary payoff. Both of the designated twin trifecta races shall be included in only one twin trifecta pool.

(2) Twin trifecta wagering may be conducted by Class A and B licensees at the discretion of the commission upon written application by an association.

(3) After wagering closes for the first-half of the twin trifecta and commissions have been deducted from the pool,

the net pool shall then be divided into two separate pools: The first-half twin trifecta pool and the second-half twin trifecta pool. The percentage allocated to each pool must be approved by the commission.

(4) In the first twin trifecta race only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first twin trifecta race:

(a) As a single price pool to those whose combination finished in the correct sequence as the first three betting interest; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) The entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be cancelled.

(5) If no first-half twin trifecta ticket selects the first three finishers of that race in exact order, winning ticket holders shall not receive any exchange tickets for the second-half twin trifecta pool. In such case, the second-half twin trifecta pool shall be retained and added to any existing twin trifecta carry-over pool.

(6) Winning tickets from the first-half of the twin trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the twin trifecta. The second-half twin trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second twin trifecta race:

(a) As a single price pool, including any existing carry-over monies, to those whose combination finished in correct sequence as the first three betting interest; but if there are no such tickets, then

(b) The entire second-half twin trifecta pool for that race shall be added to any existing carry-over monies and retained for the corresponding second-half twin trifecta pool of the next consecutive race card.

(7) Subject to subsection 19(e) of the twin trifecta rules, if a winning first-half twin trifecta ticket is not presented for cashing and exchange prior to the second-half twin trifecta race, the ticket holder may still collect the monetary value associated with the first-half twin trifecta pool but forfeits all rights to any distribution of the second-half twin trifecta pool.

(8) Coupled entries and mutuel fields shall be prohibited in twin trifecta races.

(9) There shall be only one instance of two horses having common ties through a trainer in any twin trifecta race.

(10) Should a betting interest in the first-half of the twin trifecta be scratched, those twin trifecta wagers including the scratched betting interest shall be refunded.

(11) Should a betting interest in the second-half of the twin trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest.

(12) If there is a dead heat or multiple dead heats in either the first- or second-half of the twin trifecta, all twin

trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of dead heat occurring in:

(a) The first-half of the twin trifecta, the payoff shall be calculated as a profit split

(b) The second-half of the twin trifecta, the payoff shall be calculated as a single price pool.

(13) If either of the twin trifecta races are cancelled prior to the first twin trifecta race, or the first twin trifecta race is declared "no race," the entire twin trifecta pool for that day shall be refunded on twin trifecta wagers for that race and the second-half shall be cancelled.

(14) If the second-half twin trifecta race is cancelled or declared "no race," all exchange tickets and outstanding first-half winning twin trifecta tickets shall be entitled to the net twin trifecta pool for that race as a single price pool, but not the twin trifecta carry-over. If there are no such tickets, the net twin trifecta pool shall be distributed as described in subsections (4) of the twin trifecta rules.

(15) If, due to a late scratch, the number of betting interests in the second-half of the twin trifecta is reduced to fewer than 6, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half twin pool for that race as a single price pool, but not the twin trifecta carry-over.

(16) If it be determined by the stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open (non starter) in the second-half of the twin trifecta only, there will be no refund or consolation payoff. The official order of finish as posted shall be used to determine payoffs. This will not affect other pools for this race.

(17) A written request for permission to distribute the twin trifecta carry-over on a specific race card may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date of race card for the distribution.

(18) Contrary to subsection (5) of the twin trifecta rules, during a race card designated to distribute the twin trifecta carry-over, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the twin trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations as described in subsection (4) of the twin trifecta rules.

(19) Should the twin trifecta carry-over be designated for distribution on a specified date, the following precedence will be followed in determining winning tickets for the second-half of the twin trifecta after completion of the first-half of the twin trifecta:

(a) As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

(b) As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

(c) As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

(d) As a single price pool to holders of valid exchange tickets.

(e) As a single price pool to holders of outstanding first-half winning tickets.

(20) The twin trifecta carry-over shall be designated for distribution on a specified date and race card only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection (17) of the twin trifecta rules.

(b) On the closing race card of the meet or split meet.

(21) If, for any reason, the twin trifecta carry-over must be held over to the corresponding twin trifecta pool of the association's subsequent meet, the carry-over shall be deposited in an interest-bearing account approved by the commission. The twin trifecta carry-over plus accrued interest shall then be added to the second-half twin trifecta pool of the association's following meet.

(22) If racing is cancelled prior to the first-half of the twin trifecta on the closing race card of the meet or split meet, the carry-over will be held over in accordance with subsection (20) of the twin trifecta rules.

(23) If racing is cancelled after the running of the first-half but before the running of the second-half on the closing race card of the meet or split meet, the carry-over pool will be paid as a single price to holders of exchange tickets or outstanding winning tickets from the first-half.

(24) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communications between totalisator and parimutuel department employees for processing of pool data.

(25) The acceptance of a twin trifecta ticket by taking an issued ticket away from the window of the terminal from which it was issued shall constitute an acknowledgment by the bettor that the ticket is correct. Exchange tickets may not be canceled and/or reissued except as provided by these rules. The association, totalisator company, and state may not be liable to any person for a twin trifecta ticket which is not:

(a) A winning ticket in accordance with the provisions of this rule; or

(b) Delivered for any reason, including but not limited to mechanical malfunction, electrical failure, machine locking, phone line failure, or other cause.

(26) Twin trifecta tickets shall be sold and exchanged only by the association through parimutuel machines.

(27) The twin trifecta carry-over may be capped at a designated level approved or set by the commission so that if, at the close of any race card, the amount in the twin trifecta carry-over equals or exceeds the designated cap, the twin trifecta carry-over will be frozen until it is won or distributed under other provisions of this rule. After the twin trifecta carry-over is frozen, 100 percent of the net twin trifecta pool for each individual race shall be distributed to winners of the first-half of the twin trifecta pool.

**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 260-48-920 Pick (n) pools** (1) The pick (n) requires selection of the first-place finisher in each of a designated number of races. The association must obtain written approval from the commission concerning the scheduling of pick (n) races, the designation of one of the methods prescribed in part (2), and the amount of any cap to be set on the carry-over. The number of races so designated must be more than three (3), but no greater than ten (10). Any changes to the approved pick (n) format require prior approval from the commission.

(2) The Pick (n) pool shall be apportioned under one of the following methods:

(a) Method 1, pick (n) with carry-over: The net pick (n) pool and carry-over, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the remainder shall be added to the carry-over.

(b) Method 2, pick (n) with minor pool and carry-over: The major share of the net pick (n) pool and the carry-over, if any, shall be distributed to those who selected the first-place finisher in each of the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor share of the net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races; and the major share shall be added to the carry-over.

(c) Method 3, pick (n) with no minor pool and no carry-over: The net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

(d) Method 4, pick (n) with minor pool and no carry-over: The major share of the net pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

(e) Method 5, pick (n) with minor pool and no carry-over: The major share of net pick (n) pool shall be distributed to those who selected the first-place finisher in each of

the pick (n) races, based upon the official order of finish. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of pick (n) races, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all pick (n) races, the entire net pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of pick (n) races. If there are no wagers selecting the first-place finisher in a second greatest number of pick (n) races, the minor share of the net pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the pick (n) races. If there are no winning wagers, the pool is refunded.

(f) Method 6, pick (n) with minor pool, jackpot pool, major carry-over and jackpot carry-over: Predetermined percentages of the net pick (n) pool shall be set aside as a major pool, minor pool and jackpot pool. The major share of the net pick (n) pool and the major carry-over, if any, shall be distributed to those who selected the first-place finisher of each of the pick (n) races, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the pick (n) races, the major net pool shall be added to the major carry-over. If there is only one single ticket selecting the first-place finisher of each of the pick (n) races, based on the official order of finish, the jackpot share of the net pick (n) pool and the jackpot carry-over, if any, shall be distributed to the holder of that single ticket, along with the major net pool and the major carry-over, if any. If more than one ticket selects the first-place finisher of each of the pick (n) races the jackpot net pool shall be added to the jackpot carry-over. The minor share of the net pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of pick (n) races, based on the official order of finish. If there are no wagers selecting the first-place finisher of all pick (n) races, the minor net pool of the pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of pick (n) races.

(3) If there is a dead heat for first in any of the pick (n) races involving:

(a) Horses representing the same betting interest, the pick (n) pool shall be distributed as if no dead heat occurred.

(b) Horses representing two or more betting interests, the pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

(4) Should a betting interest in any of the pick (n) races be scratched:

(a) The racing association may allow patrons the option of selecting an alternate betting interest prior to the running of the first leg of the pick (n). The selected alternate betting interest shall be substituted for the scratched betting interest, for all purposes, including pool calculations.

(b) If no alternate betting interest is selected or the selected alternate betting interest is also scratched, the actual favorite, as evidenced by total amounts wagered in the win pool at the close of wagering on that race, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the win pool total for

two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalisator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

(5) The pick (n) pool shall be cancelled and all pick (n) wagers for the individual race day shall be refunded if:

(a) At least three races included as part of a pick 4, pick 5 or pick 6 are cancelled or declared "no race".

(b) At least four races included as part of a pick 7, pick 8 or pick 9 are cancelled or declared "no race".

(c) At least five races included as part of a pick 10 are cancelled or declared "no race".

(6) If at least one race included as part of a pick (n) is cancelled or declared "no race", but not more than the number specified in subsection 5 of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races for that race day. Such distribution shall include the portion ordinarily retained for the pick (n) carry-over but not the carry-over from previous race days.

(7) The pick (n) carry-over may be capped at a designated level approved by the commission so that if, at the close of any race day, the amount in the pick (n) carry-over equals or exceeds the designated cap, the pick (n) carry-over will be frozen until it is won or distributed under other provisions of this rule. After the pick (n) carry-over is frozen, 100 percent of the net pool, part of which ordinarily would be added to the pick (n) carry-over, shall be distributed to those whose selection finished first in the greatest number of pick (n) races for that race day.

(8) A written request for permission to distribute the pick (n) carry-over on a specific race day may be submitted to the commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and race day for the distribution.

(9) Should the pick (n) carry-over be designated for distribution on a specified date and race day in which there are no wagers selecting the first-place finisher in each of the pick (n) races, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of pick (n) races. The pick (n) carry-over shall be designated for distribution on a specified date and race day only under the following circumstances:

(a) Upon written approval from the commission as provided in subsection 8 of this rule.

(b) Upon written approval from the commission when there is a change in the carry-over cap, a change from one type of pick (n) wagering to another, or when the pick (n) is discontinued.

(c) On the closing race day of the meet or split meet.

(10) If, for any reason, the pick (n) carry-over must be held over to the corresponding pick (n) pool of a subsequent meet, the carry-over shall be deposited in an interest-bearing account approved by the commission. The pick (n) carry-over plus accrued interest shall then be added to the net pick (n) pool of the following meet on a date and race day so designated by the commission.

(11) With the written approval of the commission, the association may contribute to the pick (n) carry-over a sum of money up to the amount of any designated cap.

(12) Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalisator and parimutuel department employees for processing of pool data.

(13) The association may suspend previously-approved pick (n) wagering with the prior approval of the commission. Any carry-over shall be held until the suspended pick (n) wagering is reinstated. An association may request approval of a pick (n) wager or separate wagering pool for specific race day.

**WSR 96-10-025  
PERMANENT RULES  
BENTON COUNTY  
CLEAN AIR AUTHORITY**  
[Filed April 24, 1996, 11:24 a.m.]

Date of Adoption: April 18, 1996.

Purpose: Rename current regulation with new name and jurisdiction of Benton County and remove references to Franklin and Walla Walla counties. Update references to RCWs and WACs which are no longer correct. Update asbestos regulation to include emergency safeguards. Set agricultural burn fees. Update open burning rules consistent with state laws.

Citation of Existing Rules Affected by this Order: Amending Articles 1 through 10 of Regulation 1.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 96-03-032 on January 9, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
April 23, 1996  
David A. Lauer  
Control Officer

**ARTICLE 1**

**POLICY, SHORT TITLE, AND DEFINITIONS**

**ADOPTED:** October 7, 1993  
**EFFECTIVE:** November 18, 1993

**Section 1.01 Policy**

The ~~Benton Franklin Walla Walla County Air Pollution Control Authority~~ Benton County Clean Air Authority, ~~eo-extensive~~ with the boundaries of Benton ~~Franklin, and Walla Walla~~ County, has been activated by the Washington Clean Air Act, ~~Chapter 70.94~~ Revised Code of Washington (RCW) RCW 70.94 as amended. The ~~Benton Franklin Walla Walla County Air Pollution Control Authority~~ Benton County Clean Air Authority, declared to be and directed to function as a ~~multi-~~ single county authority, adopts this Regulation as well as ~~Chapter 70.94~~ RCW RCW 70.94 as amended to control the emissions of air contaminants from all sources within the jurisdiction of the Authority; to provide for the uniform administration and enforcement of this Regulation; and to carry out the requirements and purposes of the Washington Clean Air Act.

It is hereby declared to be the public policy of the ~~Benton Franklin Walla Walla County Air Pollution Control Authority~~ Benton County Clean Air Authority to secure and maintain such levels of air quality that protect human health and safety, including the most sensitive members of the population, to comply with the requirements of the federal clean air act, to prevent injury to plant and animal life and to property, to foster the comfort and convenience of its inhabitants, to promote the economic and social development of the County and to facilitate the enjoyment of the natural attractions of the County.

It is further the intent of this Regulation to protect the public welfare, to preserve visibility, to protect scenic, aesthetic, historic, and cultural values, and to prevent air pollution problems that interfere with the enjoyment of life, property, or natural attractions.

This Regulation adopts the ~~Revised Code of Washington (RCW)~~ and Washington Administrative Codes (WAC) to the extent applicable to this Authority. ~~This Authority has included additional requirements to the adopted codes where the Authority deems it necessary.~~ When the Benton County Clean Air Authority judges it necessary, specific local provisions are adopted to implement the above laws.

**Section 1.02 Name of Authority**

The name of the County Air Pollution Control Authority, ~~eo-extensive~~ with the boundaries of Benton ~~Franklin, and Walla Walla~~ County, shall be known as the "~~BENTON FRANKLIN WALLA WALLA County AIR POLLUTION CONTROL AUTHORITY~~" "BENTON COUNTY CLEAN AIR AUTHORITY."

**Section 1.03 Short Title**

This ~~Regulation~~ shall be known and cited as "Regulation 1 of the ~~Benton Franklin Walla Walla County Air Pollution Control Authority.~~" Benton County Clean Air Authority" (hereinafter referred to as the BCCAA or the Authority).

**ARTICLE 2**

**GENERAL PROVISIONS**

**ADOPTED:** October 7, 1993  
**EFFECTIVE:** November 18, 1993

**Section 2.01 Powers and Duties of the Board**

PERMANENT

Pursuant to the provisions of the "~~Washington Clean Air Act~~" RCW 70.94, the Board shall establish such procedures and take such action as may be required to implement Section 1.01 of this Regulation consistent with the ~~State Act~~ RCW 70.94 and other applicable laws. The Board may take such action as may be necessary to prevent air pollution including control and measurement of the emission of air contaminant from a source. The Board shall appoint a Control Officer competent in the control of air pollution who shall, with the Board's advice and approval, enforce the provisions of this Regulation and all ordinances, orders, resolutions, or rules and regulations of this Authority pertinent to the control and prevention of air pollution in the County.

The Board shall have the power to hold hearings relating to any aspect of, or matter in, the administration of this Regulation and in connection therewith issue subpoenas to compel the attendance of witnesses and production of evidence, administer oaths and take the testimony of any person under oath.

The Board shall have the power to adopt, amend and repeal its own ordinances, resolutions, rules, or orders and regulations. Any adoption, amendment, or repeal of the Board's ordinances, resolutions, rules, or orders and regulations shall be made after due consideration at a public hearing held in accordance with ~~Chapter 42.30~~ RCW 42.30, and shall have the same force and effect as all other of the Board's ordinances, resolutions, rules, or orders and regulations as soon as adopted by the Board. (See RCW 70.94.141)

### Section 2.02 Control Officer's Duties and Powers

- A. The Control Officer and/or his authorized agents shall observe and enforce the provisions of the ~~State Law~~ RCW 70.94 and other applicable laws and all orders, ordinances, resolutions, or rules and regulations of the Authority pertaining to the control and prevention of air pollution pursuant to the policies set down by the Board.
- B. The Control Officer, with the approval of the Board, shall have the authority to appoint and remove such employees as are necessary to the performance of the duties assigned to him and to incur necessary expenses within the limitations of the budget.
- C. The Control Officer shall maintain appropriate records and submit reports as required by the Board, the appropriate State Agencies, and the appropriate Federal Agencies.
- D. The Control Officer may engage, at the Authority's expense, within the limitation of the budget, qualified individuals or firms to make independent studies and reports as to the nature, extent, quantity or degree of any air contaminants which are or may be discharged from any source within the Authority's jurisdiction.
- E. For the purpose of investigating conditions specific to the control, recovery or release of air contaminants into the atmosphere, the Control Officer or his duly authorized representatives shall have the power to enter, at reasonable times, upon any private or public property, excepting non-multiple

unit private dwellings housing two families or less. No person shall refuse entry or access to the Control Officer or his duly authorized representatives who request entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such inspection. (RCW 70.94.200)

- F. If the Control Officer or an authorized employee of the Authority during the course of an inspection desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air contaminants, he shall notify the owner or lessee of the time and place of obtaining a sample so the owner or lessee has the opportunity to take a similar sample at the same time and place, and the Control Officer or the authorized employee of the Authority shall give a receipt to the owner or lessee for the sample obtained.
- G. The Control Officer shall be empowered by the Board to sign official complaints or issue citations or initiate court suits or use other legal means to enforce the provisions of this Regulation.

### Section 2.03 Confidential Information

Whenever any records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Authority, pursuant to ~~Chapter 70.94~~ RCW 70.94, relate to processes or production unique to the owner or operator, or is likely to adversely affect the competitive position of such owner or operator if released to the public or to a competitor and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the Washington State Department of Ecology (Ecology) or the Authority. (RCW 70.94.205)

### Section 2.04 Violations

- A. At least thirty days prior to the commencement of any formal enforcement action under ~~Chapter 70.94.430~~ RCW 70.94.430 or ~~Chapter 70.94.431~~ RCW 70.94.431 the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of the ~~State Law~~ RCW, the WAC's or of this Regulation alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable time. In lieu of an order the Board or the Control Officer may require that the alleged violator or violators appear before the Hearings Board for a hearing. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

### Section 2.05 Orders and Hearings

- A. Any order issued by the Board or by the Control Officer, which is not preceded by a hearing, shall become final unless such order is appealed to the Hearings Board no later than thirty (30) days after the date the notice and order are served. All

petitions of appeal from the notice and order are to be filed with the offices of the Pollution Control Hearings Board of Washington. (~~Chapter 43.21B~~ RCW 43.21B)

### Section 2.06 Appeals from the Board, Judicial Review

- A. Any order issued by the Board after a hearing shall become final unless no later than thirty days after the issuance of such order, a notice of appeal is filed with the Hearings Board as provided in RCW 43.21 (B).
- B. Any order issued by the Board after the hearing shall become final unless no later than thirty days after the issuance of such order, a petition requesting judicial review is filed in accordance with the provisions of ~~Chapter 34.04 RCW~~ RCW 34.05 and now or hereafter amended. When such a petition is filed, the Superior Court shall initiate a hearing pursuant to ~~RCW 34.04.130~~ RCW 34.05.570 within ninety days after the receipt of the petition requesting judicial review. Every appeal from a decision of the Superior Court shall be heard by the appropriate appellate courts as soon as possible. Such appeals shall be considered a case involving issues of broad public import requiring prompt and ultimate determination.

### Section 2.07 Status of Orders and Appeals

- A. Any order of the Board or the Control Officer shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.
- B. Nothing in this Regulation shall prevent the Board or Control Officer from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

### Section 2.08 Falsification of Statement or Document, Unlawful Alteration of Documents, Display of Documents and Their Removal, Or Mutilation Prohibited

- A. No person shall willfully make a false or misleading statement to the Board or their authorized representatives as to any matter within the jurisdiction of the Board.
- B. No person shall reproduce or alter or cause to be reproduced or altered any order, registration certificate or other paper issued by the Agency if the purpose of such reproduction or alteration is to evade or violate any provision of this Regulation or any other law.
- C. Any order or registration certificate required to be obtained by this Regulation shall be available on the premises designated on the order or certificate, unless otherwise authorized by the Authority.
- D. In the event the Authority requires a notice to be displayed, it shall be posted. No person shall

mutilate, obstruct or remove any notice unless authorized to do so by the Board.

### Section 2.09 Service of Notice

- A. Service of any written notice required by this Regulation shall be made on the owner or lessee of equipment, or his agent as follows:
  1. Either by mailing the notice in a prepaid envelope directed to the owner or lessee of the equipment, or his agent, at the address listed on his application or order of registration certificate or at the address where the equipment is located, by United States Postal Service Certified Mail, return receipt requested, or,
  2. By leaving the notice with owner or lessee of the equipment, or his agent, or if the owner or lessee is not an individual, then a member of the partnership or other concerned or with an officer or managing agent of the corporation.
- B. Service of any written notice required by this Regulation shall be made to the Authority as follows:
  1. Either by mailing the notice in a prepaid envelope directed to the Authority at its office, by United States Postal Service Certified Mail, return receipt requested, or
  2. By leaving the notice at the Authority office with an employee of the Authority.

### Section 2.10 Severability

If any phrase, clause, subsection or section of this Regulation shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the Board of ~~Directors~~ would have enacted the Regulation without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the Regulation shall not be affected as a result of said part being held unconstitutional or invalid. (RCW 70.94.911)

### Section 2.11 Penalties

- A. Criminal Penalties
  1. Any person who knowingly violates any of the provisions of ~~Chapter 70.94~~ RCW 70.94 or any regulation, ordinance, or resolution in force pursuant thereto, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment in the county jail or by both fine and imprisonment as provided by ~~Chapter 70.94~~ RCW 70.94 for each separate violation.
  2. Any person who negligently releases into the ambient air any substance listed by the ~~Department of Ecology~~ as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by ~~Chapter 70.94~~ RCW 70.94.

3. Any person who knowingly releases into the ambient air any substance listed by the ~~Department of Ecology~~ as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by ~~Chapter 70.94 RCW 70.94~~.
  4. Any person who knowingly fails to disclose a potential conflict of interest under ~~Chapter 70.94.100 RCW 70.94.100~~ is guilty of a gross misdemeanor, and upon conviction thereof, is subject to a fine as provided by ~~Chapter 70.94 RCW 70.94~~.
- B. Other Penalties
1. a. In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of ~~Chapter 70.94 RCW 70.94~~ or any of the rules and regulations of the ~~Department of Ecology~~ or this Authority in force under this chapter may incur a civil penalty in an amount not to exceed that provided by ~~Chapter 70.94 RCW 70.94~~ for each violation. Each such violation is a separate and distinct offense, and in case of a continuing violation, each day's continuance is a separate and distinct violation.
  - b. Any person who fails to take action as specified by an order issued pursuant to ~~Chapter 70.94 RCW 70.94~~ or this Regulation is liable for a civil penalty in an amount not to exceed the penalty authorized by ~~Chapter 70.94 RCW 70.94~~ for each day of continued noncompliance.
  2. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by ~~RCW 19.52.020 RCW~~ on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.
  3. Each act of commission or omission which procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.
  4. The penalty is due and payable when the person incurring the same receives a notice in writing from the Control Officer of the Authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board as provided in ~~Chapter 43.21 B RCW 43.21B~~. When a request is made for a hearing, the penalty is due and payable only upon completion of all review proceedings and

the issuance of a final order affirming the penalty in whole or part. If the amount of such penalty is not paid within thirty days after it becomes due and payable, and a request for a hearing has not been made, the Board or Control Officer, shall bring an action to recover such penalty. The penalties provided by ~~Chapter 70.94 RCW 70.94~~ and this section are imposed pursuant to ~~Chapter RCW 43.2-B.300 RCW~~.

5. All penalties recovered under this section by the Authority are payable to the treasury of the Authority and credited to its funds.
6. To secure the penalty incurred under this section, ~~the State Ecology~~ or the Authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in ~~Chapter RCW 60.36.050 RCW~~.
7. In addition to other penalties provided by this section, persons falsifying emission data or other information used to set fees, or persons required to pay emission, registration, permit, or any other fee payable to the Authority who are more than ninety days late with such payments are subject to a penalty equal to three times the amount of the original fee owed.

**Section 2.12 Restraining Order - Injunction - Other Court Order**

Notwithstanding the existence or use of any other remedy whenever any person has engaged in, or is about to engage in, acts or practices which constitute or will constitute a violation of any provision of this ~~Regulation~~ or any rule, regulation or order issued by the Board or Control Officer or his authorized agent, the Board, or their designee, after notice to such person and an opportunity to comply, may petition the County Superior Court for a restraining order or a temporary or permanent injunction or another appropriate order. (RCW 70.94.425)

**ARTICLE 3**

**~~VARIANCES, WHEN PERMITTED~~**

~~Adopted: October 7, 1993~~

~~Revised: November 18, 1993~~

(Reserved)

**~~Section 3.01 Variances~~**

- A. ~~Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, including a group of persons who owns or controls like processes or like equipment, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration, or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:~~

PERMANENT

1. ~~The emissions occurring or proposed to occur do not endanger public health or safety; and~~
  2. ~~Compliance with the rules or regulations from which variances is sought would produce serious hardship without equal or greater benefits to the public.~~
- ~~B. No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.~~
- ~~C. Any variance or renewal thereof shall be granted within the requirements of Subsection A and for a time period and under conditions consistent with the reasons therefore, and within the following limitations:~~
1. ~~If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available and subject to the taking of any substitute or alternate measure that the Board may prescribe.~~
  2. ~~If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable times, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.~~
  3. ~~If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Item 1 and 2, it shall be for not more than one (1) year.~~
- ~~D. Any variance granted pursuant to this section may be renewed on terms and conditions and for period which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of the Board.~~
- ~~E. A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. Any applicant adversely affected by the denial of the terms and conditions of the granting of an application for a variance or renewal of the variance by the Board, may obtain~~

judicial review thereof only under the provisions of Chapter 43.21B RCW.

- ~~F. Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.415 of the Washington Clean Air Act to any person or his property. (RCW 70.94.181)~~

#### ARTICLE 4

##### Air Operating Permits

~~ADOPTED: August 18, 1994~~

~~EFFECTIVE: September 22, 1994~~

~~(Reserved)~~

##### Section 4.01 Fee Assessment

~~All eligible sources under WAC 173-401 shall be subject to the interim and subsequent annual fees described in Article 10, Section 10.08 of this Regulation.~~

#### ARTICLE 5

##### Open Burning

~~ADOPTED: October 7, 1993~~

~~EFFECTIVE: November 18, 1993~~

##### Section 5.01 ~~(Reserved)~~ WAC Adoption by Reference.

~~This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: WAC 173-425, "Open Burning."~~

##### Section 5.02 ~~Additional Requirements of this Authority~~ Authority Implementation

- A. Open burning in Benton County will be regulated using the "General Rule Burn" permitting system described in WAC 173-425-070. This system, which provides a limited number of days when open burning is allowed, will be implemented and enforced by the BCCAA within all city limits and urban growth areas in Benton County. The BCCAA will provide a spring window and fall window when burn days will be specified as established by WAC 173-425-070 or Board decision. Within each window, the BCCAA will make daily burn decisions based on current monitoring and meteorological information. This information will be provided daily on a published burn-message phone line, and/or through the local media. Open burning is restricted at all other times throughout the year, except as defined in Section 5.02 (B) and (C), or with a Special Burn Permit as described in Section 5.02(F) below.
- B. For all areas within Benton County which are outside of all city limits and urban growth areas, open burning for residential purposes may be conducted without a permit (or permission) and without the payment of a fee except for those outlined in Section 5.02 (D)(2), (8), (9), and (F)(2) below.

- ~~C. For areas within the jurisdiction where burning is allowed, the Authority will make daily "burn" or "no burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn message phone line, and/or through the local media.~~
- C. There are no restrictions on burning tumbleweeds which have been blown by the wind, regardless of location within Benton County or the current "burn day" status.
- D. A person burning under this section must follow these requirements and restrictions:
1. Unless otherwise specified, on "burn days" open burning may be conducted in areas where open burning is allowed only between the hours of 9 a.m. and one hour before Sunset.
  2. The fire must not include the following materials: garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal or any substance (other than natural vegetation) which when burned releases toxic emissions, dense smoke, or obnoxious odors.
  3. A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.
  4. No fires are to be within fifty feet of structures.
  5. The pile must not be larger than four feet by four feet by three feet.
  6. Only one pile at a time may be burned, and each pile must be extinguished before lighting another.
  7. No outdoor fire is permitted in or within 500 feet of forest slash.
  8. If the fire creates a nuisance, it must be extinguished.
  9. Permission from the landowner or the landowner's designated representative must be obtained before starting an open fire.
- E. No open burning shall be allowed on ~~construction or demolition sites~~ where active construction or demolition activities are occurring.
- F. Special burning permits
1. No building, structure, or vessel may be demolished by intentional burning, either for demolition or for fire training, without a written approval, in the form of a special burning permit, from the Authority. The special permit will contain restrictions regarding prohibited materials, fire safety, asbestos removal or demolition, and other restrictions as deemed necessary. Special burn permits shall be subject to a fee as described in Section 10.09.
  2. No burning of large quantities of unprocessed or processed natural vegetation, except as provided under Section 5.02(D), accumulated from land clearing or other activities or events is allowed except by written special permit

from the Authority. Special burning permits will specify restrictions and conditions on a case by case basis. Special burning permits shall be subject to a fee as described in Section 10.09. Agricultural burning as defined in 173-430-020 on commercially viable agricultural enterprises is exempted.

3. When anyone under the jurisdiction of this Authority would like to apply for a special burning permit to allow them to perform an operation or procedure otherwise not granted under this Article, they may submit a Request for Special Burning Permit (RSBP) at least five (5) working days prior to the proposed activity to the Authority with an application fee as described in ~~Article 10~~, Section 10.09. Payment of the fee shall not guarantee the applicant that the request will be approved. The RSBP must include the name, address and phone number of the applicant, a detailed explanation of the requested special permit, purpose of the special permit, and how the applicant would incur hardship without the special permit.

#### ARTICLE 6

##### Agricultural Burning

**ADOPTED:** October 7, 1993

**EFFECTIVE:** November 18, 1993

##### Section 6.01 (Reserved) WAC Adoption by Reference.

~~This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: WAC 173-430, "Agricultural Burning."~~

##### Section 6.02 Additional Requirements of this Authority Authority Implementation

- A. For the purpose of this section agricultural burning does not include incidental agricultural burning as listed in RCW 70.94.745. All other agricultural burning of more than ten (10) acres annually requires a written agricultural burning permit.
- B. Agricultural burning permit applications and agricultural burning permits for Benton County farmers are available from the BCCAA and are subject to the fees described in Section 10.10.
- C. Agricultural burning will be allowed only on designated "burn days." The Authority will make daily "burn" or "no-burn" designations based on current monitoring and meteorological data. This information will be provided daily on a published burn-message phone line, and/or through the local media.
- D. A person burning under this section must follow these requirements and restrictions:
  1. Unless otherwise specified, on "burn days" agricultural burning may be conducted in areas where burning is allowed only between the hours of 9 a.m. and one hour before ~~S~~unset.

2. It is the responsibility of those conducting agricultural burning to be informed of any additional fire safety rules as determined by their local fire district or county.

#### ARTICLE 7

##### Solid Fuel Burning Device Standards

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

##### Section 7.01 (Reserved) WAC Adoption by Reference.

~~This article adopts all provisions of the following Washington Administrative Code by reference and makes it a part of Regulation 1 of this Authority: WAC 173-433, "Solid Fuel Burning Device Standards."~~

##### Section 7.02 Additional Requirements of this Authority Authority Implementation

- A. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, give away, or install ~~any an~~ uninstalled used uncertified woodstove within the Authority's jurisdiction.

#### ARTICLE 8

##### Asbestos

ADOPTED: October 7, 1993

EFFECTIVE: November 18, 1993

##### Section 8.01 CFR Adoption by Reference.

This article adopts all provisions of the following Code of Federal Regulations (CFR) by reference and makes it a part of Regulation 1 of this Authority: ~~40 CFR 40 Part 61 Subpart M~~ "National Emission Standard for Asbestos."

##### Section 8.02 Additional Requirements of this Authority Authority Implementation

###### A. Definitions

1. Residential asbestos projects are defined as the renovation of any residential unit component or contents containing category I and II non-friable asbestos containing material (ACM) or regulated asbestos containing material (RACM), as defined in CFR 40 Part 61 Subpart M occurring in or on a residential unit.
2. Residential units are defined as any building with four or fewer dwelling units each containing space for uses such as living, sleeping, preparation of food, and eating that is used, occupied, or intended or designed to be occupied by one family as their domicile. This term includes houses, mobile homes, trailers, houseboats, and houses with a "mother-in-law apartment" or "guest room." This term does not include any ~~mixed use building, structure, or installation~~ facility that contains a residential unit.

- B. ~~All Section 8.01 requirements asbestos removal projects under Section 8.01 and those which do not fall under Sections 8.01 or 8.02(B) but shall apply Section 8.01 to all asbestos removal renovation and~~

demolition projects that are greater than 20 48 square feet or 35 10 linear feet, (unless the surface area of the pipe is greater than forty-eight feet) and are subject to the notification requirements and fee schedule described in Section 10.07.

- C. Operators (Certified Asbestos Abatement Contractors) who perform residential asbestos projects are subject to the requirements of Section 8.03(A) only when RACM is involved.
- D. Only resident owners and certified asbestos abatement contractors may conduct residential asbestos projects.
- E. Resident Owners performing their own or operators of residential asbestos projects for ACM and/or RACM are exempt from Section 8.01, but are subject to the following restrictions requirements:
  1. A written notification on forms provided by the Authority shall be submitted to the Authority ten (10) working days prior to the asbestos removal.
  2. A filing fee as described in Section 10.07 of this ~~Regulation~~ shall accompany the written notice.
  3. The owner ~~or operator~~ of the a residential project must participate in a prescribed educational program prepared by the Authority concerning the hazards of asbestos removal in the home. This program ~~will~~ may include, but may not be limited to:
    - a. Watching an informational video,
    - b. Agreement to read and understand informational pamphlets, provided by the Authority, concerning proper residential asbestos removal. Any questions pertaining to this material shall be addressed by the Authority.
  4. If after reviewing the notification form, interviewing the applicant about methods of removal and disposal, and inspecting the site as deemed necessary, the Authority may grant permission for owner or operator, or require a certified asbestos contractor to perform removal.
- F. All residential demolition projects are subject to the provisions of 8.01.

##### Section 8.03 Unexpected Discovery of Asbestos

- A. In the event of an unexpected discovery of asbestos during a renovation or demolition project, which was originally thought to contain no asbestos, the requirements of either Section 8.01 or 8.02 are applicable, and all work must stop until these requirements have been met.
- B. During an approved renovation or demolition project, if an unexpected discovery of additional asbestos is made which increases the project by 20% or greater than originally reported, an amendment or emergency waiver form must be filed with the Authority before work may continue.

**Section 8.04 Emergency Safeguards for the Public in the Case of Asbestos Spills or Scattering of Suspected Asbestos Material**

- A. In all such instances the suspected material shall be considered asbestos, and treated with proper precautions until such time as it is determined not to contain asbestos.
- B. Immediate action shall be taken to contain the spill and to prevent entry of unprotected and/or unauthorized persons; methods shall include but are not limited to:
  - 1. Roping off contaminated areas, danger signs may be considered appropriate in open areas.
  - 2. Locking or barring doors in buildings.
- C. A call shall be placed to the appropriate emergency response center to provide them with the necessary information so that they may notify the BCCAA and/or respective law enforcement agency on an emergency basis.

**ARTICLE 9  
Source Registration**

**ADOPTED: October 7, 1993**

**EFFECTIVE: November 18, 1993**

**Section 9.01 Registration Required**

The classes of air contaminant sources listed in Exhibit "A" below shall be registered with the Authority.

**Section 9.02 General Requirements for Registration**

- A. Registration of an installation or facility shall be made by the owner or lessee of the source, or agent of the owner, lessee or source, on forms furnished by the Authority. The owner or lessee of the source ~~and lessee are~~ is responsible for registration and for the accuracy of the information submitted.
- B. A separate registration shall be required for each source. The owner or operator shall register each facility with a detailed inventory of emission points, emission type, and quantity of emissions.
- C. Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee, and returned with the appropriate fee. Penalties can be assessed for non-compliance in accordance with ~~Article 2~~, Section 2.11 (B)(7).

**EXHIBIT "A"**

- 1. All sources required to register according to ~~WAC 173-400-100 Registration under~~ General Regulations for Air Pollution Sources.
- 2. All facilities required to register according to ~~WAC 173-491-030 Registration under~~ Emission Standards and Controls for Sources Emitting Gasoline Vapors.
- 3. Any source or emission unit as defined in ~~WAC 173-400-030 (63) and (24), respectively,~~ with an emission greater than or equal to 20% of the amount of the regulated pollutants listed in ~~WAC 173-400-030(61)~~ excluding "major sources" as defined in ~~WAC 173-401-200(18)~~.

- 4. Any existing stationary source, which if new, the federal standard of performance (NSPS) would be applicable according to WAC 173-400-115 Standards of Performance for New Sources.
- 5. Any existing source, which if new, would be subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS).
- 6. Any new or existing source of toxic air pollutants as defined in WAC 173-460-020 ~~(6) and (7)~~, which exceeds small quantity emission rates defined in WAC 173-460-080 ~~(2)(e)~~. ~~{WAC 173-460 Controls for New Sources of Toxic Air Pollutants}~~.
- 7. Any new source category ~~required to undergo~~; and any existing source, which if new, would be required by WAC 173-400-110 to undergo New Source Review ~~(WAC 173-400-110)~~.
- 8. Permanently located abrasive blasting operations.
- 9. Dry cleaners and dry cleaning plants.
- 10. Fuel burning equipment other than those serving dwellings of four or less families and has a heat input of more than 1,000,000 BTU per hour.
- 11. Insulation manufacturers.
- 12. Metal plating and anodizing operations.
- 13. Plastics and fiberglass fabrication facilities.
- 14. Permanently located surface coating operations including but not limited to coating of vehicles, metal, wood, plastic, rubber, or glass.
- 15. Permanently located vapor and gas collection systems including liquid stripping and flares.
- 16. Waste oil burners except waste oil burners used for space heating and which have an input not to exceed ~~0.5 million~~ 500,000 BTU ~~per~~ per hour provided that such burners are operated in accordance with WAC 173-303-515.
- 17. Corpus crematoriums.

**ARTICLE 10  
Fees and Charges**

**ADOPTED: October 7, 1993**

**EFFECTIVE: November 18, 1993**

**Section 10.01 Fees and Charges Required**

A fee or service charge shall be paid to the Authority for issuance of permits and for providing services as hereinafter provided.

**Section 10.02 Fees Otherwise Provided**

All fees and charges provided for in this Article are in addition to fees otherwise provided for or required to be paid by Regulation 1, PROVIDED the Control Officer shall waive payment of any fee or service charge hereby required if such fee duplicates ~~is duplicative of~~ a fee charged or required to be paid by another Article of this ~~Regulation~~.

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**Section 10.03 Fee Waiver, Indigency**

The Control Officer shall waive payment of all or a portion of any fee or service charge required by this Article to be paid upon a showing deemed sufficient by the Control Officer that the permit or service requested is necessary and payment of the fee would cause hardship upon the applicant. An applicant may apply for a fee waiver by filing a Fee Waiver, Indigency Form supplied by the Authority.

**Section 10.04 General Administrative Fees**

- A. A fee of twenty-five cents (\$.25) per page shall be charged for photocopies.
- B. A fee of twenty dollars (\$20.00) per hour shall be charged for all time expended preparing photocopies and for obtaining documents to be photocopied for requests covering more than ten pages.
- C. The actual cost of postage or shipping shall be charged for all material requested to be mailed.
- D. For other administrative services requested and performed by Authority staff which are not provided to the public generally, the Control Officer shall determine such charge as reasonably reimburses the Authority for time and materials expended in providing the service.

**Section 10.05 Registration Fees for Air Contaminant Sources**

- A. The Authority shall charge an annual registration fee pursuant to RCW 70.94.151. The Authority shall levy annual registration fees for services provided in administering the registration program. Fees received under the registration program shall not exceed the cost of administering the registration program. The Board will review the registration program on an annual basis.
- B. All air contaminant sources required by ~~Article 9~~ Section 9.02, EXHIBIT "A" to be registered shall be divided into the following three categories and are subject to the applicable fee:
  1. Class 1 sources are defined as all sources emitting pollutants, unless otherwise exempted by law or contained in Class 2 or Class 3. Class 1 sources shall pay an annual registration fee of one hundred dollars (\$100.00) at the time of registration.
  2. Class 2
    - a. Class 2 sources shall pay an annual registration fee at the time of registration. In no case shall the fee so calculated be less than three hundred fifty dollars (\$350.00) per year.
    - b. Sources emitting a base amount of more than 20% of the amount of the regulated pollutants listed in the definition of significant emissions in WAC 173-400-030~~(64)~~, except major sources as defined in WAC 173-401-200~~(18)~~ which are eligible for the Federal Clean Air Act Title V air operating permits (~~Article 4~~). For these emission sources, the Class 2 fee shall be an amount equal to the average ~~BFWWC~~

~~APCA BCCAA~~ "per ton" fee for air operating permittees times the actual tons of pollutants emitted each year in excess of the above defined base amount.

- c. Class 2 toxic sources are those sources emitting more than ± one ton of a single or more than 2.5 tons of a combination of toxic substances as defined in WAC 173-460-020 ~~(6) & (7)~~ except major sources (~~See Section 10.05 (B)(2)(b)~~). The Class 2 fee for sources emitting toxic pollutants shall be an amount equal to the average ~~BFWWC~~ APCA BCCAA "per ton" fee for air operating permittees times the actual tons of toxic pollutants over the above defined base amount times a factor of seven (7).
3. Class 3 sources are those sources which meet the requirements for permitting under the air operating program as described in ~~Article 4~~ WAC 173-401. Class 3 sources are subject to the fee schedule outlined in Section 10.08 of this Regulation.
- C. All gasoline facilities required by ~~Article 9~~ Section 9.02, EXHIBIT "A" to be registered shall register annually in accordance with WAC 173-491-030 and pay the following annual fees:
  1. Gasoline Loading Terminals five hundred dollars (\$500.00),
  2. Bulk Gasoline Plants two hundred dollars (\$200.00), and
  3. Gasoline Dispensing Facilities one hundred dollars (\$100.00).

**Section 10.06 Application and Permit Fees for Notice of Construction and Application for Approval and for Notice of Intent to Install and Operate a Temporary Source**

- A. All construction under RCW 70.94.152 and 153 shall be required to file a Notice of Construction and Application for Approval (NOC). A filing fee of fifty dollars (\$50.00) shall be paid at the time of filing the NOC. If the registration fee required in Section 10.05 also applies to the construction, the filing fee shall be waived.
- B. For portable air contaminant sources which locate temporarily at particular sites within the Authority's jurisdiction, a Notice of Intent to Operate a Temporary Source and Application for Approval (NIO) must be filed with the Authority. A fee of one hundred dollars (\$100.00) shall be paid at the time of filing the NIO Notice of Intent to Operate.
- C. In addition to the filing fees provided in Section 10.06 (A) and (B) "A" and "B" above, when an inspection is deemed necessary by the Authority, a plan review and inspection fee shall be paid at a rate equal to the hourly rate of the Authority's Air Operating Permit Engineer for a period not to exceed 10 hours.
- D. State Environmental Policy Act (SEPA) fees under WAC 197-11. For every environmental checklist

the Authority reviews when it is Lead Agency, the applicant shall first pay the threshold determination fee of fifty dollars (\$50.00) prior to undertaking the threshold determination by the responsible official of the Authority. If the Authority decides it must prepare a statement in order to comply with the ~~State Environmental Policy Act~~ SEPA before taking any action on a ~~NOC Notice of Construction~~, the cost of preparing, publishing, and distributing such a statement at a cost per hour rate for Authority staff time based upon actual cost as determined by the Control Officer and such other expenses as mutually agreed upon by the applicant and the Control Officer including consulting services, testing, reproduction, distributing, etc., shall be paid by the applicant.

- E. The cost of publishing a public notice ~~(as defined in WAC 403-110)~~ shall be borne by the applicant or other initiator of the action.
- F. When an operation for which an ~~Notice of Intent to Operate~~ NIO is required commences prior to making application and receiving approval, the Control Officer or his authorized agent may conduct an investigation as part of the ~~Notice of Intent~~ NIO review. In such a case, an investigation fee of three hundred dollars (\$300.00) shall be paid in addition to all other required fees in Section 10.06. Payment of the fees does not relieve any person from the requirement to comply with the regulations nor from any penalties for failure to comply.

### Section 10.07 Asbestos

- A. Any owner or operator of a renovation or demolition activity required by federal regulation CFR 40 Part 61 Subpart M or Article 8 of this Regulation to notify the Authority prior to starting the removal renovation or demolition, or required by ~~F~~federal Regulation to be approved or inspected by the Authority, shall give the required advance notice and pay a processing fee to the Authority determined by the following:
1. All single renovation or demolition projects under Section 8.01 or Section 8.02(A-B), require a ten (10) working day advance notification on a written "Notice of Intent to Remove or Encapsulate Asbestos Materials," and a fifty dollar (\$50.00) fee.
  2. Annual notices under Section 8.01, and within the notification requirements of Section 8.02(B), require ten (10) working day advance notification, an annual written application for approval, and a three hundred dollar fee of (\$300.00) fee.
  3. An amendment under Section 8.01 or Section 8.02 to an approved ~~asbestos project renovation or demolition~~ requires prior notification, an amended application, and a twenty-five dollar (\$25.00) fee for the 2nd amendment and any thereafter.
  4. An emergency under Section 8.01 or Section 8.02 requires prior notification, an Emergency Waiver Request Letter submitted by the prop-

erty owner or operator, a Notice of Intent to Remove Asbestos, and a fifty dollar (\$50.00) emergency fee as well as the normal application fee described in this Section.

5. A residential asbestos ~~removal~~ project under Section 8.02 requires ten (10) working day advance prior notification, and on a Residential Asbestos Removal Form "Notice of Intent to Remove Asbestos Materials," form accompanied by a filing fee of ~~50.00~~ ten dollars (\$10.00).
6. A demolition project under Section 8.01 and 8.02(F) which contains no asbestos requires ten (10) working day advance notification.

### Section 10.08 Operating Permit Fees

All eligible sources under WAC 173-401 shall be subject to the annual fees described in this section.

#### A. Interim Fee

1. ~~Pursuant to RCW 70.94.161(14), the Authority shall collect interim fees from sources emitting one hundred or more tons per year of a regulated pollutant during fiscal year 1994 (July 1, 1993 to June 30, 1994), or until this Authority receives delegation to issue permits from the Environmental Protection Agency.~~
2. ~~Pursuant to RCW 70.94.161, the Authority shall determine, assess, and collect annual fees sufficient to cover the direct and indirect costs of implementing the operating permit program. Ecology, too, will conduct a workload analysis determining its fiscal year 1994 costs and must allocate these costs among all sources in the state emitting one hundred tons or more of a regulated pollutant. The resulting fee is to be collected on behalf of Ecology by the local authority having jurisdiction over the particular source. Therefore, along with the local program fees, the Authority will also collect Ecology's development and oversight fees, and pass them on to Ecology.~~
3. ~~The fee schedules developed shall fully cover and not exceed the permit administration costs and the program development and oversight costs. Both Ecology's and this Authority's fees are based on a 3 tier scale using fiscal year 1994 costs, and calendar year 1992 emissions data. The three tier formula used to assess fees for a given source includes:~~
  - a. ~~The number of sources in the permit program;~~
  - b. ~~The complexity of the source;~~
  - c. ~~The amount of emissions of regulated pollutants from the source.~~

~~Each category shall comprise one third (1/3) of the total fees collected by the Authority.~~

- B. Permanent annual fee determination and certification
1. Fee Determination
    - a. Fee Determination. The Benton Franklin Walla Walla County Air

~~Pollution Control Authority (BFWWC-APCA)~~ BCCAA shall develop a fee schedule using the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees shall be sufficient to cover all permit administration costs. The ~~BFWWC-APCA~~ BCCAA shall also collect its jurisdiction's share of the ~~Washington State Department of Ecology's (Ecology)~~ development and oversight costs. The fee schedule shall differentiate as separate line items the ~~BFWWC-APCA~~ BCCAA's and Ecology's fees. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in Section 10.08 (B)(A)(3)(a)

- b. Fee Eligible Activities. The costs of permit administration and development and oversight activities are fee eligible.
  - i. Permit Administration. Permit administration costs are those incurred by ~~BFWWC-APCA~~ BCCAA in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Eligible permit administration costs are as follows:
    - A. Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;
    - B. Source inspection, testing, and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;
    - C. Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;
    - D. Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and

tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

- E. Modeling necessary to establish permit limits or to determine compliance with permit limits;
- F. Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;
- G. Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;
- H. Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;
- I. The share attributable to permitted sources of the development and maintenance of emissions inventories;
- J. The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;
- K. Training for permit administration and enforcement;
- L. Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;
- M. Required fiscal audits, periodic performance audits, and reporting activities;
- N. Tracking of time, revenues and expenditures, and accounting activities;
- O. Administering the permit program including the costs of clerical support, supervision, and management;
- P. Provision of assistance to small businesses under the jurisdiction of the permit-

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- ting authority as required under section 507 of the federal clean air act; and
- Q. Other activities required by operating permit regulations issued by the United States environmental protection agency under the federal clean air act.
- ii. Ecology Development and Oversight. Development and oversight costs are those incurred by Ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are ~~those enumerated~~ in Chapter 252, Laws of 1993 Section 6 (2)(b).
- c. Workload Analysis.
- i. The ~~BFWWC-APCA~~ BCCAA shall conduct an annual workload analysis projecting resource requirements for the purpose of facilitating budget preparation for permit administration. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities ~~enumerated~~ in Section 10.08 ~~(B)(A)(1)(b)(i)~~.
- ii. Ecology will for the two-year period corresponding to each biennium, identify the development and oversight activities that it will perform during that biennium. The eligible activities are those referenced in Section 10.08 ~~(B)(A)(1)(b)(ii)~~.
- d. Budget Development. The ~~BFWWC-APCA~~ BCCAA shall annually prepare an operating permit program budget. The budget shall be based on the resource requirements identified in an annual workload analysis and shall take into account the projected fund balance at the start of the calendar year. The ~~BFWWC-APCA~~ BCCAA shall publish a draft budget for the following calendar year on or before May 31 and shall provide opportunity for public comment thereon in accordance with 10.08 ~~(B)(A)(3)(a)~~. The ~~BFWWC-APCA~~ BCCAA shall publish a final budget for the following calendar year on or before June 30.
- e. Allocation Methodology.
- i. Permit Administration Costs. The ~~BFWWC-APCA~~ BCCAA shall allocate its permit administration costs and its share of Ecology's development and oversight costs among the permit program sources for whom it acts as permitting authority, according to a three-tiered model based upon:
- (A) the number of sources under its jurisdiction;
- (B) the complexity of the sources under its jurisdiction; and
- (C) the size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant emitted.
- The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions data during the most recent calendar year for which data is available. Each of the three tiers shall be equally weighted.
- ii. Ecology Development and Oversight Costs. Ecology will allocate its development and oversight costs among all permitting authorities, including the ~~BFWWC-APCA~~ BCCAA, based upon the number of permit program sources under the jurisdiction of each permitting authority. If Ecology determines that it has incurred extraordinary costs in order to oversee a particular permitting authority and that those costs are readily attributable to the particular permitting authority, Ecology may assess to that permitting authority such extraordinary costs.
- f. Fee Schedule. The ~~BFWWC-APCA~~ BCCAA shall issue annually a fee schedule reflecting the permit administration fee and Ecology's development and oversight fee to be paid by each permit program source under its jurisdiction. The fee schedule shall be based on the information contained in the final source data statements for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with Section 10.08 (B)(A)(4).
2. Fee Collection - Ecology and ~~BFWWC-APCA~~ BCCAA

- a. Collection from Sources. The ~~BFWWC APCA~~ BCCAA, as a delegated local authority, shall collect the fees from the permit program sources under its jurisdiction.
- i. Permit Administration Costs. The ~~BFWWC APCA~~ BCCAA shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its permit administration costs.
  - ii. Ecology Development and Oversight Costs. The ~~BFWWC APCA~~ BCCAA shall collect from permit program sources under its jurisdiction fees sufficient in the aggregate to cover its share of Ecology's development and oversight costs.
- b. Dedicated Account.
- i. All receipts from fees collected by the ~~BFWWC APCA~~ BCCAA, as a delegated local authority, from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the dedicated accounts of its treasury. Expenditures from these dedicated accounts will be used only for the activities described in RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.
  - ii. All receipts from fees collected by ~~BFWWC APCA~~ BCCAA on behalf of Ecology from permit program sources pursuant to RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993 shall be deposited in the air operating permit account created under RCW 70.94.015. Expenditures from the air operating permit account may be used only for the activities described in RCW 70.94.152(1), and RCW 70.94.161, Section 6 of Chapter 252, Laws of 1993, and Section 8 of Chapter 252, Laws of 1993.
3. Accountability
- a. Public Participation During Fee Determination Process. The ~~BFWWC APCA~~ BCCAA shall provide for public participation in the fee determination process described under 10.08 ~~(B)(A)(1)~~, which provision shall include but not be limited to the following:
    - i. The ~~BFWWC APCA~~ BCCAA shall provide opportunity for public review of and comment on:
      - (A) each annual workload analysis;
      - (B) each annual budget; and
      - (C) each annual fee schedule
    - ii. The ~~BFWWC APCA~~ BCCAA shall submit to Ecology for publication in the *Permit Register* notice of issuance of its draft annual workload analysis, issuance of its draft annual budget and issuance of its draft annual fee schedule.
    - iii. The ~~BFWWC APCA~~ BCCAA shall make available for public inspection and to those requesting opportunity for review copies of its draft:
      - (A) annual workload analysis on or before March 31.
      - (B) annual budget on or before May 31.
      - (C) annual fee schedule on or before December 31.
    - iv. The ~~BFWWC APCA~~ BCCAA shall provide a minimum of thirty (30) days for public comment on the draft annual workload analysis and draft annual budget. Such thirty 30 day period for comment shall run from the date of publication of notice in the *Permit Register* as provided in Section 10.08 ~~(B)(A)(3)(a)(ii)~~.
  - b. Tracking of Revenues, Time and Expenditures.
    - i. Revenues. The ~~BFWWC APCA~~ BCCAA shall track revenues on a source-specific basis.
    - ii. Time and Expenditures. The ~~BFWWC APCA~~ BCCAA shall track time and expenditures on the basis of functional categories as follows:
      - (A) application review and permit issuance;
      - (B) permit modification;
      - (C) permit maintenance;
      - (D) compliance and enforcement;
      - (E) business assistance;
      - (F) regulation and guidance development;
      - (G) management and training;

- (H) technical support
- iii. Use of Information Obtained from Tracking Revenues, Time and Expenditures.
- (A) The ~~BFWWC APCA~~ BCCAA shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during each calendar year's review provided for under Section 10.08 (B)(A)(1)(d)
- (B) The information obtained from tracking revenues, time, and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.
- c. Periodic Fiscal Audits, Reports and Performance Audits. A system of regular, periodic fiscal audits, reports and performance audits shall be conducted in order to evaluate Ecology's and ~~each delegated local~~ the Authority's operating permit program administration, as follows:
- i. Fiscal Audits. The ~~BFWWC APCA~~ BCCAA shall contract with the State Auditor to ~~have the Auditor~~ perform a standard fiscal audit of its operating permit program every other year.
- ii. Annual Routine Performance Audits. The ~~BFWWC APCA~~ BCCAA shall be subject to annual routine performance audits, except that the routine audit shall be incorporated into the extensive performance audit, conducted pursuant to Section 10.08 (B)(A)(3)(c)(v) in each year during which an extensive performance is conducted. Ecology shall issue guidance regarding the content of the routine performance audits and shall conduct the ~~local~~ Authority's audits.
- iii. Annual Random Individual Permit Review. One permit issued by the ~~BFWWC APCA~~ BCCAA shall be subject to review in conjunction with the annual routine performance. The permit to be reviewed shall be selected at random. Ecology shall issue guidance regarding the content of the random individual permit review and shall conduct the ~~local~~ Authority's review.
- iv. Periodic Extensive Performance Audits. The ~~BFWWC APCA~~ BCCAA shall be subject to extensive performance audits every five years. In addition, this authority may be subject to an extensive performance audit more frequently under the conditions of Section 10.08 (B)(A)(3)(c)(v). Ecology shall issue guidance regarding the content of the extensive performance audits and shall conduct the audits of this Authority.
- v. Finding of Inadequate Administration or Need for Further Evaluation. If, in the process of conducting a fiscal audit, annual routine audit, or annual random individual permit review, the auditor or Ecology finds that the ~~BFWWC APCA~~ BCCAA is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in Section 10.08 (B)(A)(3)(c)(iv).
- vi. Annual Reports. The ~~BFWWC APCA~~ BCCAA shall prepare an annual report evaluating its operating permit program administration. Such report shall include any findings of the auditor or Ecology resulting from the relevant fiscal audits, annual routine audits, annual random individual permit reviews or periodic extensive performance audits. The ~~BFWWC APCA~~ BCCAA shall submit its report to its Board of ~~Directors~~ and to Ecology.
4. Administrative Dispute Resolution
- a. Preliminary Statement of Source Data. The ~~BFWWC APCA~~ BCCAA shall provide to the permit program sources under their respective jurisdictions a preliminary statement of emissions and other data from that source upon which the authority intends to base its allocation determination under Section 10.08 (B)(A)(1)(e). Such preliminary statement shall be provided to the permit program sources on or before September 30 of each year. Such preliminary statement shall indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct

- inquiries and/or petitions for review under Section 10.08 ~~(B)(A)(4)(b)~~ regarding the accuracy of the data contained therein.
- b. **Petition for Review of Statement.** A permit program source or other individual under the jurisdiction of the ~~BFWWC APCA~~ BCCAA, as a delegated local authority, may petition to review for accuracy the data contained in the preliminary source data statement provided for under Section 10.08 ~~(B)(A)(4)(a)~~. Such petition shall be lodged on or before October 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom the ~~BFWWC APCA~~ BCCAA may direct inquiries regarding the request. Upon receipt of such a petition, the ~~BFWWC APCA~~ BCCAA, as a delegated local authority, must issue its written response to the petitioner on or before November 30 of each year. Such response shall state the conclusions of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by the authority's response.
- c. **Final Source Data Statement.** The ~~BFWWC APCA~~ BCCAA shall provide to the permit program sources under its jurisdiction a final statement of emissions and other data from that source upon which the local authority will base its allocation determination under Section 10.08 ~~(B)(A)(1)~~ along with an invoice reflecting the fee billed to that source on or before December 31 of each year.
5. **Fee Payment and Penalties**
- a. **Fee Payment.** Each permit program source shall pay a fee in the amount reflected in the invoice issued under Section 10.08 ~~(B)(A)(4)(c)~~. Such fee shall be due on or before February 28 of each year.
- b. **Late Payment of Fees.** ~~BFWWC APCA~~ BCCAA shall charge a penalty to a permit program source under its jurisdiction for late payment of all or part of its operating permit fee at the following rates:
- i. Ten percent of the source's total assessed fee for payment received after the due date for fee payment but up to the first thirty days past the due date for fee payment;
  - ii. Fifteen percent of the source's total assessed fee for payment received between the thirty-first day and the sixtieth day past the due date for fee payment; and
  - iii. Twenty-five percent of the source's total assessed fee for payment received between the sixty-first day and the ninetieth day past the due date for fee payment.
- c. **Failure to Pay Fees.** The ~~BFWWC APCA~~ BCCAA shall charge a penalty to a permit program source under its jurisdiction for failure to pay all or part of its operating permit fee and/or penalties thereon after ninety days past the due date for fee payment in an amount three times the source's total assessed fee.
- d. **Other Penalties.** The penalties authorized in Section 10.08 ~~(B)(A)(5)(b)~~ and (c), are additional to and in no way prejudice the ~~BFWWC APCA~~ BCCAA's ability to exercise other civil and criminal remedies, including the authority to revoke a source's operating permit for failure to pay all or part of its operating permit fee.
- e. **Facility Closure.** Sources that permanently cease operations will be required to pay only a pro rata portion of the annual operating permit fee for the fiscal year in which they cease operations. The portion of the fee to be paid will be calculated by dividing the number of calendar days that have passed in the relevant calendar year at the time the source ceases operations by the total of 365 calendar days, and multiplying the fraction thus derived by the fee that the source would have paid for the relevant calendar year, had it not ceased operations.
- f. **Transfer in Ownership.** Transfer in ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of late payment and other penalties shall

survive any transfer in ownership of a source.

- 6. Development and Oversight Remittance by Local Authorities to Ecology
  - a. Ecology will provide to ~~each delegated local~~ the Authority a statement of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before December 31 of each year.
  - b. ~~Each delegated local~~ The Authority shall remit to Ecology one-half of the share of Ecology's development and oversight costs for which it is responsible for collecting from sources under its jurisdiction on or before March 31 of each year and shall remit to Ecology the balance of its share of Ecology's development and oversight costs on or before June 30 of each year.

**Section 10.09 Special Open Burning Permits**

- A. Anyone who submits to the Authority a ~~Request for Special Burning Permit (RSBP)~~ shall pay an application fee of fifty dollars (\$50.00).
- B. Upon approval of the RSBP the Authority will charge an additional fee at a rate determined by the volume of the material to be burned, and inspection and oversight costs. The additional fee shall not exceed eight dollars and fifty cents (\$8.50) per cubic yard or the adjusted amount according to WAC 173-425. Special Open Burning Permits shall be valid for a period not to exceed one year, at which time the applicant may re-apply with another \$50.00 fee.

**Section 10.10 Agricultural Burning Permits**

- A. Upon approval of any agricultural burn permit application, the BCCAA will charge a fee not to exceed two dollars and fifty cents (\$2.50) per acre for each acre permitted to be burned. This fee is divided into a local and a state portion. One dollar (\$1.00) per acre of each fee will go directly to Ecology to be divided among administration, oversight costs, and the research fund. The remainder of the fee will go to the BCCAA for local administration and implementation of the program.
- B. The local portion of the agricultural burn permit fee will be seventy-five cents (\$0.75) per acre.
- C. Permits will only be issued upon receipt of full payment. Refunds may be issued by the BCCAA for acres not burned under each permit.

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

**WSR 96-10-026  
PERMANENT RULES  
SOUTHWEST AIR POLLUTION  
CONTROL AUTHORITY**

[Filed April 24, 1996, 11:26 a.m.]

Date of Adoption: March 19, 1996.

Purpose: To establish rules that will lead to VOC emission reductions for the Vancouver Ozone Maintenance Plan determined to be necessary in order to obtain EPA approval on redesignating the Vancouver area as an attainment area. These rules will assist in preserving the Portland/Vancouver's current air quality by offsetting increased air pollution associated with future population growth.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.145, 70.94.380, 70.94.395.

Adopted under notice filed as WSR 95-18-081 on September 5, 1995.

Changes Other than Editing from Proposed to Adopted Version: Southwest Air Pollution Control Authority 493-100 "Consumer Products" was withdrawn and in its place is "reserved" for adoption by reference the United States Environmental Protection Agency equivalent rule proposed in the Federal Register on April 2, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 23, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 23, amended 0, repealed 0.

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

April 19, 1996

Robert D. Elliott  
Executive Director

**NEW SECTION**

SWAPCA 493-100 - Consumer Products

Reserved for adoption by reference of the U.S. Environmental Protection Agency's (EPA) equivalent rule. The EPA proposed rule was published in the federal register on Tuesday, April 2, 1996; Federal Register Vol. 64, page 14531; 40 CFR 59, [AD-FRL-5451-7].

**NEW SECTION**

SWAPCA 493-200 - Spray Paints

**SWAPCA 493-200-010 Applicability**

(1) SWAPCA 493-200-010 through 493-200-060 apply to any manufacturer, distributor, retailer or commercial

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applicator of spray paint for sale or use in the Vancouver AQMA.

## **NEW SECTION**

### **SWAPCA 493-200-020 Definitions**

As used in SWAPCA 493-200:

(1) "Adhesive" means a product used to bond one surface to another.

(2) "Anti-Static Spray" means a product used to prevent or inhibit the accumulation of static electricity.

(3) "Art Fixative or Sealant" means a clear coating, including art varnish, workable art fixative, and ceramic coating, which is designed and labeled exclusively for application to paintings, pencil, chalk, or pastel drawings, ceramic art pieces, or other closely related art uses, to provide a final protective coating or to fix preliminary stages of art work while providing a workable surface for subsequent revisions.

(4) "ASTM" means the American Society for Testing and Materials.

(5) "Auto Body Primer" means an automotive primer or primer surfacer coating designed and labeled exclusively to be applied to a vehicle body substrate for the purpose of corrosion resistance and building a repair area which can be sanded to a smooth condition after drying.

(6) "Automotive Bumper and Trim Product" means a product, including adhesion promoters and chip sealants, designed and labeled exclusively to repair and refinish automotive bumpers and plastic trim parts.

(7) "Automotive Underbody Coating" means a flexible coating which contains asphalt or rubber and is labeled exclusively for use on the underbody of motor vehicles to resist rust, abrasion and vibration, and to deaden sound.

(8) "Aviation Propeller Coating" means a coating designed and labeled exclusively to provide abrasion resistance and corrosion protection for aircraft propellers.

(9) "Aviation or Marine Primer" means a coating designed and labeled exclusively to meet federal specification TT-P-1757.

(10) "Belt Dressing" means a product applied on auto fan belts, water pump belting, power transmission belting, industrial equipment belting, or farm machinery belting to prevent slipping, and to extend belt life.

(11) "Cleaner" means a product designed and labeled primarily to remove soil or other contaminants from surfaces.

(12) "Clear Coating" means a coating which is colorless, containing resins but no pigments, except flattening agents, and is designed and labeled to form a transparent or translucent solid film.

(13) "Coating Solids" means the nonvolatile portion of a spray paint, consisting of the film forming ingredients, including pigments and resins.

(14) "Complying Spray Paint" means a spray paint which complies with the VOC content limits in SWAPCA 493-100-020.

(15) "Consumer" means any person who purchases or acquires any spray paint for personal, family, or household use. Persons acquiring a spray paint product for resale are not considered consumers of that product.

(16) "Commercial Applicator" means any person who purchases, acquires, applies, or contracts for the application of spray paint for commercial, industrial or institutional uses, or any person who applies spray paint in the course of an activity from which compensation is derived.

(17) "Corrosion Resistant Brass, Bronze, or Copper Coating" means a clear coating formulated and labeled exclusively to prevent tarnish and corrosion of uncoated brass, bronze or copper metal surfaces.

(18) "Distributor" means any person who sells or supplies spray paint for the purposes of resale or distribution in commerce. "Distributor" includes activities of a self-distributing retailer related to the distribution of products to individual retail outlets. "Distributor" does not include manufacturers except for a manufacturer who sells or supplies spray paint products directly to a retail outlet. "Distributor" does not include consumers.

(19) "Dye" means a product containing no resins which is used to color a surface or object without building a film.

(20) "Electrical Coating" means a coating designed and labeled to be used exclusively to coat electrical components such as electric motor windings to provide electrical insulation or corrosion protection.

(21) "Enamel" means a coating which cures by chemical cross-linking of its base resin and is not resoluble in its original solvent.

(22) "Engine Paint" means a coating designed and labeled exclusively as such, which is used exclusively to coat engines and their components.

(23) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

(24) "Exact Match Finish, Automotive" means a topcoat which meets all of the following criteria:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied automotive coating during the touch-up of automobile finishes;

(b) The product is labeled with the original equipment manufacturer's name for which it was formulated; and

(c) The product is labeled with one of the following:

(1) The original equipment manufacturer's (OEM) color code;

(2) The color name; or

(3) Other designation identifying the specific OEM color to the purchaser.

(d) Notwithstanding subsections (a) through (c) of this section, automotive clear coatings designed and labeled exclusively for use over automotive exact match finishes to replicate the original factory applied finish shall be considered to be automotive exact match finishes.

(25) "Exact Match Finish, Engine Paint" means a coating which meets all of the following criteria:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied engine paint;

(b) the product is labeled with the original equipment manufacturer's name for which it was formulated; and

(c) the product is labeled with one of the following:

(1) The OEM color code;

(2) The color name; or

(3) Other designation identifying the specific OEM color to the purchaser.

(26) "Exact Match Finish, Industrial" means a coating which meets all of the following criteria:

(a) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied industrial coating during the touch-up of manufactured products;

(b) The product is labeled with the original equipment manufacturer's name for which it was formulated; and

(c) The product is labeled with one of the following:

(1) The OEM color code;

(2) The color name; or

(3) Other designation identifying the specific OEM color to the purchaser.

(27) "Exempt compounds" means compounds of carbon specifically excluded from the definition of VOC.

(28) "Flat Paint Product" means a coating which, when fully dry, registers specular gloss less than or equal to 15 on an 85° gloss meter, or less than or equal to 5 on a 60° gloss meter, or which is labeled as a flat coating.

(29) "Flating Agent" means a compound added to a coating to reduce the gloss of the coating without adding color to the coating.

(30) "Floral Spray" means a coating designed and labeled exclusively for use on fresh flowers, dried flowers, or other items in a floral arrangement for the purpose of coloring, preserving or protecting their appearance.

(31) "Fluorescent Coating" means a coating labeled as such which converts absorbed incident light energy into emitted light of a different hue.

(32) "Glass Coating" means a coating designed and labeled exclusively to be applied to glass or other transparent material, to create a soft, translucent light effect, or to create a tinted or darkened color while retaining transparency.

(33) "Ground/Traffic Marking Coating" means a coating designed and labeled exclusively to be applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Such coatings must be in a container equipped with a valve and sprayhead designed to direct the spray downward when the can is held in an inverted position.

(34) "High Temperature Coating" means a coating, excluding engine paint, which is designed and labeled exclusively for use on substrates which will, in normal use, be subjected to temperatures in excess of 400 degrees Fahrenheit.

(35) "Hobby/Model/Craft Coating" means a coating which is designed and labeled exclusively for hobby applications and is sold in aerosol containers of 6 ounces in weight or less.

(36) "Ink" means a fluid or viscous substance used in the printing industry to produce letters, symbols or illustrations, but not to coat an entire surface.

(37) "Lacquer" means a thermoplastic film-forming finish dissolved in organic solvent, which dries primarily by solvent evaporation, and is resolvable in its original solvent.

(38) "Layout Fluid" or "Toolmaker's Ink" means a coating designed and labeled exclusively to be sprayed on metal, glass or plastic, to provide a glare-free surface on which to scribe designs, patterns or engineering guide lines prior to shaping the piece.

(39) "Leather Preservative" means a leather treatment material applied exclusively to clean, condition or preserve leather.

(40) "Lubricant" means a substance such as oil, petroleum distillates, grease, graphite, silicone, lithium, etc., that is applied to surfaces to reduce friction, heat, or wear when applied between surfaces.

(41) "Manufacturer" means the company, firm or establishment which is listed on the product container or package. If the product container or package lists two companies, firms or establishments, the manufacturer is the party which the product was "manufactured for" or "distributed by", as noted on the product container or package.

(42) "Marine Spar Varnish" means a coating designed and labeled to be exclusively used as a protective sealant for marine wood products.

(43) "Maskant" means a coating applied directly to a component to protect surfaces during chemical milling, anodizing, aging, bonding, plating, etching, or other chemical operations.

(44) "Metallic Coating" means a topcoat which contains at least 0.5 percent by weight elemental metallic pigment in the formulation, including propellant, and is labeled as "metallic", or with the name of a specific metallic finish such as "gold", "silver", or "bronze".

(45) "Mold Release" means a coating applied to molds to prevent products from sticking to mold surfaces.

(46) "Multi-Component Kit" means a spray paint system which requires the application of more than one component, (e.g. foundation coat and top coat), where both components are sold together in one package.

(47) "Noncomplying spray paint" means a spray paint which does not comply with the VOC content limits in SWAPCA 493-200-030.

(48) "Non-Flat Paint Product" means a coating which, when fully dry, registers a specular gloss greater than 15 on an 85° gloss meter or greater than 5 on a 60° gloss meter.

(49) "Photograph Coating" means a coating designed and labeled exclusively to be applied to finished photographs to allow corrective retouching, protection of the image, changes in gloss level, or to cover fingerprints.

(50) "Pleasure Craft" means privately owned boats used for noncommercial purposes.

(51) "Pleasure Craft Finish Primer/Surfacer/Undercoat" means any coating designed and labeled exclusively to be applied before the application of a pleasure craft topcoat for the purpose of corrosion resistance and adhesion of a topcoat, and which promotes a uniform surface by filling in surface imperfections.

(52) "Pleasure Craft Topcoat" means a coating designed and labeled exclusively to be applied to a pleasure craft as a final coat above the water line and above and below the water line when stored out of water. This category does not include clear coatings.

(53) "Primer" means a coating labeled as such, which is designed to be applied to a surface to promote a bond between that surface and subsequent coats.

(54) "Propellant" means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or other material from a container.

(55) "Retailer" means any person who sells, supplies, or offers spray paint for sale directly to consumers or commercial applicators.

(56) "Retail Outlet" means any establishment where spray paints are sold, supplied, or offered for sale directly to consumers or commercial applicators.

(57) "Rust Converter" means a product which is designed and labeled exclusively to convert rust to an inert material, and which has a minimum acid content of 0.5 percent by weight, and which has a maximum coating solids content of 0.5 percent by weight.

(58) "Shellac Sealer" means a clear or pigmented coating formulated solely with the resinous secretion of the lac beetle (*Laccifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

(59) "Slip-Resistant Coating" means a coating designed and labeled exclusively as such which is formulated with synthetic grit, and used as a safety coating.

(60) "Spatter Coating/Multicolor Coating" means a coating labeled exclusively as such in which spots, globules, or spatters of contrasting colors appear on or within the surface of a contrasting or similar background.

(61) "Spray Paint" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

(62) "Spray Paint Category" means the applicable category which best describes a spray paint listed in SWAPCA 493-200-030.

(63) "Stain" means a coating labeled as such which is designed and labeled to change the color of a surface without concealing the surface from view.

(64) "SWAPCA" means the Southwest Air Pollution Control Authority.

(65) "Topcoat" means a coating applied over any coating, for the purpose of appearance, identification, or protection.

(66) "Vancouver Air Quality Maintenance Area" or "Vancouver AQMA" is the Vancouver portion of the Portland-Vancouver Interstate Nonattainment Area for Ozone as defined in the Washington State Implementation Plan. The Vancouver AQMA includes the southern portion of Clark County, Washington.

(67) "Vinyl/Fabric/Polycarbonate Coating" means a coating designed and labeled exclusively to coat vinyl, fabric, or polycarbonate substrates.

(68) "Volatile Organic Compound" or "VOC" means those compounds of carbon defined in SWAPCA 400-030(89). For purposes of determining compliance with VOC content limits, VOC shall be measured by an applicable method identified in SWAPCA 493-200-060.

(69) "VOC Content" means the ratio of the weight of VOC to the total weight of the product contents expressed as follows:

$$\text{VOC Content} = \frac{W_{\text{VOC}}}{W_{\text{TOTAL}}} \times 100$$

Where:

$W_{\text{VOC}}$  = the weight of volatile organic compounds; and

$W_{\text{total}}$  = the total weight of the product's contents.

(70) "Webbing/Veiling Coating" means a spray product designed and labeled exclusively to produce a stranded or spider-webbed decorative effect.

(71) "Weld-Through Primer" means a coating designed and labeled exclusively to provide a bridging or conducting effect to provide corrosion protection following welding.

(72) "Wood Stain" means a coating which is formulated to change the color of a wood surface without concealing the surface from view.

(73) "Wood Touch-Up/Repair/Restoration Coatings" mean coatings designed and labeled exclusively to provide an exact color or sheen match on finished wood products.

**SWAPCA 493-200-030 Spray Paint Standards and Exemptions**

(1) General Requirements. Where required by SWAPCA 493-200-040, spray paint shall not exceed the VOC content limits in Table C, as modified by the special conditions and exemptions in SWAPCA 493-200-030(2) and SWAPCA 493-200-030(3).

**Table C**

**SPRAY PAINT VOC CONTENT LIMITS**

<u>Spray Paint Category</u>	<u>VOC Content (Percent-by-weight)</u>
<b>General Coatings</b>	
Clear Coating	67.0
Flat Paint Products	60.0
Fluorescent Coatings	75.0
Lacquer Coating Products	80.0
Metallic Coating	80.0
Non-Flat Paint Products	65.0
Primer	60.0
<b>Specialty Coatings</b>	
Art Fixative or Sealant	95.0
Auto Body Primer	80.0
Automotive Bumper and Trim Products	95.0
Aviation or Marine Primer	80.0
Aviation Propeller Coating	84.0
Corrosion Resistant Brass, Bronze, or Copper Coatings	92.0
Exact Match Finish	
Engine Enamel	80.0
Automotive	88.0
Industrial	88.0
Floral Spray	95.0
Glass Coating	95.0
Ground Traffic Marking Coating	66.0
High Temperature Coating	80.0*
Hobby/Model/Craft Coating	
Enamel	80.0
Lacquer	88.0
Clear or Metallic	95.0
Marine Spar Varnish	85.0
Photograph Coating	95.0
Pleasure Craft Finish Primer	75.0
Surfacer or Undercoater	
Pleasure Craft Topcoat	80.0

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Shellac Sealer	
Clear	88.0
Pigmented	75.0
Slip-Resistant Coating	80.0
Spatter/Multicolor Coating	80.0
Vinyl/Fabric/Polycarbonate Coating	95.0
Webbing/Veil Coating	90.0
Weld-Through Primer	75.0
Wood Stains	95.0
Wood Touch-Up, Repair, or Restoration Coatings	95.0

\*The VOC limit for High Temperature Coatings shall be 88.0% until July 1, 1999, after which the 80.0% limit shall apply.

(2) Special Conditions. The following conditions shall apply to spray paint subject to VOC content limits under SWAPCA 493-200-030(1):

(a) The total weight of VOC contained in a multi-component kit shall not exceed the total weight of VOC that would be allowed in the multi-component kit had each component product met the applicable VOC standards.

- (1) Except as provided in SWAPCA 493-200-030 (2)(b)(B) if anywhere on the principal display panel of any spray paint or in any promotion of the product, any representation is made that the product may be used as, or is suitable for use as a spray paint for which a lower VOC standard is specified in SWAPCA 493-200-030(1), then the lower VOC standard shall apply.
- (2) If a spray paint is subject to both a general coating limit and a specialty coating limit under SWAPCA 493-200-030(1), and the product meets all the criteria of the applicable specialty coating category as specified in SWAPCA 493-200-020, then the specialty coating limit shall apply instead of the general coating limit.

(3) Exemption. SWAPCA 493-200-030(1) shall not apply to aerosol lubricants, mold releases, automotive underbody coating, electrical coatings, cleaners, belt dressings, anti-static sprays, layout fluids and removers, adhesives, maskants, rust converters, dyes, inks, leather preservatives, or spray paint assembled by adding bulk paint to aerosol containers of propellant and solvent used for minor finish repairs during the original manufacture of products.

**SWAPCA 493-200-040 Requirements for Manufacture, Sale and Use of Spray Paint**

(1) Manufacturers. Except as provided in SWAPCA 493-200-040(6), any person who manufactures spray paint after July 1, 1996 which is sold, offered for sale, supplied or distributed, directly or indirectly, to a retail outlet in the Vancouver AQMA shall:

- (a) Manufacture complying spray paint for spray paint marketed in the Vancouver AQMA;
- (b) Clearly display the following information on each product container such that it is readily observable upon hand-held inspection without removing or disassembling any portion of the product container or packaging:

- (1) The maximum VOC content of the spray paint, expressed as a percentage by weight;
- (2) The spray paint category as defined in SWAPCA 493-200-020, or an abbreviation of the spray paint category; and
- (3) The date on which the product was manufactured, or a code indicating such date; and

(c) Notify direct purchasers of products manufactured for sale within the Vancouver AQMA upon determining that any noncomplying spray paint has been supplied in violation of this rule.

(2) Distributors. Except as provided in SWAPCA 493-200-040(6), any distributor of spray paint manufactured after July 1, 1996 which is sold, offered for sale, supplied or distributed to a retail outlet within the Vancouver AQMA shall:

(a) Distribute to the Vancouver AQMA only spray paints are labeled as required under subsection SWAPCA 493-200-040 (1)(b);

(b) Distribute to the Vancouver AQMA only spray paints labeled with VOC contents that meet the VOC limits specified in SWAPCA 493-200-030; and

(c) Notify direct purchasers of products distributed for sale within the Vancouver AQMA upon determining that any noncomplying spray paint has been supplied in violation of this rule.

(3) Retailers.

(a) Except as provided in SWAPCA 493-200-040(6), no retailer shall knowingly sell within the Vancouver AQMA any noncomplying spray paint manufactured after July 1, 1996.

(b) Upon notification by SWAPCA, a manufacturer, or a distributor that any noncomplying spray paint has been supplied, a retailer shall remove noncomplying spray paint from consumer-accessible areas of retail outlets within the Vancouver AQMA.

(4) Commercial Applicators. Except as provided in SWAPCA 493-200-040(6), no commercial applicator shall, within the Vancouver AQMA, knowingly use or contract for the use of any noncomplying spray paint manufactured after July 1, 1996.

(5) Label Alteration. No person shall remove, alter, conceal or deface the information required in SWAPCA 493-200-040 (1)(b) prior to final sale of the product.

(6) Exception. For spray paint which has been granted a compliance extension under SWAPCA 493-500-020, SWAPCA 493-200-040 applies to spray paint manufactured after the date specified in the compliance extension.

**SWAPCA 493-200-050 Recordkeeping and Reporting Requirements**

(1) Recordkeeping. Manufacturers subject to SWAPCA 493-200-040 shall maintain the following records for at least 2 years after a product is sold, offered for sale, supplied or distributed by the manufacturer, directly or indirectly, to a retail outlet in the Vancouver AQMA:

- (a) VOC content records of spray paint based methods provided in SWAPCA 493-200-060;
- (b) An explanation of any code indicating the date of manufacture of any spray paint; and
- (c) Information used to substantiate an application for a compliance extension SWAPCA 493-500-020;

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(2) Reporting. Following request and within a reasonable period of time, records specified in SWAPCA 493-200-050(1) shall be made available to SWAPCA.

(3) Exemption from disclosure. If a person claims that any Records or Information, as defined in RCW 70.94.205 "Confidentiality of records and information", is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the procedures specified in SWAPCA 493-500-030.

#### **SWAPCA 493-200-060 Inspection and Testing Requirements**

(1) The owner or operator of a facility subject to SWAPCA 493-200-010 through 493-200-060 shall, at any reasonable time, make the facility available for inspection by SWAPCA.

(2) Upon request of SWAPCA, any person subject to SWAPCA 493-200-010 through 493-200-060 shall furnish samples of spray paint products selected by SWAPCA from available stock for testing by SWAPCA to determine compliance with SWAPCA 493-200-030.

(3) Except as provided in SWAPCA 493-200-060(5), testing to determine compliance with SWAPCA 493-200-030 shall be performed using:

(a) VOC Content. The VOC content shall be determined by:

- (1) The procedures set forth in Bay Area Air Quality Management District Manual of Procedures, Volume III, Laboratory Procedures, Method 35, "Determination of Volatile Organic Compounds (VOC) in Solvent Based Aerosol Paints," as amended January 19, 1994, and, for water-containing spray paints, by ASTM D 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints", November 15, 1992; or
- (2) Calculation of VOC content from records of amounts of constituents used to manufacture the product and the chemical compositions of the individual product constituents.

(b) Exempt Compounds. If a method specified in subsection (a) of this section to measure VOC also measures exempt compounds, the exempt compounds may be excluded from the VOC content if the amount of such compounds is accurately quantified. SWAPCA may require a manufacturer to provide methods and results demonstrating, to the satisfaction of SWAPCA, the amount of exempt compounds in the spray paint or the spray paint's emissions.

(4) Except as provided in Section (5) of this rule, testing to establish the spray paint category as defined in SWAPCA 493-200-020 shall be performed using:

(a) Metal Content. The metal content of metallic aerosol coating products shall be determined by South Coast Air Quality Management District Test Method 311 (SCAQMD "Laboratory Methods of Analysis for Enforcement Samples" manual), June 1, 1991, after removal of the propellant following the procedure in ASTM Method 5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints", November 15, 1992.

(b) Specular Gloss. Specular gloss of flat and non-flat coatings shall be determined by ASTM Method D 523-89, March 31, 1989.

(c) Acid Content. The acid content of rust converters shall be determined by ASTM Method D-1613-85, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates used in Paint, Varnish, Lacquer, and Related Products", May 31, 1985, after removal of the propellant following the procedure in ASTM Method D-5325-92, "Standard Test Method for Determination of Weight Percent Volatile Content of Water-Borne Aerosol Paints", November 15, 1992.

(5) Alternative test methods which are shown to accurately determine the VOC content, exempt compounds, metal content, specular gloss, or acid content in a spray paint may also be used if approved in writing by EPA and SWAPCA.

#### **NEW SECTION**

#### **SWAPCA 493-300 - Architectural Coatings**

##### **SWAPCA 493-300-010 Applicability**

(1) SWAPCA 493-300 applies to any manufacturer, distributor, retailer, or commercial applicator of architectural coatings for sale or use in the Vancouver AQMA.

##### **SWAPCA 493-300-020 Definitions**

As used in SWAPCA 493-300:

(1) "AAMA" means the American Architectural Manufacturers Association.

(2) "Alkali Resistant Primers" mean high performance primers formulated to resist reaction with alkaline materials including, but not limited to, lime, cement, and soap.

(3) "Antenna Coatings" mean coatings formulated and recommended for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

(4) "Anti-Fouling Coatings" mean high performance coatings formulated and recommended for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms, including, but not limited to, coatings registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136, *et seq.*) and nontoxic foul-release coatings.

(5) "Anti-Graffiti Coatings" mean clear or opaque high performance coatings specifically labelled as anti-graffiti coatings and both formulated and recommended for application to graffiti-prone surfaces to deter adhesion of graffiti and to facilitate graffiti removal.

(6) "Appurtenance" means an accessory to a stationary structure, whether installed or detached at the proximate site of installation, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating, air conditioning, or other fixed mechanical equipment or large stationary tools; lamp posts; partitions; piping systems; rain gutters and downspouts; stairways, fixed ladders, catwalks and fire escapes; and window screens.

(7) "Architectural Coatings" means coatings formulated and recommended for field application to stationary struc-

tures and their appurtenances, to portable buildings, to pavements, or to curbs.

(8) "ASTM" means the American Society for Testing and Materials.

(9) "Below-Ground Wood Preservatives" mean coatings formulated and recommended to protect below-ground wood from decay or insect attack which are registered with the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136, *et seq.*).

(10) "Bituminous Coatings and Mastics" mean coatings and mastics formulated and recommended for roofing, pavement sealing, or waterproofing that incorporate bitumens as a principal component. Bitumens are black or brownish materials which are soluble in carbon disulfide, which consist mainly of hydrocarbons, and which are obtained from natural deposits or as residues from the distillation of crude petroleum or low grades of coal. Bitumens include asphalt, tar, pitch and asphaltite.

(11) "Bond Breakers" means coatings formulated and recommended for application to concrete to prevent the formation of a bond to a subsequently placed concrete layer.

(12) "Chalkboard Resurfacers" mean coatings formulated and recommended for application to chalkboards to restore a suitable surface for writing with chalk.

(13) "Clear Coating" means a coating that when dry allows light to pass so the substrate may be distinctly seen.

(14) "Clear & Semitransparent Stains" mean transparent or translucent coatings formulated and recommended for application to wood-based substrates to impart a desired color without completely concealing the surface or its natural texture or grain pattern.

(15) "Clear & Semitransparent Wood Preservatives" mean coatings formulated and recommended to protect exposed wood from decay or insect attack, registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136, *et seq.*), that may change the color of the substrate but do not completely conceal the substrate.

(16) "Clear Waterproofing Sealers & Treatments" mean coatings which are formulated and recommended for application to porous substrates for the primary purpose of preventing the penetration of water and which do not alter the surface appearance or texture.

(17) "Coating Category" means the applicable category which best describes the coating as listed in this rule.

(18) "Colorant" means a concentrated pigment dispersion of water, solvent, or binder that is added to an architectural coating or tint base after the coating or tint base has been shipped from its place of manufacture.

(19) "Commercial Applicator" means any person who purchases, hires, acquires, applies or contracts for the application of architectural coatings for commercial, industrial or institutional uses, or any person who applies architectural coatings for compensation.

(20) "Complying Architectural Coating" means a coating which complies with the VOC content limits of SWAPCA 493-300-030.

(21) "Concrete Curing Compounds" mean coatings formulated and recommended for application to recently cast concrete to retard the evaporation of water.

(22) "Concrete Protective Coatings" mean high build coatings formulated and recommended for application in a

single coat over concrete, plaster, or other cementitious surface. These coatings are formulated to be primerless, one-coat systems which can be applied over form release compounds or uncured concrete. These coatings prevent spalling of concrete in freezing temperatures by providing long term protection from water and chloride ion intrusion.

(23) "Distributor" means any person who sells or supplies architectural coating for the purposes of resale or distribution in commerce. "Distributor" includes activities of a self-distributing retailer related to the distribution of products to individual retail outlets. "Distributor" does not include manufacturers except for a manufacturer who sells or supplies products directly to a retail outlet. "Distributor" does not include consumers.

(24) "Dry Fog Coatings" mean coatings formulated and recommended only for circumstances in which overspray droplets are desired to dry before contacting incidental surfaces in the vicinity of a surface coating activity.

(25) "Environmental Protection Agency", or "EPA" means the United States Environmental Protection Agency.

(26) "Exempt compounds" mean compounds of carbon excluded from the definition of VOC.

(27) "Exterior Coatings" mean coatings formulated and recommended for use in conditions exposed to the weather.

(28) "Extreme High Durability Coatings" mean air dry flouropolymer based coatings formulated and recommended for the protection of architectural subsections and which meet the weathering requirements of AAMA 605.2-1985 Section 7.9.

(29) "Fire-Retardant/Resistive Coatings" mean clear or opaque coatings formulated and recommended to retard ignition and flame spread, or to delay melting or structural weakening due to high heat, and which are fire-tested and rated by a certified laboratory for use in bringing buildings or construction materials into compliance with building code requirements applicable to the place of use.

(30) "Flat Coatings" mean coatings which register gloss less than 15 on an 85 degree meter and less than 5 on a 60 degree meter according to ASTM Method D 523, Standard Test Method for Specular Gloss.

(31) "Floor Coatings" mean coatings formulated and recommended for application to flooring, including, but not limited to, decks, porches, and steps, and which have a high degree of abrasion resistance.

(32) "Flow Coatings" mean coating materials formulated and recommended to maintain the protective coating systems present on utility transformers.

(33) "Form-Release Compounds" mean coatings formulated and recommended for application to concrete forms to prevent formation of a bond between the form and concrete cast within.

(34) "Graphic Arts Coatings" or "Sign Paints" mean coatings formulated and recommended for hand-application either on-site or in-shop by artists using brush or roller techniques to indoor or outdoor signs (excluding structural components) and murals, including lettering enamels, poster colors, and copy blockers.

(35) "Heat Reactive Coatings" mean high performance phenolic based coatings requiring a minimum temperature of 191° Celsius (C) [375° Fahrenheit (F)] to 204° C (400° F) to obtain complete polymerization or cure. These coatings are formulated and recommended for commercial and

industrial use to protect substrates from degradation and maintain product purity in which one or more of the following extreme conditions exist:

(a) Continuous or repeated immersion exposure to 90 to 98% sulfuric acid or oleum;

(b) Continuous or repeated immersion exposure to strong organic solvents;

(c) Continuous or repeated immersion exposure to petroleum processing at high temperatures and pressures; or,

(d) Continuous or repeated immersion exposure to food or pharmaceutical products which may or may not require high temperature sterilization.

(36) "High Temperature Coatings" mean high performance coatings formulated and recommended for application to substrates exposed continuously or intermittently to temperatures above 201° C (394° F).

(37) "Impacted Immersion Coatings" mean high performance maintenance coatings formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage caused by floating ice or debris.

(38) "Industrial Maintenance Coatings" mean high performance architectural coatings including primers, sealers, undercoaters, intermediate coats, and topcoats formulated and recommended for application to substrates exposed to one or more of the following extreme environmental conditions:

(a) Immersion in water, wastewater or chemical solutions (aqueous and nonaqueous solutions), or chronic exposure of interior surfaces to moisture condensation;

(b) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, chemical mixtures or solutions;

(c) Repeated exposure to temperatures above 120° C (248° F);

(d) Frequent heavy abrasion, including mechanical wear and frequent scrubbing with industrial solvents, cleansers, or scouring agents; or

(e) Exterior exposure of metal structures and structural components.

(39) "Interior Coatings" mean coatings formulated and recommended for use in conditions not exposed to natural weathering.

(40) "Interior Clear Wood Sealers" mean low viscosity coatings formulated and recommended for sealing and preparing porous wood by penetrating the wood and creating a uniform and smooth substrate for a finish coat of paint or varnish.

(41) "Lacquers" mean clear or opaque wood finishes, including lacquer sanding sealers, formulated with cellulose or synthetic resins to cure by evaporation without chemical reaction, and to provide a solid, protective film.

(42) "Lacquer Stains" mean interior semitransparent stains formulated and recommended specifically for use in conjunction with clear lacquer finishes and lacquer sanding sealers.

(43) "Manufacturer" means the company, firm or establishment which is listed on the coating container. If the container lists two companies, firms or establishments, the manufacturer is the party which the coating was "manufactured for" or "distributed by", as noted on the product.

(44) "Magnesite Cement Coatings" mean coatings formulated and recommended for application to magnesite cement decking to protect against water erosion.

(45) "Mastic Texture Coatings" mean coatings formulated and recommended for concealing holes, minor cracks, or surface irregularities, and which are applied in a single coat of at least 10 mils (0.010 inches) dry film thickness.

(46) "Metallic Pigmented Coatings" mean non-bituminous coatings containing at least 0.4 pounds of metallic pigment per gallon (0.048 kilograms per liter) of coating, including but not limited to zinc pigment.

(47) "Multi-Color Coatings" mean coatings that exhibit more than one color when applied and which are packaged in a single container.

(48) "Noncomplying Architectural Coating" means a coating which does not comply with the VOC content limits of SWAPCA 493-300-030.

(49) "Nonferrous Metal Lacquers & Surface Protectants" mean clear coatings formulated and recommended for application to ornamental architectural surfaces of bronze, stainless steel, copper, brass or anodized aluminum to prevent oxidation, corrosion, or surface degradation.

(50) "Non-Flat Coatings" mean coatings that register a gloss of 15 or greater on an 85 degree gloss meter, or 5 or greater on a 60 degree gloss meter.

(51) "Not Otherwise Specified" or "N.O.S." means not otherwise specified as a coating category.

(52) "Nuclear Power Plant Coatings" mean any protective coating formulated and recommended to seal porous surfaces such as steel or concrete that otherwise would be subject to intrusion by radioactive materials. These coatings must be resistant to service-life cumulative radiation exposure as determined by ASTM D 4082-83, relatively easy to decontaminate as determined by ASTM D 4256-83, and resistant to various chemicals to which the coatings are likely to be exposed as determined by ASTM D 3912-80. General protective requirements are outlined by the Department of Energy, formerly U.S. Atomic Energy Commission, Regulatory Guide 1.54).

(53) "Opaque Coating" means a coating producing a dry film that does not allow light to pass, so the substrate is concealed from view.

(54) "Opaque Stains" mean coatings labeled as stains that are recommended to hide a surface but not conceal its texture.

(55) "Opaque Waterproofing Sealers & Treatments" mean coatings with pigments that are formulated and recommended for application to porous substrates for the primary purpose of preventing the penetration of water and which alter the surface appearance and texture.

(56) "Opaque Wood Preservatives" mean coatings formulated and recommended to protect wood from decay or insect attack, and that are not classified as clear, semitransparent, or below-ground wood preservatives, and are registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 *et seq.*).

(57) "Other Surfaces" mean paved parking areas (both publicly and privately owned), airport runways, airport taxiways, driveways, sidewalks, bikepaths and curbs.

(58) "Post-Consumer Coating" means a leftover architectural coating collected as a waste product from previous

users that is employed as a raw material in the manufacture of a recycled coating product for reentry to the marketplace.

(59) "Pre-treatment Wash Primers" mean primers which contain a minimum of 0.5 percent acid by weight, and that are applied directly to bare metal surfaces in thin films to provide corrosion resistance, and to promote adhesion of subsequent topcoats.

(60) "Primers" mean coatings formulated and recommended for application directly to substrates to provide a firm bond between the substrate and subsequent coats.

(61) "Public Streets & Highways" mean publicly owned surfaces used primarily for vehicular traffic such as streets, roads, and highways.

(62) "Quick-Dry Enamels" mean non-flat coatings that:

(a) Are capable of being applied directly from the container under normal conditions, with ambient temperatures between 19° Celsius (C) [60° Fahrenheit (F)] and 27°C (80°F); and

(b) When tested in accordance with ASTM Method D 1640, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, are set to touch in two hours or less, are tack free in four hours or less, and dry hard in eight hours or less by the mechanical method.

(63) "Quick-Dry Primers, Sealers, and Undercoaters" mean primers, sealers and undercoaters which are dry to touch in one-half hour, and can be recoated in two hours, when tested in accordance with ASTM D 1640, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature.

(64) "Recycled Coating Product" means an architectural coating that contains post-consumer coating.

(65) "Repair and Maintenance Thermoplastic Coatings" mean industrial maintenance coatings with a primary resin of vinyl or chlorinated rubber which are formulated and recommended solely for the repair of existing coatings that also have a primary resin of vinyl or chlorinated rubber without the full removal of the existing coating system.

(66) "Retailer" means any person who sells, supplies, or offers architectural coatings for sale directly to consumers or commercial applicators.

(67) "Retail Outlet" means any establishment where architectural coatings are sold, supplied, or offered for sale directly to consumers or commercial applicators.

(68) "Roof Coatings" mean non-bituminous and non-thermoplastic rubber coatings formulated and recommended for application to exterior roofs for the primary purpose of preventing penetration of the substrate by water, or reflecting heat and reflecting ultraviolet radiation.

(69) "Rust Preventive Coatings" mean coatings formulated and recommended for use in preventing the corrosion of ferrous metal surfaces.

(70) "Sanding Sealers" mean clear wood coatings formulated and recommended for application to bare wood to seal the wood and to provide a coating that can be sanded to create a smooth surface.

(71) "Sealers" means coatings formulated and recommended for application to substrates for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate; to prevent harm to subsequent coatings from materials in the substrate; to block

stains, odors, or efflorescence; to seal water, smoke or fire damage; or to condition chalky surfaces.

(72) "Shellacs" means a clear or pigmented coating formulated with natural resins soluble in alcohol (including but not limited to, the resinous secretions of the lac beetle, Lacifer, lacca). Shellacs dry by evaporation without chemical reaction and provide a quick-drying, solid protective film that may be used for blocking stains.

(73) "Solicit" means to require for use or to specify, by written or oral contract.

(74) "SWAPCA" means the Southwest Air Pollution Control Authority.

(75) "Swimming Pool Coatings" mean coatings formulated and recommended to coat the interior of swimming pools and to resist swimming pool chemicals.

(76) "Thermoplastic Rubber Coatings & Mastics" mean coatings and mastics formulated and recommended for application to roofing and other structural surfaces which incorporate no less than 40% thermoplastic rubbers by weight of the total resin solids and may also contain other ingredients, including, but not limited to, fillers, pigments, and modifying resins.

(77) "Tint Base" means an architectural coating to which colorants are added after the coating has been shipped from its place of manufacture.

(78) "Topcoat" means a coating applied over any coating, for the purpose of appearance, identification, or protection.

(79) "Traffic Marking Paints" mean coatings formulated and recommended to be used for marking or striping streets, highways and other traffic surfaces including, but not limited to, curbs, berms, driveways, parking lots and airport runways.

(80) "Undercoaters" mean coatings formulated and recommended to provide a smooth surface for subsequent coats.

(81) "Vancouver Air Quality Maintenance Area" or "Vancouver AQMA" is the Washington portion of the Portland-Vancouver Interstate Nonattainment Area for Ozone as defined in the Washington State Implementation Plan. (The Vancouver AQMA includes the southern portion of Clark County, Washington.)

(82) "Varnishes" mean clear or semitransparent coatings which are not lacquers or shellacs, and which are formulated to provide a durable, solid protective film. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

(83) "Volatile Organic Compound" or "VOC" means compounds of carbon defined in SWAPCA 400-030(86). For purposes of determining compliance with VOC content limits, VOC shall be measured by an applicable method identified in SWAPCA 493-300-060.

(84) "VOC Content" means the weight of VOCs contained in a volume of architectural coating. For products listed in SWAPCA 493-300-030(1) Table D, VOC content shall be determined on a "VOC Per Liter - Less Water Basis" or "VOC Per Gallon - Less Water Basis".

(85) "VOC Per Liter or Gallon - Less Water Basis" means the weight of VOCs per combined volume of VOC and coating solids at the maximum thinning level recommended by the manufacturer, less water, less exempt

compounds, and before the addition of colorants added to tint bases, and shall be calculated as follows:

$$\text{VOC Content} = W_{\text{VOC}} / (V_M - V_{\text{H}_2\text{O}} - V_{\text{EC}})$$

Where:  $W_{\text{VOC}}$  = weight of VOCs not consumed during curing, in grams or in pounds.  
 $V_M$  = volume of material prior to curing, in liters or in gallons.  
 $V_{\text{H}_2\text{O}}$  = volume of water not consumed during curing, in liters or in gallons.  
 $V_{\text{EC}}$  = volume of exempt compounds not consumed during curing, in liters or in gallons.

**SWAPCA 493-300-030 Standards**

(1) Where required by SWAPCA 493-300-040, architectural coatings shall not exceed the VOC content limits listed in Table D on a "VOC Per Liter or Gallon - Less Water Basis" as modified by the special conditions and exemptions in SWAPCA 493-300-030(2) and SWAPCA 493-300-030(3).

**Table D  
 ARCHITECTURAL COATING  
 VOC CONTENT LIMITS  
 VOC PER LITER or GALLON  
 - LESS WATER BASIS**

Coating Category	VOC	
	(g/l)	(lb/gal)
Alkali Resistant Primers	550	4.58
Antenna Coatings	500	4.16
Anti-Fouling Coatings	450	3.75
Anti-Graffiti Coating	600	5.00
Bituminous Coatings and Mastics	500	4.16
Bond Breakers	600	5.00
Chalkboard Resurfacers	450	3.75
Concrete Curing Compounds	350	2.91
Concrete Protective Coatings	400	3.33
Dry Fog Coatings	400	3.33
Extreme High Durability Coatings	800	6.66
Fire-Retardant/Resistive Coatings		
Clear	850	7.08
Opaque	450	3.75
Flat Coatings - N.O.S.		
Exterior	250	2.08
Interior	250	2.08
Floor Coatings	400	3.33
Flow Coatings	650	5.41
Form-Release Compounds	450	3.75
Graphic Arts Coatings or Sign Paints	500	4.16
Heat Reactive Coatings	420	3.5
High Temperature Coatings	650	5.41
Impacted Immersion Coatings	780	6.50
Industrial Maintenance Coatings	450	3.75
Lacquers	680	5.66
Lacquer Stains	780	6.50
Magnesite Cement Coatings	600	5.00

Mastic Texture Coatings	300	2.50
Metallic Pigmented Coatings	500	4.16
Multi-Color Coatings	580	4.83
Nonferrous Metal Lacquers & Surface Protectants	870	7.25
Non-Flat Coatings - N.O.S:		
Exterior	380	3.16
Interior	380	3.16
Nuclear Power Plant Coatings	450	3.75
Pretreatment Wash Primers	780	6.50
Primers and Undercoaters - N.O.S.	350	2.91
Quick-Dry Coatings		
Enamels	450	3.75
Primers, Sealers and Undercoaters	450	3.75
Repair and Maintenance Thermoplastic Coatings	650	5.41
Roof Coatings	250	2.08
Rust Preventive Coatings	400	3.33
Sanding Sealers - (other than lacquer)	550	4.58
Sealers - (including interior clear wood sealers)	400	3.33
Shellacs:		
Clear	650	5.41
Opaque	550	4.58
Stains & Wood Preservatives:		
Below Ground Wood Preservatives	550	4.58
Clear & Semitransparent	550	4.58
Opaque	350	2.91
Swimming Pool Coatings	850	7.08
Thermoplastic Rubber Coatings & Mastics	550	4.58
Traffic Marking Paints		
Public Streets & Highways	150*	1.25
Other Surfaces	250	2.08
Varnishes	450	3.75
Waterproofing Sealers & Treatments:		
Clear	600	5.00
Opaque	400	3.33

\*Prior to Jan. 1, 1997, a VOC content limit of 250 grams per liter (2.08 lbs/gallon) applies to Traffic Marking Paints for Public Streets & Highways.

(2) Special Conditions. The following conditions shall apply to architectural coatings subject to VOC content limits under SWAPCA 493-300-030(1):

(a) Notwithstanding the definition of coating category in SWAPCA 493-300-020, if anywhere on the coating container, or in any promotion of an architectural coating, any representation is made that the coating may be used as, or is suitable for use as a coating for which a lower VOC limit is specified in SWAPCA 493-300-030(1), then the lower VOC limit shall apply. This requirement shall not apply to:

- (1) High-Temperature Coatings, which may be represented as metallic pigmented coatings for use consistent with the High Temperature Coating definition;
- (2) Lacquer, which may be recommended for use as sanding sealers in conjunction with clear lacquer topcoats;
- (3) Metallic Pigmented Coatings, which may be recommended for use as primers, sealers, undercoaters roof coatings, or industrial maintenance coatings;

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- (4) Shellacs;
- (5) Fire Retardant/Resistive Coatings;
- (6) Sanding sealers which may be represented as quick dry sealers; and,
- (7) Varnish, which may be recommended for use as a floor coating.

(b) VOC Content of Recycled Coating Products.

- (1) For coatings manufactured domestically containing post-consumer coating, compliance with the VOC limits of Table D of this rule shall be determined by the adjusted VOC content at the maximum thinning recommended by the manufacturer using the following equation:

$$VOC_{ADJUSTED} = VOC_{ACTUAL} \times [1 - (Recycled\%/100)]$$

Where:

$VOC_{ADJUSTED}$  = The adjusted VOC content of a recycled coating product expressed as grams VOC per liter or pounds per gallon, less water.

$VOC_{ACTUAL}$  = The VOC content of the recycled coating product as determined by procedures specified in SWAPCA 493-300-060(3) with the exception that VOCs in colorants of post-consumer coatings shall not be excluded from the VOC determination.

Recycled % = The volume percent of the recycled coating product that is post-consumer coating as determined by SWAPCA 493-300-030 (2)(b)(B).

- (2) The percent recycled shall be determined using the following equation:

$$Recycled \% = VOL_{POST-CONS} \times 100 / (VOL_{POST-CONS} + VOL_{VIRGIN})$$

Where:

$VOL_{POST-CONS}$  = The volume of post-consumer coating per gallon used in the production of a recycled coating product.

$VOL_{VIRGIN}$  = The volume of virgin coating materials used in the production of a recycled coating product.

- (3) Exemptions. SWAPCA 493-300-030(1) shall not apply to:

(a) Colorants added to tint bases by a retailer or commercial applicator.

(b) Coatings that are sold in containers with a volume of not more than one quart (32 fluid ounce or 0.95 liter) or in non-refillable aerosol containers.

**SWAPCA 493-300-040 Requirements for Manufacture, Sale and Use of Architectural Coating**

(1) Manufacturers. Except as provided in SWAPCA 493-300-040(6), any person who manufactures architectural coatings after July 1, 1996 which are sold, offered for sale, supplied or distributed, directly or indirectly, to a retail outlet in the Vancouver AQMA shall:

(a) Manufacture complying architectural coatings for architectural coatings marketed in the Vancouver AQMA;

(b) Clearly display the following information on each product container such that it is readily observable upon hand-held inspection without removing or disassembling any portion of the product container or packaging:

- (1) The date on which the product was manufactured, or a code indicating such date;
- (2) The maximum VOC content of the coating, at the maximum thinning recommended by the manufacturer, expressed as grams of VOC per liter or pounds VOC per gallon of coating, less water and exempt compounds, or distinguishing markings that identify the product's VOC content as described above, through reference to printed information that accompanies the product through distribution and is displayed at the point of sale;
- (3) A statement of the manufacturer's maximum recommended thinning with diluents other than water, and, if thinning of the coating prior to use under normal environmental and application conditions is not necessary, a statement indicating the product is not to be thinned under normal circumstances; and
- (4) For containers of recycled coating products, the phrase "CONTAINS NOT LESS THAN \_\_\_\_ PERCENT POST-CONSUMER COATING" where the percent, by volume, of the recycled coating is inserted before the word "percent".

(c) Notify direct purchasers of products manufactured for sale within the Vancouver AQMA upon determining that any noncomplying architectural coatings have been supplied in violation of SWAPCA 493-300-040.

(2) Distributors. Except as provided in SWAPCA 493-300-040(6), any distributor of architectural coating manufactured after July 1, 1996 which is sold, offered for sale, supplied or distributed to a retail outlet within the Vancouver AQMA shall:

(a) Ensure that architectural coatings are labeled as required under subsection (1)(b) of SWAPCA 493-300-040;

(b) Ensure that the VOC content indicated under SWAPCA 493-300-040 (1)(b)(B) does not exceed the VOC standard specified in SWAPCA 493-300-030; and

(c) Notify direct purchasers of products distributed for sale within the Vancouver AQMA upon determining that any noncomplying architectural coatings have been supplied in violation of SWAPCA 493-300-040.

(3) Retailers.

(a) Except as provided in SWAPCA 493-300-040(6), no retailer shall knowingly sell within the Vancouver AQMA any noncomplying architectural coating manufactured after July 1, 1996.

(b) Upon notification by SWAPCA, a manufacturer, or a distributor that any noncomplying architectural coating has been supplied, a retailer shall remove noncomplying architectural coatings from consumer-accessible areas of retail outlets within the Vancouver AQMA.

(4) Commercial Applicators. Except as provided in SWAPCA 493-300-040(6):

(a) No commercial applicator shall, within the Vancouver AQMA, knowingly use or contract for the use of any

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noncomplying architectural coating manufactured after July 1, 1996;

(b) No commercial applicator shall, within the Vancouver AQMA, knowingly use any noncomplying architectural coating manufactured after July 1, 1996 in a manner inconsistent with the coating category for which the product is formulated and recommended;

(c) All VOC-containing materials shall be stored in closed containers when not being accessed, filled, emptied, maintained, repaired or otherwise used.

(d) It is recommended that architectural coatings be applied under the conditions and with the application techniques recommended by the coating's manufacturer.

(5) Label Alteration. No person shall remove, alter, conceal or deface the information required in SWAPCA 493-300-040 (1)(b) prior to final sale of the product.

(6) Exceptions.

(a) Traffic marking paints seasonal requirements.

(1) Traffic marking paints which exceed the VOC content limits of SWAPCA 493-300-030(1) may be manufactured, distributed to retail outlets, offered for sale to commercial applicators, and sold to commercial applicators within the Vancouver AQMA if purchasers are provided with written information indicating that the product shall not be applied within the Vancouver AQMA during the period June 1 through August 31, and the labeling requirements of SWAPCA 493-300-040 (1)(b)(A) and (B) are maintained.

(2) Traffic marking paints which exceed the VOC limits of SWAPCA 493-300-030(1) may be purchased by commercial applicators for use within the Vancouver AQMA provided they shall not be applied during the period June 1 through August 31.

(b) For architectural coatings which have been granted a compliance extension under SWAPCA 493-500-020, this rule applies to coatings manufactured after the date specified in the compliance extension.

#### **SWAPCA 493-300-050 Recordkeeping and Reporting Requirements**

(1) Recordkeeping. Manufacturers subject to SWAPCA 493-300-040 shall maintain the following records for at least 2 years after an architectural coating is sold, offered for sale, supplied or distributed by the manufacturer, directly or indirectly, to a retail outlet in the Vancouver AQMA:

(a) VOC content records of architectural coatings based on methods provided in SWAPCA 493-300-060;

(b) An explanation of any code indicating the date of manufacture of any architectural coating; and

(c) Information used to substantiate an application for a compliance extension under SWAPCA 493-500-020.

(2) Reporting. Following request and within a reasonable period of time, records specified in SWAPCA 493-300-050(1) shall be made available to SWAPCA.

(3) Exemption from disclosure. If a person claims that any Records of Information, as defined in RCW 70.94.205 "Confidentiality of records and information", is confidential or otherwise exempt from disclosure, in whole or in part, the

person shall comply with the procedures specified in SWAPCA 493-500-030.

#### **SWAPCA 493-300-060 Inspection and Testing Requirements**

(1) The owner or operator of a facility subject to SWAPCA 493-300-010 through 493-300-060 shall, at any reasonable time, make the facility available for inspection by SWAPCA.

(2) Upon request of SWAPCA, any person subject to SWAPCA 493-300-010 through 493-300-060 shall furnish samples of architectural coatings selected by SWAPCA from available stock for testing by SWAPCA to determine compliance with SWAPCA 493-300-030.

(3) Except as provided in SWAPCA 493-300-060(4), testing to determine compliance with SWAPCA 493-300-030 shall be performed using:

(a) VOC Content. The VOC content of an architectural coating shall be determined by:

(1) Procedures set forth in EPA Test Method 24 (40 CRF 60, Appendix A, July 1, 1994); or

(2) Calculation of VOC content from records of amounts of constituents used to manufacture the product and the chemical compositions of the individual product constituents.

(b) Exempt Compounds. If the method specified in SWAPCA 493-300-060 (3)(a)(A) also measures compounds excluded from the definition of VOCs, those compounds may be excluded from the VOC content if the amount of such compounds can be accurately quantified. SWAPCA may require a manufacturer to provide conclusive evidence (such as production records, formulation data and test results) demonstrating, to the satisfaction of SWAPCA, the amount of exempt compounds in the architectural coating or the coating's emissions.

(c) Specular gloss of flat and non-flat coatings shall be determined by ASTM Method D 523-89, March 31, 1989.

(4) Alternative test methods which are shown to accurately determine the VOC content of architectural coatings may also be used if approved in writing by EPA and SWAPCA.

#### NEW SECTION

SWAPCA 493-400 - Motor Vehicle Refinishing

#### **SWAPCA 493-400-010 Applicability**

SWAPCA 493-400 applies to any person:

(1) Who sells, offers for sale, distributes or manufactures motor vehicle refinishing coatings for sale in Vancouver AQMA, or

(2) Who owns, leases, operates or controls a motor vehicle refinishing facility in the Vancouver AQMA.

#### **SWAPCA 493-400-020 Definitions**

As used in SWAPCA 493-400:

(1) "Aerosol Spray" coating means a pre-mixed coating supplied in pressurized containers of 16 ounces or less.

(2) "Anti-glare/Safety Coating" means a coating formulated to minimize light reflection to interior areas of a vehicle and which shows a reflectance of 25 or less on a 60 degree gloss meter.

(3) "Basecoat" means a pigmented topcoat which is the first topcoat applied as a part of a multistage topcoat system.

(4) "Basecoat/Clearcoat Topcoat System" means a topcoat system composed of a basecoat portion and a clearcoat portion. The VOC content of a basecoat/clearcoat topcoat system shall be calculated according to the following formula:

$$VOC_{bc/cc} = \frac{VOC_{bc} + 2 VOC_{cc}}{3}$$

Where:  $VOC_{bc/cc}$  = the composite VOC content, less water and less exempt compounds to be used for compliance determination under the basecoat/clearcoat topcoat system coating category.

$VOC_{bc}$  = the VOC content of any given basecoat as prepared for use, less water and less exempt compounds.

$2VOC_{cc}$  = twice the VOC content of any given clearcoat as prepared for use, less water and less exempt compounds.

(5) "Bright Metal Trim Repair Coating" means a coating applied directly to chrome-plated metal surfaces for the purposes of appearance.

(6) "Clearcoat" means a topcoat which contains no pigments or only transparent pigments and which is the final topcoat applied as a part of a multistage topcoat system.

(7) "Elastomeric Materials" mean coatings which are specifically formulated and applied over coated or uncoated flexible plastic substrates for the purpose of adhesion.

(8) "Exempt compounds" means compounds of carbon excluded from the definition of VOC.

(9) "Graphic Design Application" means the application of logos, letters, numbers, or artistic representations such as murals, landscapes, and portraits.

(10) "High Volume, Low Pressure Spray", or "HVLP" means equipment used to apply coatings with a spray device which operates at a nozzle air pressure between 0.1 and 10 pounds per square inch gravity (psig).

(11) "Impact Resistant Coating" means any coating applied to a rocker panel for the purpose of chip resistance to road debris.

(12) "Manufacturer" means the company, firm or establishment which is listed on the coating container. If the container lists two companies, firms or establishments, the manufacturer is the party which the coating was "manufactured for" or "distributed by", as noted on the product.

(13) "Midcoat" means a semi-transparent topcoat which is the middle topcoat applied as part of a three-stage topcoat system.

(14) "Motor Vehicle" means a any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

(15) "Motor Vehicle Refinishing" means the application of surface coating to on-road motor vehicles or non-road motor vehicles, or their existing parts and components,

except Original Equipment Manufacturer (OEM) coatings applied at manufacturing plants.

(16) "Motor Vehicle Refinishing Coating" means any coating designed for, or represented by the manufacturer as being suitable for motor vehicle refinishing.

(17) "Motor Vehicle Refinishing Facility" means a location at which motor vehicle refinishing is performed.

(18) "Multi-Color Coating" means a coating which is packaged in a single container that exhibits more than one color when applied, and is used to protect surfaces of vehicle cargo areas.

(19) "Multistage Topcoat System" means any basecoat/clearcoat topcoat system or any three-stage topcoat system manufactured as a system, and used as specified by the manufacturer.

(20) "Non-Road Motor Vehicle" means any motor vehicle other than an on-road motor vehicle. "Non-Road Motor Vehicle" includes, but is not limited to, fixed load vehicles, farm tractors, farm trailers, all-terrain vehicles, and golf carts.

(21) "On-Road Motor Vehicle" means any motor vehicle which is required to be registered under RCW 46.16 or exempt from registration under RCW 46.04. "On-Road Motor Vehicle" includes, but is not limited to: passenger cars, trucks, vans, motorcycles, mopeds, motor homes, truck tractors, buses, tow vehicles, trailers other than farm trailers, and camper shells.

(22) "Person" means the federal government, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, estate, or any other legal entity whatsoever.

(23) "Portland-Vancouver Interstate AWMA" is the interstate nonattainment area for ozone as defined in the Washington and Oregon State Implementation Plans. The Interstate area includes, Clackamas, Washington and Multnomah counties in Oregon and southern portion of Clark County in Washington.

(24) "Precoat Coating" means a coating applied to bare metal primarily to deactivate the surface for corrosion resistance to a subsequent water-base primer.

(25) "Pretreatment Wash Primer" means a coating which contains at least 0.5% acid, by weight, which is used to provide surface etching and is applied directly to bare metal surfaces to promote corrosion resistance and adhesion.

(26) "Primer" means a coating applied for purposes of corrosion resistance or adhesion of subsequent coatings.

(27) "Primer Sealer" means a coating applied prior to the application of a topcoat for the purpose of color uniformity, or to promote the ability of a underlying coating to resist penetration by the topcoat.

(28) "Primer Surfacer" means a coating applied for the purpose of corrosion resistance or adhesion, and which promotes a uniform surface by filling in surface imperfections.

(29) "Public Highway" means every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

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(30) "Rocker Panel" means the panel area of a motor vehicle which is no more than 10 inches from the bottom of a door, quarter panel, of fender.

(31) "Rubberized Asphaltic Underbody Coating" means a coating applied to the wheel wells, the inside of door panels or fenders, the underside of a trunk or hood, of the underside of the motor vehicle itself for the purpose of sound deadening or protection.

(32) "Specialty Coating" means any of the following coatings when used in accordance with each coating's specialized design purpose: adhesion promoters, uniform finish blenders, elastomeric materials, impact-resistant coatings, anti-glare safety coatings, rubberized asphaltic underbody coatings, water hold-out coatings, weld-through coatings, bright metal trim repair coatings, and surface appearance additives.

(33) "Spot Repairs" mean motor vehicle refinishing repairs in which the damaged area to be repaired is limited to only a portion of any given panel so that an entire panel need not be repaired.

(34) "Stencil Coating" means an ink or a pigmented coating which is rolled or brushed onto a template or a stamp in order to add identifying letters, symbols, or numbers to motor vehicles, mobile equipment, or their parts and components.

(35) "Surface Appearance Additive" means gloss control additives, fish-eye eliminators, retarders, and other additives designed to achieve the surface appearance of the original equipment specifications.

(36) "SWAPCA" means the Southwest Air Pollution Control Authority.

(37) "Three-Stage Coating System" means a topcoat system composed of a basecoat portion, a midcoat portion, and a transparent clearcoat portion. For compliance purposes, the VOC content of a three-stage coating system shall be calculated according to the following formula:

$$VOC_{3-stage} = \frac{VOC_{bc} + VOC_{mc} + 2 VOC_{cc}}{4}$$

Where:  $VOC_{3-stage}$  = the composite VOC content, less water and less exempt compounds in the three-stage coating system.

$VOC_{bc}$  = the VOC content of any given basecoat as prepared for use, less water and less exempt compounds.

$VOC_{mc}$  = the VOC content of any given midcoat as prepared for use, less water and less exempt compounds.

$2VOC_{cc}$  = twice the VOC content, as prepared for application, of any given clearcoat.

(38) "Topcoat" means a coating applied over any coating, for the purpose of appearance, identification, or protection.

(39) "Touch-up Coating" means a coating applied by brush or non-refillable aerosol can to cover minor surface

damage and dispensed in containers of no more than 8 ounces.

(40) "Uniform Finish Blender" means a coating which is applied in spot repairs for the purpose of blending a paint overspray area of a repaired topcoat to match the appearance of an adjacent existing topcoat.

(41) "Vancouver Air Quality Maintenance Area" or "Vancouver AQMA" is the Washington portion of the Portland-Vancouver Interstate Nonattainment Area for Ozone as defined in the Washington State Implementation Plan. The Vancouver AQMA includes the southern portion of Clark County, Washington.

(42) "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

(43) "Volatile Organic Compound" or "VOC" means those compounds of carbon defined in SWAPCA 400-030(89). For purposes of determining compliance with VOC content limits, VOC shall be measured by an applicable method identified in SWAPCA 493-400-060.

(44) "Water Hold-Out Coating" means a coating applied to the interior cavity areas of doors, quarterpanels, and rocker panels for the purpose of corrosion resistance to prolonged water exposure.

(45) "Weld-Through Coating" means a coating applied to metal immediately prior to welding to provide corrosion resistance.

**SWAPCA 493-400-030 Coating Standards and Exemptions**

(1) Where required by SWAPCA 493-400-040 and 493-400-050, motor vehicle refinishing coatings shall not exceed the VOC content limitations in Table E when prepared in accordance with the manufacturer's instructions, except as provided in SWAPCA 493-400-030(2).

**Table E  
VOC Content Limits of  
Motor Vehicle Refinishing Coatings**

Coating Type	VOC Content Limits* (lbs/gal)
Pretreatment Wash Primer	6.5
Precoat	6.5
Primer	4.8
Primer Surfacer	4.8
Primer Sealer	4.6
Topcoat	5.0
Basecoat/Clearcoat Topcoat System	5.0
Three-Stage Coating System	5.2
Multi-Color Coating	5.7
Specialty Coating	7.0

VOC content is determined as prepared for use in accordance with manufacturer's instructions, and shall be calculated by the following equation:

Pounds of VOC per gallon =  $\frac{W_{voc}}{V_m - V_w - V_{ec}}$

Where:  $W_{voc}$  = Weight of VOC in pounds, or the weight of all volatile compounds less

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		the weight of water, less the weight of exempt compounds;
$V_m$	=	Volume of material in gallons;
$V_w$	=	Volume of water in gallons;
$V_{ec}$	=	Volume of exempt compounds, in gallons.

[Note: \* VOC emission limits are expressed as pounds of VOC per gallon of coating excluding the volume of water and exempt compounds.]

(2) Exemptions. The VOC content limits in SWAPCA 493-400-030(1) shall not apply to:

- (a) Coatings supplied in aerosol spray cans;
- (b) Touch-up coatings;
- (c) Stencil coatings;
- (d) Coatings used for graphic design applications.

#### **SWAPCA 493-400-040 Requirements for Manufacture and Sale of Coatings**

(1) Manufacture. Any person who manufactures motor vehicle refinishing coatings for sale within Clark County, Washington after July 1, 1996 shall:

- (a) Provide written instructions for preparation of the product; and
- (b) Designate in writing the VOC content of these products as prepared for use in accordance with the manufacturer's instructions.

(2) Shipment to the Vancouver AQMA. Except as provided in SWAPCA 493-400-040(4), no person shall knowingly sell, ship or provide a motor vehicle refinishing coating after July 1, 1996 for use within the Vancouver AQMA unless the VOC content of the product as designated by the manufacturer complies with the VOC content limits in SWAPCA 493-400-030 when prepared in accordance with the manufacturer's instructions.

(3) Sale within Clark County, Washington. Except as provided in SWAPCA 493-400-040(4), no person shall sell motor vehicle refinishing coatings after July 1, 1996 within Clark County, Washington unless the VOC content of the product as designated by the manufacturer complies with the VOC content limits in SWAPCA 493-400-030 when prepared in accordance with the manufacturer's instructions.

(4) Sale for use outside the Portland-Vancouver Interstate AQMA. Motor vehicle refinishing coatings which do not comply with the VOC limitations of SWAPCA 493-400-030 may be sold for shipment to the Vancouver AQMA, or sold within Clark County, Washington if:

- (a) The product is to be used outside the boundary of the Portland-Vancouver Interstate AQMA; and
- (b) The purchaser provides written certification to the seller in the manner described by SWAPCA 493-400-040(5) that the product is to be used outside of the Portland-Vancouver Interstate AQMA.

(5) Purchase Certifications. When required by SWAPCA 493-400-040(4), certifications of intended use shall at a minimum contain the following information:

- (a) Purchaser's name and address;
- (b) Date of Purchase;
- (c) Name of coating or coating system purchased;
- (d) Type of coating;
- (e) Quantity of coating purchased;
- (f) Address of location where the coating will be used;

- (g) A statement certifying that the coating will not be used within the Portland-Vancouver Interstate AQMA to the best of the purchaser's knowledge; and
- (h) Purchaser's signature.

#### **SWAPCA 493-400-050 Requirements for Motor Vehicle Refinishing in Vancouver AQMA**

Except as provided in SWAPCA 493-400-050(3), persons performing motor vehicle refinishing of on-road motor vehicles within the Vancouver AQMA shall:

(1) After July 1, 1996:

- (a) Use motor vehicle refinishing coatings which are identified by the manufacturer as complying with the VOC limits established in SWAPCA 493-400-030; and
- (b) Prepare and apply the coatings in accordance with the manufacturer's instructions; and

(2) After June 1, 1997:

- (a) Clean any spray equipment, including paint lines, in a device which:

- (1) Minimizes solvent evaporation during the cleaning, rinsing, and draining operations;
- (2) Recirculates solvent during the cleaning operation so the solvent is reused; and
- (3) Collects spent solvent to be available for proper disposal or recycling; and

- (b) Apply motor vehicle refinishing coatings by one of the following methods:

- (1) High Volume Low Pressure spray equipment, operated and maintained in accordance with the manufacturer's recommendations;
- (2) Electrostatic application equipment, operated and maintained in accordance with the manufacturer's recommendations;
- (3) Dip coat application;
- (4) Flow coat application;
- (5) Brush coat application;
- (6) Roll coat application;
- (7) Hand-held aerosol cans; or
- (8) Any other coating application method which can be demonstrated to effectively control VOC emissions, and which has been approved in writing by SWAPCA.

(3) This rule shall not apply to any person who performs motor vehicle refinishing without compensation, and who performs refinishing on two or fewer on-road motor vehicles, or portions thereof, in any calendar year.

#### **SWAPCA 493-400-060 Recordkeeping and Reporting Requirements**

(1) Recordkeeping.

(a) Manufacturers of motor vehicle refinishing coatings sold in Vancouver AQMA shall maintain records which demonstrate that the VOC content designated under SWAPCA 493-400-040(1) is true and accurate. These records shall be maintained for at least two (2) years after a manufacturer's sale of a product for use in Vancouver AQMA, and may include, but are not limited to, product formulation data and test results using test methods specified in SWAPCA 493-400-060.

(b) Persons who sell motor vehicle refinishing coatings within the Vancouver AQMA shall maintain records for at

least 2 years which are sufficient to allow a determination of compliance with SWAPCA 493-400-040 (3) and (4). These records shall include, but are not limited to, purchase certifications and sales information specifying the coating identification, quantity sold, and date of sale.

(c) Persons who perform motor vehicle refinishing of on-road motor vehicles within the Vancouver AQMA shall maintain records for at least 2 years which are sufficient to allow determination of compliance with SWAPCA 493-400-050. These records shall include, but are not limited to, manufacturers' instructions for preparation of coatings used and purchase information specifying the coating identification, quantity purchased and date of purchase.

(2) Reporting. Following request and within a reasonable period of time, records specified in SWAPCA 493-400-060(1) shall be made available to SWAPCA.

(3) Exemption from disclosure. If a person claims that any Records or Information, as defined in RCW 70.94.205 "Confidentiality of records and information", is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the procedures specified in SWAPCA 493-500-030.

#### **SWAPCA 493-400-060 Inspection and Testing Requirements**

(1) The owner or operator of any facility subject to SWAPCA 493-400 shall, at any reasonable time, make the facility available for inspection by SWAPCA.

(2) Upon request of SWAPCA, any person subject to SWAPCA 493-400 shall furnish samples of motor vehicle refinishing coatings selected by SWAPCA from available stock for testing by SWAPCA to determine compliance with SWAPCA 493-400-030.

(3) Testing conducted under this rule shall be in accordance with EPA Method 24 or Method 25 as described in CFR Title 40 Part 60 (July 1, 1994), or by other methods approved by SWAPCA and EPA.

#### **NEW SECTION**

#### **SWAPCA 493-500 - Area Source Common Provisions**

##### **SWAPCA 493-500-010 Applicability**

SWAPCA 493-500 applies to all sections of SWAPCA 493-100 through SWAPCA 493-400.

##### **SWAPCA 493-500-020 Compliance Extensions**

Any manufacturer, as defined in SWAPCA 493-100-020, who cannot comply with the requirements specified in SWAPCA 493-100 to 493-400 by the applicable compliance date because of conditions specified in SWAPCA 493-500-020(4) may apply in writing to SWAPCA for a compliance extension of up to 3 years in renewable 1 year increments. Any compliance extension granted by the Oregon Department of Environmental Quality shall be deemed valid by SWAPCA for the duration of the extension.

(1) A manufacturer shall apply in writing to SWAPCA for any compliance extension under SWAPCA 493-500-020. Information claimed by the applicant as confidential or otherwise exempt from disclosure shall be submitted in accordance with SWAPCA 493-500-030. The application shall include:

(a) An explanation of the specific grounds addressing each subsection under SWAPCA 493-500-020(4) on which the compliance extension is sought;

(b) The requested terms and conditions;

(c) The specific method(s) by which compliance with the requested terms and conditions will be achieved;

(d) Any interim measures which may be taken during the period of the compliance extension to limit the amount of emissions in excess of the rule limits; and

(e) If applicable, any compliance extension, alternate control requirement or variance order granted by another local, state or federal air pollution control agency.

(2) Within 30 days of receipt of the compliance extension application, SWAPCA shall determine whether an application is complete.

(3) Within 90 days after an application has been deemed complete, SWAPCA shall determine whether, under what conditions, and to what extent, a compliance extension shall be approved. The applicant and SWAPCA may mutually agree to extend the period for making a determination, and additional supporting documentation may be submitted by the applicant before the determination is reached.

(4) In considering whether to approve a compliance extension, SWAPCA shall consider the following:

(a) Conditions beyond the control of the applicant;

(b) Special circumstances which render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause;

(c) Strict compliance would result in substantial curtailment or closing down of a business, plant, or operation; or

(d) No other alternative facility or method of handling is yet available.

(5) Any compliance extension order shall specify terms and conditions, including a date by which final compliance shall be achieved. The final compliance date shall not exceed 3 years after the applicable compliance date. A compliance extension shall be granted in 1 year increments which may be renewed until the final compliance date upon a showing by the manufacturer that any increments of progress and other terms and conditions in the order have been met.

(6) SWAPCA shall notify the applicant in writing of the determination under SWAPCA 493-500-020(3) of this rule and the terms and conditions established under SWAPCA 493-500-020(5).

(7) Notwithstanding SWAPCA 493-500-020(4), if, prior to the applicable compliance date, a manufacturer, as defined in SWAPCA 493-100-020, submits to SWAPCA a variance order granted by CARB which is valid as of February 20, 1995, the manufacturer shall be granted a 1 year extension from the applicable compliance date. Such compliance extensions may be revoked by SWAPCA if SWAPCA believes that the manufacturer is not in compliance with the terms and conditions of the CARB variance order.

(8) For any product for which a compliance extension has been approved pursuant to this rule, the manufacturer shall notify SWAPCA in writing within 30 days if the manufacturer learns that information submitted to SWAPCA under this rule has changed in a manner which could modify the basis of SWAPCA's approval.

(9) If SWAPCA believes that a product for which a compliance extension has been granted no longer meets the

criteria for a compliance extension specified in SWAPCA 493-500, SWAPCA may modify or revoke the extension as necessary to ensure that the product will meet these criteria. SWAPCA shall notify the applicant in writing if a compliance extension is modified or revoked under this section.

**SWAPCA 493-500-030 Exemption from Disclosure to the Public**

(1) If a person claims that any records or information, as defined in RCW 70.94.205, is confidential or otherwise exempt from disclosure, in whole or in part, the person shall comply with the following procedures:

(a) The records or information shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.

(b) For records or information that contains both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material shall be arranged so that it is placed on separate pages from the non-exempt material.

(2) For records or information to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:

(a) The information shall not be patented;

(b) It shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;

(c) It shall be information which derives actual or potential economic value from not being disclosed to other persons; and

(d) It shall give its users the chance to obtain a business advantage over competitors not having the information.

**SWAPCA 493-500-040 Future Review**

Within a reasonable period of time following adoption by the United States Environmental Protection Agency of regulations intended to reduce VOC emissions from one or more products subject to SWAPCA 493-100 through SWAPCA 493-400, SWAPCA shall provide the following information to the SWAPCA Board of Directors:

(1) A comparison of the federal regulation with SWAPCA 493-100 through 493-400;

(2) An estimate of the change in emissions which would occur from repeal of provisions in SWAPCA 493-100 through 493-400 applicable to such product or products;

(3) An assessment of the effect of eliminating or modifying the provisions of SWAPCA 493-100 through 493-400 on the State Implementation Plan adopted for Redesignation/Ozone Maintenance Plan, including any need for substitute measures; and

(4) A recommendation regarding amendment to eliminate such provisions and, if applicable, a schedule for amendment.

**Reviser's note:** The typographical errors in the above material 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 brackets and enclosed material above 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 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 96-10-032  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 3969—Filed April 24, 1996, 4:24 p.m.]

Date of Adoption: April 24, 1996.

Purpose: Chapter 74.13 RCW directs the department to promulgate rules which establish minimum licensing requirements.

Citation of Existing Rules Affected by this Order: Amending chapter 388-73 WAC, Minimum licensing requirements for crisis residential centers.

Statutory Authority for Adoption: Chapter 74.15 RCW.

Other Authority: RCW 74.13.032.

Adopted under notice filed as WSR 96-06-051 on March 6, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-73-012 Definitions, no text change. Renumber to alphabetize; WAC 388-73-01950 Fire standards, in the last sentence which begins "The Washington state fire marshal's ..." remove "1995" and remove the text "as amended." Clarifies the language and removes the need to amend the WAC when the building codes change; WAC 388-73-048(7) Corporal punishment, remove the first sentence which reads: "All licensees except secure crisis residential centers shall be subject to WAC 388-73-048." In the second sentence add the language "... are excepted from this section and ..." after "Secure crisis residential centers ..." Clarifies the statement; WAC 388-73-803 Crisis residential center—Admission, subsection (1) add the text "For secure crisis residential centers ..." before "the administrator ..." Subsection (2) add the text "For semi-secure crisis residential centers ..." before "the administrator ..." Clarifies the statement; WAC 388-73-821(3) Behavior management—Secure crisis residential centers, remove the text "... all proactive, nonphysical means must have been exhausted, ..." Similar language is repeated later in the paragraph and appears redundant; WAC 388-73-821(5) Behavior management—Secure crisis residential centers, in the first sentence remove the word "that" after technique and add the words "with intent to." Clarifies the statement. Remove the language from subsection (f) that says "and a locked time-out room or area." Create a new subsection (g) that states "A locked time-out room." Clarifies the statement; WAC 388-73-822(3) Secure crisis residential centers—Staff training, correct the typographical error to the word "ever" which should be "every"; and WAC 388-73-825(4) Secure crisis residential center—Physical facility, remove the second sentence which reads "The department shall not require the provider to collocate semi-secure and secure facilities within the same facility."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

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Recently Enacted State Statutes: New 6, amended 9, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 6, amended 9, repealed 0.

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

April 24, 1996

Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-012 Definitions.** (1) Terms defined under chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(3) "Capacity" means the maximum number of persons under care at a given moment in time.

~~((3))~~ (4) "Child," "youth," and "juvenile" means any unemancipated individual under the chronological age of eighteen years of age.

~~((4))~~ (5) "Child in need of services" means a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours from the parent's home, a crisis residential center, an out-of-home placement, or a court-ordered placement on two or more separate occasions; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person; or

(c)(i) Who is in need of necessary services, including food, shelter, health care, clothing, educational, or services designed to maintain or reunite the family;

(ii) Who lacks access, or has declined, to utilize these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure.

(6) "Developmentally disabled person" means an individual suffering from a mental and/or physical deficiency rendering the individual incapable of assuming responsibilities expected of the socially adequate person, including self-direction, self-support, and social participation.

~~((5))~~ (7) "Full-time care provider" or "full-time care facility" means a foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

~~((6) "Home of community concern" means a non-traditional family home whose composition or culture is sufficiently diverse from the standards of the community at large so that a mishap or scrutiny of the license might raise concerns about the appropriateness of licensing and placement of children, and might subject the department to notoriety.~~

~~((7))~~ (8) "Infant" means a child under one year of age.

~~((8))~~ (9) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent.

(10) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(11) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

~~((9))~~ (12) "School-age child" means a child five years of age through twelve years of age enrolled in a kindergarten or elementary school.

~~((10))~~ (13) "Secure detention facility" and "juvenile detention facility" means a facility, primarily for the care of juvenile offenders, operated so as to ensure all entrances and exits from the facility are locked, barred, or otherwise controlled so as to prevent escapes.

~~((11))~~ (14) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(15) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure youth placed there will not run away: *Provided*, That such facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility or any part thereof, nor be otherwise controlled by the use of physical restraints except as provided in WAC 388-73-048.

~~((12))~~ (16) "Severely and multiply-handicapped child" is a child diagnosed as primarily dependent for most activities of daily living, except for persons requiring the services of skilled health care providers.

(17) "Temporary out-of-home placement" means an out-of-home placement of not more than fourteen days ordered by the court at a fact-finding hearing on a child in need of services petition.

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**AMENDATORY SECTION** (Amending Order 3918, filed 11/8/95, effective 12/9/95)

**WAC 388-73-014 Persons and organizations subject to licensing.** Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility for children" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis;

(2) "Child-placing agency" means an agency placing children for temporary care, continued care, or for adoption;

(3) "Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and their infants after confinement. See WAC 388-73-702;

(4) "Day care facility" means an agency regularly providing care for children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care facilities:

(a) A "mini-day care program" means a day care facility for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the children are placed; or

(b) A "day treatment program" means an agency providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four-hour day for a group of persons under eighteen years of age and the persons are unable to adjust to full-time regular or special school programs or full-time family living because of:

- (i) Disruptive behavior;
- (ii) Family stress;
- (iii) Learning disabilities; or
- (iv) Other serious emotional or social handicaps.

(5) "Foster family home" means a person or persons regularly providing care on a twenty-four-hour basis to one or more, but not more than four, children, expectant mothers, or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or developmentally disabled person is placed;

(6) "Large foster family home" means a foster family home with at least two adult residents in the home providing care on a twenty-four-hour basis to five or six children or developmentally disabled persons;

(7) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecure or secure residential facility in the performance of duties specified and in the manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center;

(b) A group care facility functioning partially or exclusively as a crisis residential center;

(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department;

(d) "Secure crisis residential center" means a facility operating under department contract to provide temporary, protective care to children in a secure residential facility designed and operated to control ingress and egress.

(8) A "facility for severely and multiply-handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require skilled health care, physical therapy, or other forms of therapy;

(9) "Staffed residential home for children or expectant mothers" means a home providing twenty-four-hour care for less than seven children or expectant mothers. The home employs staff to care for children and may or may not be a family residence.

**AMENDATORY SECTION** (Amending Order 3418, filed 7/9/92, effective 8/9/92)

**WAC 388-73-01950 Fire standards.** All group care facilities, mini-day care centers, and maternity centers shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for the prevention of fire and for the protection of life and property against fire. The Washington state fire marshal's standards are (~~found in chapter 212-55 WAC~~) contained in the current state building code.

**AMENDATORY SECTION** (Amending Order 1933, filed 1/5/83)

**WAC 388-73-020 Certification of juvenile detention facility and exempt agency.** (1) An agency legally exempt from licensing may not be licensed. However, at the agency's request, such agency may be certified by the department as meeting licensing and other pertinent requirements, if investigation proves such to be the case, to enable the agency to be eligible for the receipt of funds or for other legitimate purposes. In such cases, unless otherwise clearly evident from the text, requirements and procedures for licensing apply equally to certification.

(2) Juvenile detention facilities operated by juvenile courts, shall be certified in accord with the provision of RCW 74.13.034, and requirements promulgated pursuant thereto. Except as otherwise indicated by the text, the requirements for licensing group care facilities also apply to the certification of juvenile detention facilities.

(3) A secure crisis residential center operating within a juvenile detention facility shall be subject to secure crisis residential center requirements, unless otherwise indicated, under chapter 388-73 WAC.

**AMENDATORY SECTION** (Amending Order 2445, filed 12/2/86)

**WAC 388-73-048 Corporal punishment.** (1) Corporal punishment is prohibited.

(2) The use of such amounts of physical restraint as may be reasonable and necessary to:

- (a) Protect persons on the premises from physical injury,
- (b) Obtain possession of a weapon or other dangerous object,

(c) Protect property from serious damage, shall not be construed to constitute corporal punishment.

(3) Mechanical restraints may not be used. These include but are not limited to: Handcuffs, belt restraints, and locked time-out rooms.

(4) Physical restraints which could be injurious are not to be used. These include but are not limited to: A large adult sitting on or straddling a small child, sleeper holds, arm twisting, hair holds, and throwing children and youths against walls, furniture, or other large immobile objects.

(5) The restrictions listed in subsections (3) and (4) of this section immediately preceding do not apply to juvenile detention facilities.

(6) Staff employed in group care facilities where it may be necessary to restrain children shall be trained in the use of appropriate restraining techniques.

(7) Secure crisis residential centers are excepted from this section and shall be subject to WAC 388-73-821.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-054 Client records and information—**

**All agencies.** (1) Agencies shall maintain records and information concerning persons in care in such a manner as to preserve their confidentiality. For American Indian children, see WAC 388-73-044. Records giving the following information on each person under care shall be maintained at the licensed facility. The agency's records shall contain, at a minimum, the following information:

(a) Identifying information, including:

(i) Name;

(ii) Birthdate;

(iii) For full-time care providers, dates of admission, absences, and discharge; and

(iv) For day care providers, daily attendance.

(b) Identifies information for parents or other persons to be contacted in case of emergency:

(i) Names;

(ii) Addresses; and

(iii) Telephone numbers, if any (home and business).

(c)(i) Dates and kinds of illnesses and accidents;

(ii) Medication and treatments prescribed;

(iii) Time given and by whom;

(iv) Except for crisis residential centers and certified juvenile detention facilities, dates and types of immunization; and

(v) Other pertinent information relating to the person's health.

(d) Written parental consent (or court order) for providing medical care and emergency surgery, except as such care is otherwise authorized by law;

(e) Names, addresses, and telephone numbers of persons authorized to take the person under care out of the facility;

(f) Authorization for acceptance of the person under care. Juvenile detention facilities and crisis residential centers shall record the time and date a placement is made, the names of the person and organization making the placement, and the reasons for the placement;

(g) In addition, for day care facilities a completed application signed by the parent, guardian, or responsible relative;

(h) For day care facilities, a written consent signed by the parent or parents for all transportation provided by the caregiver, trips, and swimming if the child will be participating in these activities;

(i) A copy of the report sent to the department licensor of all accidents, injuries, and illnesses requiring inpatient hospitalization occurring to the child while the child is present at the facility; and

(j) Immunization records as per WAC 388-73-140 (4) and (5).

(2) The agency's records of severely and multiply handicapped children shall also contain:

(a) Information obtained upon admission including identifying and social data, an inventory of personal belongings, medical history, and a report of a physical examination and diagnosis by a physician;

(b) Information about the child's daily care including all plans, treatments, medications, observations, teaching, examinations, physicians' orders, allergic responses, consent authorizations, releases, diagnostic reports, and revisions of assessments;

(c) A summary upon discharge including diagnoses, treatments, and prognosis by the person responsible for the total plan of care, instructions given to the person providing continuing care, and a record of any referrals directed toward continuity of care; and

(d) Appropriate information if the child has died including the time and date of death, apparent cause of death, appropriate notification of the physician and relevant others (including the coroner if necessary), and the disposition of the body and personal effects.

(3) Secure crisis residential centers shall maintain, at a minimum, hourly logs of client physical location. The facility shall:

(a) Have a policy on use and retention of client physical location logs which include, but are not limited to, staff briefings between shifts to verify client physical locations at each shift change and weekly inspections of any security devices; and

(b) Retain the logs for seven years.

(4) Secure crisis residential centers shall:

(a) Maintain a department-approved log of all incidents requiring physical restraint of a child; and

(b) Maintain a written report of each incident as specified in WAC 388-73-821.

(5) Secure crisis residential centers shall prepare a written summary upon discharge which includes, but is not limited to:

(a) Identification of community based referrals;

(b) Any assessment information on the family and child;

(c) Family reconciliation attempts;

(d) Contacts with families and professionals;

(e) Recommendations for all family members;

(f) Medical and health related issues; and

(g) Any other concerns such as legal issues and school problems.

(6) Secure crisis residential centers shall send the written summary to the department within seven days of the child's discharge and retain a written summary copy in the child's case record at the secure crisis residential center.

AMENDATORY SECTION (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-606 Required positions.** An agency, except secure crisis residential centers, shall provide staff in accordance with the following requirements:

(1) A director responsible for the general management and administration of the agency's program. This person shall:

- (a) Be twenty-one years of age or older;
- (b) Possess ability to understand the role of the agency in meeting the needs of children;
- (c) Work with representatives of appropriate agencies;
- (d) Have a bachelor's degree in a social science or closely allied field; or
- (e) Have had a minimum of two years' experience:
  - (i) Working in a group care facility; or
  - (ii) As a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff at least twenty-one years of age.

In addition, in crisis residential centers, no less than fifty percent of the child care staff shall have completed at least two years of college and one year of working with children in a group setting. Experience may be substituted for education on a year-for-year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience. The remaining child care staff shall have at least a high school diploma (or equivalent) and one year of successful experience as a foster family parent for three or more children or working with children in a group setting. Two years of college may be substituted for the required experience.

(a) Except for crisis residential centers, facilities for severely and multiply-handicapped children, and juvenile detention facilities, during the waking hours of the children there shall be at least one child care staff member on duty for every eight children or major fraction (five or more) of such number of children on the premises.

For juvenile detention facilities, there shall be a minimum of one child care staff on duty for every ten children in care during the waking hours of the children.

The director and support and maintenance staff may temporarily serve as child care staff when not involved in other duties if appropriately trained and involved in ongoing training, provided the required number of child care staff is maintained.

(b) Except for crisis residential centers, whenever more than eight children are on the premises at least two adults (including at least one child care staff) shall be on duty. During nighttime hours, "on duty" staff may include staff sleeping in the group care facility and available to the children. During sleeping hours, there shall be at least one adult in proximity to the children.

(c) When only one child care staff is on duty, there shall be a second person on call.

(3) The agency shall have relief staff to enable all staff to have the equivalent of two days off a week.

AMENDATORY SECTION (Amending Order 1431, filed 9/10/79)

**WAC 388-73-800 Crisis residential centers.** The rules in WAC 388-73-800 through ~~((388-73-820))~~ 388-73-825 apply exclusively to crisis residential centers and, unless otherwise indicated, apply to secure crisis residential centers operating within a juvenile detention facility. The crisis residential center may, in addition to being licensed as such, also be licensed as a family foster home or as a group care facility and may house juveniles assigned for regular foster family care or group care as well as juveniles receiving temporary protective care.

#### NEW SECTION

**WAC 388-73-803 Crisis residential center—Admission.** (1) For secure crisis residential centers the administrator shall immediately attempt to notify the parent of a child's admission. Within the first twenty-four hours after admission of a child to a secure crisis residential center, the facility administrator shall assess whether the child should remain in a secure crisis residential center or be transferred to a semi-secure crisis residential center. The administrator shall ensure the determination and decision making process is documented in writing in the child's file, and is based on the following criteria:

(a) Need for continued assessment, protection, and intervention of the child in a secure facility;

(b) The likelihood the child will remain at a semi-secure facility until the child's parents can take the child home or a child in need of services or at-risk youth petition can be filed; and

(c) In making the determination for subsection (1)(a) and (b) of this section, the administrator shall take into account the:

- (i) Child's age and maturity;
- (ii) The child's physical, mental, and emotional condition upon arrival at the center;
- (iii) The circumstances that led to the child's placement at the facility;
- (iv) Whether the child's behavior endangers the health, safety, or welfare of the child or any other person;
- (v) The child's history of running away; and
- (vi) The child's willingness to cooperate in conducting the assessment.

(2) For semi-secure crisis residential centers the administrator shall immediately attempt to notify the parent of a child's admission. Within the first twenty-four hours after admission of a child to a semi-secure crisis residential center, the facility administrator shall assess whether the child is likely to leave the semi-secure crisis residential center. The administrator shall ensure the determination and decision making process is documented in writing in the child's case record, and is based on the following criteria:

(a) Need for continued assessment, protection, and intervention of the child in a secure facility;

(b) The likelihood the child will remain at a semi-secure facility until:

- (i) The child's parents can take the child home; or
- (ii) A child in need of services or at-risk youth petition can be filed; and

(c) In making the determination for subsection (2)(a) and (b) of this section, the administrator shall take into account the:

- (i) Child's age and maturity;
- (ii) The child's physical, mental, and emotional condition upon arrival at the center;
- (iii) The circumstances that led to the child's placement at the facility;
- (iv) Whether the child's behavior endangers the health, safety, or welfare of the child or any other person;
- (v) The child's history of running away; and
- (vi) The child's willingness to cooperate in conducting the assessment.

(3) If the crisis residential center administrator determines the child is unlikely to remain in a semi-secure facility, the administrator shall keep the child in the secure facility for a minimum of twenty-four hours, unless released to the parent, or no more than five full days. If the child is in a semi-secure facility, has been determined likely to run away, and space is available in a secure facility within a reasonable distance, the child shall be transferred to the secure facility.

(4) If space is not available in the secure crisis residential center, the administrator of the secure facility may transfer another child to a semi-secure facility who:

- (a) Has been in the secure facility for at least seventy-two hours; and
- (b) Is determined likely to remain at a semi-secure facility.

(5) A child shall not be subject to the provisions in subsections (1), (2), (3) and (4) of this section if the child is:

- (a) Returned to the home of the parent; or
- (b) Placed in a semi-secure crisis residential center because of a temporary out-of-home placement order; or
- (c) Placed by court order in an out-of-home placement; or

(d) Subject to an at-risk youth petition.

(6) As part of admission to a secure crisis residential center, staff shall:

- (a) Give an orientation to a child which includes, but is not limited to:
  - (i) the physical facility;
  - (ii) A department-approved policy for the control of contraband, to include but not be limited to, guns and other weapons, alcohol, tobacco, and drugs within the facility; and
  - (iii) A department-approved policy on client visitation which includes access by the child's attorney.

(b) Include written documentation of this orientation in each child's file.

(7) The secure crisis residential center, by the next school day, shall:

(a) Attempt to notify the child's school district of the child's placement; and

(b) Assess the child for any educational needs as a part of the treatment plan referenced in WAC 388-73-823(1).

(8) The administrator shall coordinate and document all placement change activity by:

(a) Notifying the department of a child's proposed transfer from a semi-secure to a secure crisis residential center, or proposed transfer from a secure to a semi-secure crisis residential center, to:

(i) Obtain the department's concurrence with the transfer decision; and

(ii) Communicate to the department, the child's placement location.

(b) Communicating with the semi-secure crisis residential center prior to accepting a child from a semi-secure placement, and before transferring a child to a semi-secure placement, to:

(i) Assure mutual agreement with the transfer decision; and

(ii) Ascertain if space for the child is available to support the transfer.

(c) Documenting in writing in the child's file all communication episodes pertaining to the transfer of a child under care.

(9) On admission, a secure crisis residential center administrator or their designee shall ensure a child is assessed to identify any emergent or chronic health needs that require immediate attention during the child's stay in the crisis residential center.

(10) The secure crisis residential center administrator shall establish and maintain written:

(a) Transfer procedures for the transfer of children to semi-secure crisis residential centers; and

(b) Protocols/agreements with the semi-secure crisis residential center administrator to structure child transfers.

#### NEW SECTION

**WAC 388-73-805 Crisis residential center administrator requirements—Multidisciplinary teams.** (1) At the time of admission, the crisis residential center administrator shall advise the parent and the child of the right to request a multidisciplinary team be convened.

(2) The administrator may convene a multidisciplinary team if the parent or child makes the request.

(3) The administrator shall convene a multidisciplinary team:

(a) If the administrator has reasonable cause to believe that:

(i) A child is a "child in need of services" under RCW 13.32A.030; and

(ii) The parent is unavailable or unwilling to continue efforts to maintain the family structure.

(b) To assist the administrator in contacting the child's parents. If the administrator is unable to contact the child's parents within five days, the administrator shall:

(i) Contact the department and request the case be reviewed for a dependency filing under chapter 13.34 RCW or "child in need of services" filing under chapter 13.32A RCW; and

(ii) Document this contact in the child's case record.

(4) The administrator shall contact the designated department employee in the administrator's region who shall provide a list of the agencies that have agreed to participate in the multidisciplinary team.

(5) The administrator shall seek participation from local mental health and chemical dependency treatment providers, as appropriate.

(6) The administrator shall:

(a) Advise the child's parent(s) of the formation of a multidisciplinary team if the parent(s) did not make the initial request to form a team;

(b) Advise the parent of the parent's right to select additional members or disband the team twenty-four hours after receiving notice of a multidisciplinary team formation; and

(c) Assist in obtaining the prompt participation of additional persons the parent or child requests for the multidisciplinary team.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-815 Group crisis residential centers—Staffing.** (1) For regional crisis residential centers, the agency shall have a minimum of:

(a) One child care staff on duty for every two children in care during the waking hours of the children; and

(b) Three such staff for every eight children during the sleeping hours.

(2) For other group crisis residential centers:

(a) During the waking hours, the facility shall provide a minimum of one child care staff for every six children in temporary protective care without duties related to the children in full-time care;

(b) During the sleeping hours, the facility shall provide one such staff member for every eight such children;

(c) In group crisis residential centers caring for both children in long-term care and children in temporary care, if the two classes of children are combined into one group, the staff ratio applicable to the children in temporary care shall prevail.

(3) For both types of crisis residential centers, the facility shall provide at least one awake staff and a second available on the premises.

(4) For crisis residential centers, except secure crisis residential centers, WAC 388-73-606 shall apply. In addition:

(a) No less than fifty percent of the facility's child care staff shall have completed at least two years of college and one year of working with children in a group setting. A child care staff person's child care experience may be substituted for education on a year-for-year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience; and

(b) The remaining child care staff shall have at least a high school diploma or equivalent and one year of successful experience as a foster family parent for three or more children or when working with children in a group setting. Two years of college may be substituted for the required experience.

(5) For secure crisis residential centers, the licensee shall:

(a) At a minimum, have one child care staff on duty for every three children during the waking and sleeping hours of the children. The licensee shall maintain a maximum average of three child care staff on duty for every eight children during the waking and sleeping hours of the children; and

(b) During sleeping hours, provide a minimum of at least one awake staff on duty.

(6) A secure crisis residential center shall provide the following required staff:

(a) A director responsible for the general management and administration of the agency's program. This person shall:

(i) Be at least twenty-one years of age or older;

(ii) Possess the ability to understand the agency role in meeting the children's needs;

(iii) Work cooperatively and effectively with representatives of appropriate agencies; and

(iv) Have one of the following:

(A) A master's degree from an accredited college or university in a social science or closely allied field and have a minimum of two years' experience, without disciplinary action, in the supervision and management of a residential care program for adolescents; or

(B) A bachelor's degree from an accredited college or university in a social science or closely allied field and have a minimum of five years' experience, without disciplinary action, in a residential care program for adolescents. A minimum of two of the five years' experience shall be in the supervision and management of a residential care program for adolescents.

(b) Counselor/child care staff whose primary duties are the care, supervision, and guidance of children. This person shall:

(i) Be at least twenty-one years of age or older; and

(ii) Have a bachelor's degree from an accredited college or university in a social science or closely allied field; or

(iii) Have an associate's degree from an accredited school, college or university or two full years of college and one year of experience, without disciplinary action, in a residential care program for adolescents.

(c) The agency shall provide relief staff to enable all staff to have the equivalent of two days off during each week.

**NEW SECTION**

**WAC 388-73-821 Behavior management—Secure crisis residential centers.** (1) The secure crisis residential center shall maintain in writing and implement behavior management policies and procedures. Licensee behavior management practices shall:

(a) Support the child's appropriate social behavior, self-control, and the rights of others;

(b) Foster dignity and self-respect for the child; and

(c) Reflect the ages and developmental levels of children in care.

(2) The secure crisis residential center shall use proactive, positive behavior support techniques to manage potential child behavior problems. The licensee's behavior management techniques shall include, but not be limited to:

(a) Organization of the physical environment and staffing patterns to reduce factors leading to behavior incidents;

(b) Intervention before behavior becomes disruptive, in the least invasive and least restrictive manner available;

(c) Emphasis on verbal de-escalation to calm the upset child; and

(d) Redirection strategies to present the child with alternative resolution choices.

PERMANENT

(3) When an immediate crisis exists that requires the use of physical force, and with the authorization of the center administrator or designee, the licensee may permit trained staff to use limited physical restraint, as a last resort behavior management technique, for the following emergency purposes to:

(a) Stabilize or secure a child who is an immediate danger of physical, bodily harm to oneself, or to another person;

(b) Protect a person from physical injury;

(c) Obtain possession of a weapon or other dangerous object; or

(d) Protect property from serious damage when the potential for damage may create a serious safety hazard to the occupants or jeopardize operation of the facility.

(4) The licensee shall:

(a) Ensure the child's physical restraint uses the least force necessary to stop the child's behavior;

(b) Stop the child's physical restraint when the immediate threat of physical bodily harm is resolved;

(c) Develop written physical restraint policies and procedures when the behavior management practices include use of physical restraint;

(d) Ensure the written physical restraint policies and procedures shall include, but are not limited to:

(i) Who can authorize the use of physical restraint; and

(ii) Under what circumstances the policies and procedures are used, including time limitations, re-evaluation procedures, and supervisory monitoring.

(e) Submit the physical restraint policies and procedures in writing to the department for prior approval before the policies and procedures are implemented.

(5) The licensee's physical restraint practices shall not include a technique with intent to inflict pain or that causes bodily harm, including, but not limited to:

(a) Restricting body movement by placing pressure on joints, chest, heart, or vital organs;

(b) Using a sleeper or hair hold;

(c) Twisting a limb or the head;

(d) Throwing a child against a wall, furniture, or another large, immobile object;

(e) Chemical restraints, except prescribed medication, including but not limited to, pepper spray;

(f) Mechanical restraints, including, but not limited to, handcuffs, a belt, cord, rope, cloth, or leather restraints; and

(g) A locked time-out room.

(6) The licensee shall prevent and prohibit the use of corporal punishment, including, but not limited to biting, hitting, jerking, kicking, shaking, slapping, spanking, or striking the child, and other means of inflicting pain or causing bodily harm.

(7) After use of physical restraint, the licensee shall:

(a) Comfort the child and reassure the child of one's well-being;

(b) Explain to the child why physical restraint was used and discuss the incident with the child to help the child learn from the experience; and

(c) Review the incident with the staff who used physical restraint to ensure the decision to use physical restraint and its application were appropriate.

(8) The licensee shall keep and maintain written documentation of each incident involving the use of physical

restraint in a department-approved log and incident report. The licensee shall ensure this documentation includes, but is not limited to:

(a) What the behavior and immediate crisis was that required a child's physical restraint;

(b) What method of physical restraint was used;

(c) What less restrictive means were taken first to avoid physical restraint of a child;

(d) Rationale for the response chosen;

(e) A description of the situation, documentation of each injury of both staff and clients, in writing and with a photograph, and documentation of a medical examination of each injury as a result of the child's physical restraint; and

(f) A copy of the incident report, detailing the incident and including information listed in (a) through (e) above, is sent to the department of social and health services within twenty-four hours of the incident.

#### NEW SECTION

**WAC 388-73-822 Secure crisis residential centers—Staff training.** (1) A secure crisis residential center shall ensure all staff, prior to working in a secure crisis residential center, complete a minimum of sixteen hours of pre-service job orientation to include, but is not limited to:

(a) Presentation of the agency's standard operation procedures manual, describing all policies and procedures specific to the secure crisis residential center;

(b) Client management techniques;

(c) Crisis intervention techniques; and

(d) Family intervention techniques.

(2) A secure crisis residential center shall ensure all staff complete a minimum of twenty-four hours of on-going education and in-service training annually, which shall include, but is not limited to:

(a) Verbal de-escalation, positive behavior support, and physical response/restraint training as approved by the department;

(b) Client behavior management;

(c) Substance abuse;

(d) Suicide assessment and intervention;

(e) Crisis intervention techniques;

(f) Family intervention techniques;

(g) Cultural diversity;

(h) Mental health issues and interventions;

(i) Mediation skills;

(j) Conflict management/problem solving skills;

(k) Physical and sexual abuse; and

(l) Emergency procedures.

(3) A secure crisis residential center shall ensure all staff complete the following training once every two years and the licensee shall conform to WAC 388-73-134 and WAC 388-73-143:

(a) First aid;

(b) CPR;

(c) HIV/blood borne pathogens.

(4) A secure crisis residential center shall provide to staff and volunteers individual supervision and training.

(5) The administrator shall ensure completion of training is documented in writing in each staff's personnel file.

**NEW SECTION**

**WAC 388-73-823 Secure crisis residential centers—Program requirements.** Secure crisis residential centers shall provide, at a minimum, intervention services which include the following and are documented, in writing, in the child's case record:

- (1) Assessment of the family unit sufficient to develop a treatment plan;
- (2) Family counseling focused on communication skills development and problem solving;
- (3) Individual and/or group counseling; and
- (4) Referral identification and assistance in transitioning the family to community-based services.

**NEW SECTION**

**WAC 388-73-825 Secure crisis residential center—Physical facility.** (1) A level-one facility shall:

- (a) Be a free-standing facility, separate unit, or separate building within a campus with windows and exterior doors which prevent egress;
- (b) Ensure no child is maintained in a locked room which isolates the youth from the general population and/or staff;
- (c) When locking doors and windows prevent egress, meet or exceed the 1995 state building code as amended for group I, division three facilities; and
- (d) Maintain a recreation area, within the secured facility or secured on the property of the facility, which can accommodate children's vigorous physical activity and utilization of large muscle groups. A fence used to secure the recreation area shall meet or exceed the specifications of the nonscalable fence referenced in the level two facility below.

(2) A level-two facility shall:

- (a) Prevent unauthorized ingress and egress with a nonscalable fence around the perimeter of the facility property;
- (b) Not prevent egress by locking facility doors or windows; and
- (c) Design the nonscalable fence to not cause injury such as, but not limited to:
  - (i) Electrification,
  - (ii) Razor wire, or
  - (iii) Concertina wire.
- (d) Design the nonscalable fence to allow all occupants to maintain a minimum distance of fifty feet from all portions of the physical facility in case of fire. This area of refuge shall provide at least three square feet per occupant;
- (e) Ensure no child is maintained in a locked room which isolates the youth from the general population and/or staff; and
- (f) Maintain a recreation area, within the perimeter of the nonscalable fence, which can accommodate children's vigorous physical activity and utilization of large muscle groups.

(3) A level-three facility shall:

- (a) Be a free-standing facility, separate unit, or separate building within a campus with exterior doors which have special egress-control devices as cited in the 1995 state building code, as amended, section 1004.5;

(b) Meet or exceed the 1995 state building code for group I, division two facilities with section 1004.5 special-egress control devices; and

(c) Maintain a recreation area, within the secured facility or secured on the property of the facility, which can accommodate children's vigorous physical activity and utilization of large muscle groups. A fence used to secure the recreation area shall meet or exceed the specifications of the nonscalable fence referenced in the level two facility above.

(4) The licensee shall not allow children placed in a semi-secure facility to enter a secure area of the facility.

(5) The department shall prohibit a jail or juvenile detention center from operating as a secure crisis residential facility except when:

(a) The secretary of the department of social and health services, in consultation with applicable local legislative bodies, may make a written finding that location of a secure crisis residential center on the same grounds as another secure juvenile structure is the only practical location available; and

(b) The physical facility is modified, if necessary, and operated so that sight and sound contact cannot be made between a resident of the secure crisis residential center and a person held in the detention facility. Staff assigned to the secure crisis residential center children shall not be simultaneously assigned to the juvenile detention center residents on the same shift.

(6) A facility, licensed by the department of health, shall meet the construction and fire life safety standards for psychiatric hospital security rooms when establishing secure residential treatment or secure crisis residential centers within a physical structure licensed or certified by the department of health.

**WSR 96-10-043**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Public Assistance)

[Order 3974—Filed April 26, 1996, 2:46 p.m.]

Date of Adoption: April 26, 1996.

Purpose: Provides an appeal process for persons disqualified from employment in a child care facility because of a finding or allegation of child abuse or neglect.

Citation of Existing Rules Affected by this Order: Amending WAC 388-73-036, 388-160-120, 388-150-090, 388-160-090, 388-73-030, 388-155-090, 388-330-010, 388-330-035, and 388-151-090.

Statutory Authority for Adoption: RCW 74.15.030.

Adopted under notice filed as WSR 96-05-061 on February 20, 1996.

Changes Other than Editing from Proposed to Adopted Version: The changes from the proposed text to the adopted text are in editing changes eliminating the word "committed" which is more often used in response to criminal offenses rather than findings of child abuses. Also, a change is incorporated to ensure a prompt response to a request for an informal meeting.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 9, repealed 0; Federal

PERMANENT

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 9, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 9, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

April 26, 1996

Philip A. Wozniak

for Merry Kogut, Supervisor

Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-030 General qualifications of licensee, adoptive applicant, and persons on the premises.** (1) The adoptive applicant, licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee or adoptive applicant shall demonstrate that the licensee or adoptive applicant, child care staff, volunteer, and other person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) ~~((The licensee, adoptive applicant, staff, and other person on the premises shall not have been:~~

~~(a) Convicted of, found to be a perpetrator of, or have a charge pending of child abuse and/or any crime involving physical harm to another person; nor~~

~~(b) Found to:~~

~~(i) Be a perpetrator of substantiated or founded child abuse; nor~~

~~(ii) Have been an alleged perpetrator of an incident of child abuse where the department found the evidence supports the allegation))~~ A person shall be disqualified from providing care if the department determines that the person is ineligible to provide care under chapter 388-330 WAC or that person has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, adoptive applicant, child care staff, volunteer, and other person having access to children in care meet the qualifications in subsections (1), (2), and (3) of this section. This information may include, but is not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-036 Licensure—Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license:

(a) The department shall disqualify any individual engaging in illegal use of drugs or excessive use of alcohol;

(b) The department shall disqualify any individual who has ~~((been convicted of an offense listed in))~~ abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such person on the premises;

(c) The department shall disqualify any individual convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, if:

(i) The conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(d) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of children, expectant mothers, or developmentally disabled adults; or

(ii) Had a license to operate such an agency suspended or revoked.

(e) An applicant may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision in subdivision (1)(d) of this section and license the applicant.

(2) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for or be in contact with the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department or state fire marshal to inspect the premises;

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for the operation of the agency or to permit the department representatives to interview agency staff and clients;

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(3) The department may deny, suspend, revoke, or not renew or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(4) The department's notice of a denial, revocation, suspension, or modification of a license is governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A-205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(5) The department may deny, suspend, revoke, or not renew a license when the agency fails to comply with the federal Indian Child Welfare Act, P.L. 95-608, chapters 13.04 and 13.34 RCW, WAC 388-73-044, Special Requirements Regarding American Indians, or WAC 388-70-600 through 388-70-640, relating to local Indian child welfare advisory committees.

**AMENDATORY SECTION** (Amending Order 3745, filed 6/22/94, effective 7/23/94)

**WAC 388-150-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider the persons' qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) ~~((Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person))~~ Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, state auditor's office, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department, the department of health, or state auditor's office access to records related to operation of the center or to interview staff or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;  
 (h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing is governed under RCW 43.20A.205.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider their qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) ~~((Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person))~~ Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal's office, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department or the department of health access to records related to operation of the center or to interview staff or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has been denied, suspended, revoked, or not renewed a license to operate a facility for the care of the children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing, shall be governed under RCW 43.20.205.

**AMENDATORY SECTION** (Amending Order 3745, filed 6/22/94, effective 7/23/94)

**WAC 388-155-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider the persons' qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) ~~((Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person))~~ Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in

RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, department of health, or state auditor's office to inspect the premises; or

(g) Refuses to permit an authorized representative of the department, the department of health, or the state auditor's office access to records related to operation of the home or to interview an assistant or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the home is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the home is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the home;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the home in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing shall be governed under RCW 43.20A.205.

AMENDATORY SECTION (Amending Order 3541, filed 7/21/93, effective 8/21/93)

**WAC 388-160-090 General qualifications of licensee, applicant, and persons on the premises.** (1) The applicant, licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee or applicant shall demonstrate that the licensee or applicant, child care staff, volunteer, and other person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) ~~((The licensee, applicant, staff, and other person on the premises shall not have been:~~

~~(a) Convicted of, found a perpetrator of, or have a charge pending of child abuse and/or any crime involving physical harm to another person; or~~

~~(b) Found to:~~

~~(i) Be a perpetrator of substantiated or founded child abuse; or~~

~~(ii) Have been an alleged perpetrator of an incident of child abuse where the department found the evidence supports the allegation))~~ A person shall be disqualified from providing care if the department determines that the person is ineligible to provide care under chapter 388-330 WAC or that person has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, adoptive applicant, child care staff, volunteer, and other person having access to a child in care meet the qualifications under subsections (1), (2), and (3) of this section. The department may require the licensee or person on the premises to provide additional information including, but not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

AMENDATORY SECTION (Amending Order 3541, filed 7/21/93, effective 8/21/93)

**WAC 388-160-120 Licensure—Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. The department shall consider such persons separately and jointly as applicants or licensees and if any one be deemed disqualified by the department under chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) The department shall disqualify any person engaging in illegal use of drugs or excessive use of alcohol;

(b) The department shall disqualify any person who has ~~((been convicted of an offense listed))~~ abused, neglected, or

sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such person on the premises;

(c) The department shall disqualify any person convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, when:

(i) The person's conviction is reasonably related to the person's competency to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(d) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of a child, an expectant mother, or a developmentally disabled adult; or

(ii) Had a license to operate such an agency suspended or revoked.

(2) An applicant of an overnight youth shelter may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision and license the applicant as described under subdivision (1)(d) of this section.

(3) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation, including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's or provider's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for, or be in contact with, the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department, department of health, or state fire marshal to inspect the premises;

(i) Refusal to permit:

(A) Authorized representatives of the department and the department of health to have access to the records necessary for the operation of the agency; or

(B) The department representatives to interview agency staff and clients.

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(4) The department may deny, suspend, revoke, or not renew or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(5) The department shall deny, suspend, or revoke a licensee's license when the applicant, licensee, or person on the premises is a perpetrator of child abuse or has been convicted of a crime as listed under WAC 388-330-030(1). The department may grant a licensee or provider a waiver if it is demonstrated by clear, cogent, and convincing evidence that such person is rehabilitated and is able to comply with licensing requirements. In making this determination, the department shall consider:

(a) The seriousness and circumstances of the person's illegal act;

(b) The number of crimes of which the person was convicted;

(c) The amount of time passed since the person committed the illegal act;

(d) The age of the person at the time of convictions;

(e) Whether the person has entered and successfully completed all appropriate rehabilitative services, including those services ordered by a court;

(f) The behavior of the person since the illegal act was committed;

(g) Recommendations of persons closely associated with the person;

(h) The duties the person would perform at the agency, and the vulnerability of the persons under care; and

(i) Other evidence of rehabilitation.

If the department licenses or approves a person under this section, the department may place limitations or conditions on the person in the performance of the person's duties at the agency.

(6) The department's notice of a denial, revocation, suspension, or modification of a license shall be governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issues and law involved;

(B) The grounds for contesting the department decision;

and

(C) A copy of the department decision.

(b) The proceeding shall be governed by the Administrative Procedure Act chapter 34.05 RCW, RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

**AMENDATORY SECTION** (Amending Order 3534, filed 7/13/93, effective 8/13/93)

**WAC 388-330-010 Purpose and authority.** This chapter establishes policy within the department of social and health services for conducting ~~((criminal history portions of))~~ background inquiries and checks of Washington state ~~((patrol's))~~ child abuse information files on those licensed or authorized by the department to care for children or developmentally disabled persons and those employed by or associated with a licensed agency. Such inquiries are required under RCW 74.15.030.

**NEW SECTION**

**WAC 388-330-035 Appeal of disqualification.** (1) Whenever a person in good faith desires employment in an agency licensed under chapter 74.15 RCW, the person, prior to applying for employment, upon request, shall promptly receive from the department an informal meeting on whether the person is disqualified from employment for not meeting the minimum requirements pursuant to chapter 74.15 RCW or rules promulgated thereunder.

(a) Prior to receiving an informal meeting under this subsection, it shall be the responsibility of a person requesting the meeting to demonstrate a good faith desire for employment in an agency licensed under chapter 74.15 RCW. Such demonstration of good faith shall include, but not be limited to, a showing of educational qualifications, employment history information, current employment, and plans for obtaining employment in a licensed agency in the near future. The department's determination regarding whether the person requesting the meeting has demonstrated a good faith desire for employment is final and not subject to a proceeding under chapter 34.05 RCW. The department shall notify such person promptly following the meeting of its determination in writing.

(b) If the department determines, subsequent to an informal meeting under this subsection, that a person is disqualified, the department shall give written notice of the disqualification to the person. The notice shall state what the person is disqualified from doing, the reasons for the disqualification, the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(2) If the department during employment or at the time of employment, determines that a person is disqualified from employment with a child care agency for not meeting minimum requirements under chapter 74.15 RCW or rules promulgated thereunder, the department shall give written notice of disqualification to the person. The notice shall state what the person is disqualified from doing, reasons for the disqualification, and the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(3) The procedures in RCW 43.20A.205 shall apply whenever the department issues a notice of disqualification

to a person under this section. If the disqualified person requests an adjudicative proceeding, the department shall have the burden of proving disqualification by a preponderance of the evidence.

(4) A licensee under chapter 74.15 RCW may not allow a person disqualified under this section to be employed by or associate with the licensee's agency. Disqualification of a person may not be contested by a licensee.

(5) The provisions of this section do not preclude the department from taking any action against a licensee in accordance with chapter 74.15 RCW or rules promulgated thereunder.

(6) If a notice of disqualification is based on a prior department finding of abuse or neglect, and after a hearing under chapter 34.05 RCW it is determined that the allegations are not supported by a preponderance of the evidence, the department's records shall be supplemented to so state.

(7) The department in accordance with WAC 388-330-030 may remove a disqualification based on conviction of a crime.

The department may remove a disqualification based on a reason other than conviction of a crime if the disqualified person demonstrates by clear, cogent, and convincing evidence that the person is sufficiently rehabilitated to warrant public trust and to comply with the requirements of chapter 74.15 RCW, and the rules promulgated thereunder.

**WSR 96-11-002**

**PERMANENT RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed May 2, 1996, 11:34 a.m.]

Date of Adoption: May 2, 1996.

Purpose: To provide consistency in the interpretation and application of the statutes to part-time faculty at community and technical colleges who apply for unemployment insurance benefits; to establish a definition of the term "public agency" as it relates to settlements received by former employees as a result of termination of their contracts.

Citation of Existing Rules Affected by this Order: Amending WAC 192-16-002 and 192-16-051.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010, and 50.12.070.

Adopted under notice filed as WSR 96-04-065 on February 7, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making:

New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 2, amended 2, repealed 0.

Effective Date of Rule: WAC 192-16-002 is effective July 1, 1996. All other sections are effective thirty-one days after filing.

May 2, 1996  
K. Wendy Holden  
Deputy Commissioner

AMENDATORY SECTION (Amending Order 1-78, filed 8/14/78)

WAC 192-16-002 (~~(Interpretative regulations—)~~) Employer reports—Further defining hours worked—RCW 50.12.070. (~~(RCW 50.12.070 requires employers to report "the hours worked by each worker and such other information as the commissioner may by regulation prescribe," beginning July 1, 1977. In order to further define what))~~ This section defines the hours that should be included on quarterly wage reports provided by employers to the department. (~~(, the commissioner accordingly prescribes as follows:)~~)

(1) Vacation pay. The (~~(employee))~~ employer will report (~~(be credited for))~~ the actual number of hours an employee is on leave with pay. Vacations without pay will not count as hours worked. Cash payments in lieu of vacations will not be counted as hours worked.

(2) Sick leave pay. (~~(Hours))~~ The employer will not (~~(be reported for))~~ report sick pay excluded under the provisions of RCW 50.04.330(1). However, the employer will report the number of hours of sick pay which is not excluded under the provisions of RCW 50.04.330(1) (~~(shall be reported as leave with pay and the number of hours reported accordingly))~~).

(3) Overtime. The employer will report the number of hours actually worked for which overtime pay or compensatory time is provided, (~~(will be reported))~~ without regard to the amount of compensation paid.

(4) Employees on salary. If a salaried employee works (~~(irregular))~~ a nonstandard week(~~(\*)~~), (~~(he or she shall be reported for))~~ the employer will report the actual number of hours worked.

(a) In the absence of reliable time figures, the employer will report a full-time salaried employee (~~(will be reported))~~ for 40 hours worked for each week in which any of his or her duties are performed.

(b) In the case of faculty members of community and technical colleges, a teaching load of at least 15 contact hours per week is considered full time. A teaching load of less than 15 contact hours per week is considered part time. The term "contact hours" means classroom and laboratory instruction hours.

(i) In the absence of reliable time figures for a part-time salaried faculty member, the employer will report a number that is equal to the proportion of a 35 hour week corresponding to the proportion of contact hours taught per week divided by 15. Example: An instructor teaches 12 contact hours per week. 12 divided by 15 equals 80%. 35 hours multiplied by 80% equals 28 hours, which is the number the employer will report.

(ii) Any part-time salaried faculty member who does not establish a valid claim because of this formula may provide

the department with documentation of hours worked which exceeds the number reported by the employer.

(5) Commissioned employees. (~~(Employees compensated by commission will be reported for))~~ An employer will report the actual number of hours worked by employees paid by commission. In the absence of reliable time figures, the employer will report a full-time commissioned employee (~~(will be reported))~~ for 40 hours worked for each week in which any of his or her duties were performed.

(6) Wages in lieu of notice. (~~(Employees))~~ When an employee is paid wages in lieu of notice, the employer will (~~(be reported for))~~ report the actual number of hours for which the employee was compensated (~~(thereby))~~).

(7) Severance pay. Employers will not report additional hours for severance pay (~~(S))~~ since the payment is (~~(predicated))~~ based on past service (~~(, no additional hours are to be reported for severance pay))~~. Severance pay (~~(is compensation))~~ compensates an employee for the separation from the employment itself, (~~(as distinguished from))~~ This is different from wages in lieu of notice which compensates the employee for the amount of wages or salary he or she would have earned during the specified time period.

(8) Payments in kind. The employer will report the actual number of hours worked (or a reasonable estimate (~~(thereof))~~) for performing services which are compensated only by payment in kind (~~(shall be reported))~~).

(9) Bonuses, tips and other gratuities. An employer will not report additional hours for bonuses, tips or other gratuities (~~(H))~~ if such compensation is received during the course of performing regular compensated services for which hours are reported (~~(, no additional hours shall be reported for items in these categories))~~). However, the employer will report hours if the sole compensation for services performed (~~(are))~~ is from any of these items (~~(, hours shall be reported))~~).

(10) Fractions of hours. If the employee's total number of hours for the quarter results in a fraction amount, the total figure will be rounded (~~(off))~~ to the next higher number.

**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.

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

#### NEW SECTION

WAC 192-16-024 Definition of a "public agency—RCW 50.04.320 (4)(c). "Public agency" means a functional unit, political subdivision, or instrumentality administered wholly or in part by:

- (a) The federal government;
- (b) Any state or territory of the United States; or
- (c) Any county, city, or municipal branch of government, or the equivalent, in this or any other state.

AMENDATORY SECTION (Amending Order 6-82, filed 8/17/82)

**WAC 192-16-051** (~~(Interpretive regulations—)~~  
~~Special coverage provisions for educational employees—~~  
~~((Contract or reasonable assurance defined))~~ **Definitions—RCW 50.44.050(1)**. (1) **"Contract"** means ~~((For the purposes of RCW 50.44.050(1), an individual has a contract to perform services in an instructional, research, or principal administrative capacity if there is a binding))~~ an obligation that is binding on ~~((the part of the an educational institution to provide ((such)) work and ((a binding obligation)) on ((the part of the)) an individual to perform ((such)) services.~~

(2) **"Reasonable assurance"** ~~((For the purposes of RCW 50.44.050(1), a reasonable assurance that an individual will perform services in an instructional, research, or principal administrative capacity))~~ requires ~~((that))~~ the educational institution to give an individual ~~((be given))~~ a bona fide notification of intent to assign him~~((s))~~ or her work in ~~((any such))~~ an instructional, research, or principal administrative capacity. **"Reasonable assurance"** does not include an agreement that is contingent on enrollment, funding or program changes. If there is a disagreement regarding whether an individual has "reasonable assurance" of continued employment, the educational institution must provide the department with documentation that reasonable assurance exists.

(3) **"In such capacity"** or **"in the same capacity"** are equivalent to **"under the same terms and conditions of employment"** as defined by WAC 192-16-057.

#### NEW SECTION

**WAC 192-16-052** **Objective criteria used to define "academic year"—RCW 50.44.050(5)**. (1) **What is the legislative intent?** The legislature made specific findings and statements of legislative intent that:

(a) As a general matter with limited exceptions, employees of educational institutions expect to be employed for no more than a nine or ten month school year with a break between school years for the traditional summer break;

(b) For part-time faculty at two-year institutions of higher education, summer quarter may be expected to be a time of employment;

(c) With respect to services performed by part-time faculty at community and technical colleges, "academic year" means fall, winter, spring, and summer quarters unless, based upon objective criteria including enrollment and staffing, the quarter is not, in fact, a part of the academic year for the particular institution; and

(d) RCW 50.44.050(5) was not intended to change the general rules used by this department prior to the *Evans vs. ESD 72 Wn.App. 862* (1994) decision regarding unemployment compensation for any other employees of educational institutions.

(2) **What objective criteria are used to determine whether summer quarter is part of the "academic year" of a particular institution with respect to services performed by part-time faculty?** The determination of whether a particular school meets this criteria will be made by this department based on enrollment and staffing data provided by the State Board for Community and Technical Colleges.

(3) **Which faculty are covered by this rule?** This rule applies only to part-time faculty at community and technical colleges. Full-time community college faculty, and employees of other educational institutions, are generally employed for no more than nine or ten months per year. Their eligibility for benefits during the summer is determined by the general rules used by this department prior to the *Evans* decision.

(4) **Is summer part of the academic year for a community or technical college?** (a) With respect to services performed by part-time faculty, the summer quarter is part of the academic year for a particular community or technical college if:

(i) Total enrollment during the summer quarter is more than one-third of the average enrollment for the preceding fall, winter, and spring quarters of the preceding two years for a particular institution; and

(ii) Total part-time faculty employed during the summer quarter is at least fifty percent of the average of the part-time faculty employment during the preceding fall, winter, and spring quarters during the preceding two years for a particular institution.

(b) When a summer quarter is part of the academic year for at least one community or technical college within a district, that quarter will be part of the academic year for all colleges within the district that are under the jurisdiction of the same board of trustees. A "district" is defined by RCW 28B.50.040.

#### WSR 96-11-004

##### PERMANENT RULES

#### INSURANCE COMMISSIONER'S OFFICE

[Matter No. R 96-1—Filed May 2, 1996, 1:20 p.m.]

Date of Adoption: May 1, 1996.

**Purpose:** These rules require the use of a uniform form to be used by insurers, health care service contractors, health maintenance organizations, and other entities issuing contracts governed by Title 48 RCW, when submitting rates or forms of contracts for the commissioner's review or approval. The form will be readily available from the Insurance Commissioner.

**Citation of Existing Rules Affected by this Order:** Amending WAC 284-44-140, 284-58-030, and 284-58-250.

**Statutory Authority for Adoption:** RCW 48.02.060, 48.44.050, 48.46.200.

**Other Authority:** RCW 48.18.100, 48.19.040, 48.19.050, 48.19.070, 48.20.012, 48.21.045(2), 48.29.140, 48.43.055, 48.44.023(2), 48.44.040, 48.44.070, 48.46.030, 48.46.060, 48.46.066(2), 48.46.243, 48.96.025, 48.102.020.

Adopted under notice filed as WSR 96-07-081 on March 19, 1996.

**Changes Other than Editing from Proposed to Adopted Version:** After review of the one comment received, the rules were amended to include a brief description of the form and its use.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 3, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 1, 1996

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 81-3, filed 7/21/81, effective 10/1/81)

**WAC 284-44-140 General contents of all filings.** Each filing required to be made pursuant to WAC 284-44-130 shall ~~((include:))~~ be submitted with the filing transmittal form prescribed by and available from the commissioner. Use of a standardized transmittal form makes it easier for the commissioner to identify filings, issuers, and other important identifying information; permits more efficient tracking of filings; and makes it less difficult to provide status reports of filings to persons outside the office. The form will include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information.

(1) The information required on the filing documents set forth in WAC 284-44-210 for nonnegotiated forms and rate schedules or as set forth in WAC 284-44-220 for negotiated forms and rate schedules~~((:))~~.

(2) The anticipated loss ratio over the lesser of three years or the period for which the underlying assumptions are expected to remain reasonable~~((:))~~.

(3) With respect to revisions of a previously filed contract, rider or endorsement form, the magnitude of any change in the amount charged during the latest three rate periods or the latest three contract years, whichever is greater~~((and))~~.

(4) Certification by an actuary, a corporate officer or other qualified designated individual that the filing is in compliance with the applicable laws and regulations of the state of Washington and that the benefits and services to be provided are reasonable in relation to the amount charged.

#### NEW SECTION

**WAC 284-46-025 General contents of all rate or forms of contract filings.** Each filing made of a rate or contract form shall be submitted with the filing transmittal form prescribed by and available from the commissioner. Use of a standardized transmittal form makes it easier for the commissioner to identify filings, issuers, and other important identifying information; permits more efficient tracking of filings; and makes it less difficult to provide status reports of filings to persons outside the office. The form will include the name of the filing entity, its address, identification number, the type of filing being submitted, the

form name or group name and number, and other relevant information.

AMENDATORY SECTION (Amending Order R 82-5, filed 11/5/82)

**WAC 284-58-030 General contents of all life and disability form and disability rate filings.** Each life or disability insurance form filing submitted to the commissioner, whether for approval or by certification, shall ~~((contain the following materials arranged in this order:~~

~~((1) The appropriate filing fee as prescribed by WAC 284-14-010, and the filing transmittal information required by WAC 284-14-020 separately attached to each form being filed;))~~ be submitted with the filing transmittal form prescribed by and available from the commissioner. Use of a standardized transmittal form makes it easier for the commissioner to identify filings, issuers, and other important identifying information; permits more efficient tracking of filings; and makes it less difficult to provide status reports of filings to persons outside the office. The form will include the name of the filing entity, its address, identification number, the type of filing being submitted, the form name or group name and number, and other relevant information. In addition, the filing shall include:

~~((2))~~ (1) One filing report as required by WAC 284-58-040 and, if applicable, a certification prepared pursuant to WAC 284-58-190 or 284-58-210, as appropriate~~((:))~~.

~~((3))~~ (2) The printed form or forms, completed in John Doe fashion if appropriate~~((:))~~.

~~((4))~~ (3) Rates, manuals of classification, manuals of rules and rates and modifications thereof, if appropriate~~((:))~~.

~~((5))~~ (4) Actuarial memorandum of nonforfeiture values, if appropriate~~((:))~~.

~~((6))~~ (5) Actuarial demonstration of anticipated loss ratio, if appropriate~~((and))~~.

~~((7))~~ (6) Any additional ~~((required enclosure))~~ data or information requested by the commissioner.

AMENDATORY SECTION (Amending Order R 82-5, filed 11/5/82)

**WAC 284-58-250 General contents of a form filing for property and casualty insurance and kinds of insurance other than life and disability.** Each form filing for property and casualty insurance or kinds of insurance other than life and disability, whether for approval or by certification, shall ~~((contain the following:~~

~~((1) A completed filing transmittal information form as prescribed in WAC 284-14-020. (If the form being filed is a revision or replacement of an existing form, include or attach a summary of the change being made.)~~

~~((2))~~ be submitted with the filing transmittal form prescribed by and available from the commissioner. In addition, the filing shall include, if applicable, a completed certification form as prescribed in WAC 284-58-270((-

~~((3))~~ and the printed form or forms, in duplicate. Use of a standardized transmittal form makes it easier for the commissioner to identify filings, issuers, and other important identifying information; permits more efficient tracking of filings; and makes it less difficult to provide status reports of filings to persons outside the office. The form will include the name of the filing entity, its address, identification

number, the type of filing being submitted, the form name or group name and number, and other relevant information.

((4) The appropriate filing fee as prescribed by WAC 284-14-010.))

**WSR 96-11-015**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed May 6, 1996, 2:35 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To correct error in CR-102 filed June 28, 1995 (WSR 95-14-053) and CR-103 filed August 16, 1995 (WSR 95-17-068) where reference to WAC 460-16A-104, which was otherwise repealed by the rule making, was not struck out. The intended version was provided in CR-101 filed November 14, 1994 (WSR 94-23-055).

Citation of Existing Rules Affected by this Order: Amending WAC 460-46A-050.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-03-132 on January 23, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

May 6, 1996  
 John L. Bley  
 Director

**AMENDATORY SECTION** (Amending WSR 95-17-068, filed 8/16/95, effective 9/16/95)

**WAC 460-46A-050 Promotional shares.** The promotional shares rules set forth in WAC 460-16A-110 and adopted in WAC 460-16A-205 (1)(p) shall apply except that promotional shares need be escrowed (~~pursuant to WAC 460-16A-104~~) only to the extent that such shares exceed

sixty percent of the shares to be outstanding upon the completion of the offering.

**WSR 96-11-016**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed May 6, 1996, 2:36 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To promote uniformity with other jurisdictions which have recognized the Philadelphia and Pacific Stock Exchanges, to recognize the discontinuance of the Spokane Stock Exchange, and to recognize the redesignation of the Midwest Stock Exchange.

Citation of Existing Rules Affected by this Order: Amending WAC 460-42A-081.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-03-131 on January 23, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

May 6, 1996  
 John L. Bley  
 Director

**AMENDATORY SECTION** (Amending WSR 91-04-010, filed 1/25/91, effective 2/25/91)

**WAC 460-42A-081 Exchange and national market system exemption.** (1) Any securities listed or designated, or approved for listing or designation upon notice of issuance, on (a) the New York Stock Exchange, (b) the American Stock Exchange, (c) the NASDAQ/NMS interdealer quotation system pursuant to the Memorandum of Understanding between the North American Securities Administrators Association (NASAA) and the National Association of Securities Dealers (NASD) adopted April 28, 1990, ((e)) (d)

the Chicago Board Options Exchange pursuant to the Memorandum of Understanding between NASAA and the Chicago Board Options Exchange dated May 30, 1991, (e) Tier I on the Pacific Stock Exchange pursuant to the Memorandum of Understanding between NASAA and the Pacific Stock Exchange dated October 12, 1994, or (f) Tier I on the Philadelphia Stock Exchange pursuant to the Memorandum of Understanding between NASAA and the Philadelphia Stock Exchange dated October 12, 1994, any other security of the same issuer which is of senior or substantially equal rank, any security called for by subscription rights or warrants so listed or approved, or any warrant or right to purchase or subscribe to any of the foregoing is exempt under RCW 21.20.310(8). The administrator may by order withdraw this exemption as to an exchange or interdealer quotation system or a particular security when necessary in the public interest for the protection of investors.

(2) For the purposes of nonissuer transactions only, any security listed or approved for listing upon notice of issuance on (a) the NASDAQ/NMS interdealer quotation system, (b) the New York Stock Exchange, (c) the American Stock Exchange, (d) the ((Midwest)) Chicago Stock Exchange, ((the Spokane Stock Exchange,)) (e) the Chicago Board Options Exchange, (f) the Pacific Stock Exchange, (g) the Philadelphia Stock Exchange, or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing, is exempted under RCW 21.20.310(8).

**WSR 96-11-017**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed May 6, 1996, 2:39 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To update Washington law to make it current with national rules regarding the registration of securities that are backed by a pool of assets.

Citation of Existing Rules Affected by this Order: Amending WAC 460-16A-205.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-061 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing,  
 May 6, 1996  
 John L. Bley  
 Director

**AMENDATORY SECTION** (Amending WSR 95-17-068, filed 8/16/95, effective 9/16/95)

**WAC 460-16A-205 Adoption of NASAA statements of policy.** (1) In order to promote uniform regulation, the administrator adopts the following North American Securities Administrators Association (NASAA) statements of policy for offerings registering pursuant to RCW 21.20.180 or 21.20.210:

(a) Registration of publicly offered cattle feeding programs, as adopted September 17, 1980;

(b) Registration of commodity pool programs, as adopted with amendments through August 30, 1990;

(c) Equipment programs, as adopted with amendments through March 29, 1992;

(d) Registration of oil and gas programs, as adopted with amendments through March 29, 1992;

(e) Real estate investment trusts, as adopted with amendments through September 29, 1993;

(f) Real estate programs, as adopted with amendments through March 29, 1992;

(g) Loans and other material affiliated transactions, as adopted with amendments through April 25, 1993;

(h) Options and warrants, as adopted with amendments through April 25, 1993;

(i) Registration of direct participation programs - omnibus guidelines, as adopted March 29, 1992;

(j) Registration of periodic payment plans, as adopted March 29, 1992;

(k) Church bonds, as adopted April 29, 1981;

(l) Health care facility offerings, pertaining to the offering of nonprofit health care facility bonds, as adopted April 5, 1985;

(m) Investment companies investing in debt securities rated below investment grade, as adopted April 17, 1994;

(n) Registration of master fund/feeder funds, as adopted September 15, 1992;

(o) Telephone transactions, as adopted September 29, 1993; and

(p) Promotional shares, as adopted September 3, 1987, except that the term promotional shares shall be limited to those equity securities which were issued within the last three years and that all promotional shares in excess of twenty-five percent of the shares to be outstanding upon

completion of the offering may be required to be deposited in escrow absent adequate justification that escrow of such shares is not in the public interest and not necessary for the protection of investors; and

(q) Registration of asset-backed securities, as adopted October 25, 1995, except for offerings registering or required to register pursuant to chapter 460-33A WAC or RCW 21.20.705 through 21.20.855.

(2) An offering registering pursuant to RCW 21.20.180 or 21.20.210 that falls within one or more of the statements of policy listed in subsection (1) of this section must comply with the requirements of said statement of policy or policies.

(3) The statements of policy referred to in subsection (1) of this section are found in *CCH NASAA Reports* published by Commerce Clearing House. Copies are also available at the office of the securities administrator.

**WSR 96-11-018**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)

[Filed May 6, 1996, 2:41 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To repeal rule dealing with the limitation on selling expenses in connection with the sale of securities of an open-end investment company.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 460-40A-025.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-060 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 1.

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

May 6, 1996

John L. Bley

Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 460-40A-025 Selling expenses.

**WSR 96-11-019**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed May 6, 1996, 2:44 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-16A-015 to provide for electronic filing through the Securities Registration Depository, Inc. of securities registering by coordination, and to provide for electronic and FAX submission of notices of effectiveness.

Citation of Existing Rules Affected by this Order:  
Amending WAC 460-16A-015.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.190, 21.20.510.

Adopted under notice filed as WSR 96-07-065 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds this action is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996

John L. Bley

Director

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-16A-015 ((Telephone transceiving equipment.)) Electronic or telephonic submissions. (1) Issuers filing by coordination may file electronically with the division. The Securities Registration Depository, Inc., its successors or assigns, is designated to receive electronic filings on behalf of the division.**

May 6, 1996

John L. Bley

Director

(2) For issuers not filing electronically, messages directed to the division by means of ~~((Xerox Telecopier, Magnafax, or))~~ facsimile, other ~~((compatible))~~ telephone transceiving equipment or electronic transmission will be accepted by the administrator as complying with the requirement of notification under RCW 21.20.190 of the Securities Act concerning the date and time ~~((unless))~~ a federal registration statement has become effective and with respect to the content of the price amendment, if any. Such notification must be followed up by filing of a post-effective amendment to the application containing the information and documents in the price amendment and ~~((telephone transceiving equipment))~~ telephonic or electronic transmissions may not be utilized for that filing.

**WSR 96-11-020**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed May 6, 1996, 2:45 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-16A-111 to provide greater discretionary authority to waive application of the rule, such as for otherwise meritorious securities offerings which do not meet the rule's standards for promoter's equity, primarily because the type of business in which the issuer is engaged may require substantial expenditures over a significant period of time before products or services can be marketed.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 460-16A-111.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-063 on  
 March 19, 1996.

Other Findings Required by Other Provisions of Law as  
 Precondition to Adoption or Effectiveness of Rule: Pursuant  
 to RCW 21.20.450, the director finds this action is necessary  
 and appropriate in the public interest and for the protection  
 of investors and consistent with the purposes fairly intended  
 by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongov-  
 ernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own  
 Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify,  
 Streamline, or Reform Agency Procedures: New 0, amended  
 0, repealed 0.

Number of Sections Adopted using Negotiated Rule  
 Making: New 0, amended 0, repealed 0; Pilot Rule Making:  
 New 0, amended 0, repealed 0; or Other Alternative Rule  
 Making: New 0, amended 0, repealed 0.

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

**AMENDATORY SECTION** (Amending Order SD-131-77,  
 filed 11/23/77)

**WAC 460-16A-111 Equity investment of promoters.**

(1) ~~((The))~~ For an offering or proposed offering of an issuer which is in the promotional or developmental stage ~~((shall be considered unfair and inequitable to public investors unless)),~~ the fair value of the equity investment of the officers, directors, and promoters of such issuer, determined as of the offering date, shall equal ~~((s))~~ at least five percent of the total equity investment resulting from the sale of all of the securities which are the subject of the offering or proposed offering.

(2) For purposes of this policy:

(a) An issuer which is in the "promotional or developmental stage" shall mean an issuer which has no significant record of operations or earnings prior to the proposed offering date or the offering of whose securities cannot be justified on the basis of such record.

(b) The "fair value of the equity investment" of the officers, directors and promoters shall mean and total of all sums contributed to the issuer in cash together with the reasonable value of all tangible assets contributed to the issuer, as determined by independent appraisal or otherwise, and as adjusted by the earned surplus or deficit of the issuer subsequent to the dates of contribution.

(c) The term "total equity investment" shall mean the total of

(i) The par or stated value of all securities outstanding or offered or proposed to be offered, and

(ii) The amount of capital contributed in excess of par or stated value, regardless of description and whether or not restricted.

(d) Upon the application and justification of the registrant, the director or administrator may waive, in whole or in part, the applicability of this rule ~~((if it is found in the public interest to grant such relief)).~~

**WSR 96-11-021**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)

[Filed May 6, 1996, 2:47 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-16A-120 to provide greater discretionary authority to waive application of the rule, such as in circumstances where otherwise meritorious securities offerings will be sold using a tiered pricing system to induce investors to invest earlier in the life of the offering.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 460-16A-120.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-062 on  
 March 19, 1996.

PERMANENT

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds this action is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996

John L. Bley

Director

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-16A-120 Price variance.** ~~((No permit will be issued for the sale of securities pursuant to a contract whereby the price of the securities sold varies among different purchases of the same offering.))~~ Securities of the same class to be offered under the same registration statement should be offered and sold at the same price.

**WSR 96-11-022**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)

[Filed May 6, 1996, 2:49 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-60A-015 and 460-60A-020 to conform to 1994 statutory amendments which increase the threshold requirements for audited financial statements from \$500,000 to \$1 million for securities registered by coordination or qualification.

Citation of Existing Rules Affected by this Order: Amending WAC 460-60A-015 and 460-60A-020.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.210(14), and 21.20.180(8).

Adopted under notice filed as WSR 96-07-058 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds this action is necessary and appropriate in the public interest and for the protection

of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996

John L. Bley

Director

**AMENDATORY SECTION** (Amending Order SDO-37-80, filed 3/19/80)

**WAC 460-60A-015 Federal interstate offerings by coordination.** Financial statements meeting the requirements of the United States Securities and Exchange Commission and filed with the Washington securities division pursuant to the provisions of RCW 21.20.180 will be deemed to have met the financial disclosure requirements of the division: *Provided*, That if the aggregate sales price of the offering exceeds ~~(((\$500,000.00))~~ one million dollars, annual financial statements shall be audited and certified by an independent certified public accountant.

**AMENDATORY SECTION** (Amending Order SD-57-79, filed 8/14/79)

**WAC 460-60A-020 Intrastate filings and federal filings not meeting the requirements of coordination.** (1) For offerings ~~(((\$500,000.00))~~ of one million dollars or under and filed pursuant to RCW 21.20.210 the requirements of WAC 460-60A-010 shall apply.

(2) For offerings over ~~(((\$500,000.00))~~ one million dollars and filed pursuant to RCW 21.20.210 the annual financial statements must be audited. For specific requirements not contained in these rules refer to RCW 21.20-210(14).

**WSR 96-11-023**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)

[Filed May 6, 1996, 2:51 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-16A-010 to reflect recodification of the Administrative Procedure Act to chapter 34.05 RCW and change in terminology from "contested

cases" to "adjudicative proceeding," and to amend WAC 460-16A-390 to change the reference to the Department of Motor Vehicles to the Department of Financial Institutions.

Citation of Existing Rules Affected by this Order: Amending WAC 460-16A-010 and 460-16A-390.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-057 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds this action is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996

John L. Bley  
Director

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-16A-010 Appearance and practice before the securities division.** In any proceeding before the division, any person may be represented by an attorney at law admitted to practice before the highest court of any state or territory of the United States, or the Court of Appeals or the District Court of the United States, or for the District of Columbia. Any individual may, however, appear before the division in his own behalf, an authorized member of a partnership may represent the partnership, and an authorized officer of a corporation, trust or association may represent such corporation, trust or association, however no such officer may participate in ~~((contested cases))~~ an adjudicative proceeding as defined in RCW ~~((34.04.010))~~ 34.05.010 unless such officer is also an attorney at law.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-16A-390 Notice of termination of offering—Change of officers.** An issuer who has completed or discontinued the sale of securities registered with the department of ~~((motor vehicles))~~ financial institutions shall notify the administrator in writing to that effect. Until such notice has been given, notices of all withdrawals or changes of officers, directors, trustees, partners or other principal

members of registrants shall be made to the administrator of securities as soon as possible, but within five days, after such withdrawals or changes in the personnel of such organization shall become effective.

**WSR 96-11-024**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed May 6, 1996, 2:53 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-16A-125 and 460-16A-150 to delete references to rules which have been repealed, and to delete a reference in WAC 460-16A-150 to "cheap stock" which is now an obsolete term.

Citation of Existing Rules Affected by this Order: Amending WAC 460-16A-125 and 460-16A-150.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-055 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds this action is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996

John L. Bley  
Director

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-16A-125 Prospectus or offering circular.** (1) The administrator shall require the use of an offering circular or prospectus for each registration that is filed with the division.

(2) The prospectus or offering circular may be printed, mimeographed, lithographed, or typewritten, or prepared by any similar process which will result in clear legible copies. If printed, it shall be set in clear roman type at least as large as ten point modern type, with financial data or other

statistical or tabular matter at least as large as eight point (all type shall be leaded at least two point).

(3) Every offering circular or prospectus must disclose all material facts affecting the sale of securities. ~~((Contents of prospectus for real estate programs are set out in WAC 460-32A-195 and should be used for other types of securities where appropriate.))~~

**AMENDATORY SECTION** (Amending Order SD-131-77, filed 11/23/77)

**WAC 460-16A-150 Imposition of impound condition.**  
In a case where the offering of securities is not firmly underwritten, the administrator considers that one or more of the following circumstances require the imposition of an impound condition:

(1)(a) That a specific minimum amount of funds is necessary to finance the proposed undertaking as described in the application; and

(b) That it is inadvisable for the issuer to expend the proceeds from the sale of securities prior to receipt of such minimum amount.

(2)(a) That promotional shares ~~((and/or cheap stock))~~ will be issued in connection with the issue; and

(b) That it is inadvisable for the issuer to expend the proceeds from the sale of securities prior to receipt of an amount necessary to evidence compliance with the maximum amount of allowances for promotional shares ~~((and/or cheap stock as set forth in WAC 460-16A-105 and 460-16A-107)).~~

**WSR 96-11-025**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Securities Division)  
[Filed May 6, 1996, 2:55 p.m.]

Date of Adoption: May 6, 1996.

Purpose: To amend WAC 460-33A-020 to conform the rule to statutory changes: In 1993, the Securities Division was moved from the Department of Licensing to the Department of Financial Institutions, and in 1994, RCW 21.20-210(14) was amended to increase the threshold requirements for audited financial statements for securities registered by qualification.

Citation of Existing Rules Affected by this Order:  
Amending WAC 460-33A-020.

Statutory Authority for Adoption: RCW 21.20.450 and 21.20.210(14).

Adopted under notice filed as WSR 96-07-056 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director finds this action is necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996

John L. Bley

Director

**AMENDATORY SECTION** (Amending WSR 92-18-009, filed 8/21/92, effective 9/21/92)

**WAC 460-33A-020 Optional registration procedures for mortgage paper securities.** An applicant for registration of a mortgage paper securities offering may elect to register the offering under the rules of this chapter in lieu of following the registration procedure for debt securities under the Securities Act of Washington. Registration under this chapter requires the filing of a registration application as prescribed by the director of the department of ~~((licensing))~~ financial institutions accompanied by the following:

(1) The general offering circular;

(2) A sample specific offering circular;

(3) The mortgage paper escrow and trust agreement;

(4) The mortgage paper service agreement;

(5) The mortgage broker-dealer's articles of incorporation and bylaws or articles of organization;

(6) Sample documents to include any note, bond, mortgage, deed of trust, master deed of trust, real or personal property contract, indenture, guaranty, or other such instrument;

(7) The financial statements of the mortgage broker-dealer, including a balance sheet, profit and loss statement, and statement of cash flow as set forth in RCW 21.20-210(14). Pursuant to RCW 21.20.210 (14)(c), if the estimated proceeds of the mortgage paper securities offering, together with the proceeds from registered offerings during the year preceding the date of filing of the mortgage paper securities offering, exceed ~~((five hundred thousand))~~ one million dollars, said financial statements shall be audited. If such proceeds exceed ~~((seven hundred fifty thousand))~~ five million dollars, said financial statements for the previous two fiscal years shall be audited;

(8) The subscription and acknowledgement agreements;

(9) An opinion of counsel, if requested, on the legality and validity of the mortgage paper securities being issued;

(10) An opinion of counsel, if requested, regarding the application of the usury laws to the mortgage paper securities being offered;

(11) Such other information as the director may prescribe or request.

**WSR 96-11-026**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**

(Securities Division)  
 [Filed May 6, 1996, 2:57 p.m.]

Date of Adoption: May 6, 1996.

Purpose: Several of the current definitions in chapter 460-10A WAC are out-of-date and need to be revised for clarity and so they are consistent with definitions in other chapters of Title 460 WAC. The previous repeal of several WAC chapters has eliminated the need for several definitions. New definitions are needed to accommodate recent rule changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 460-10A-035, 460-10A-055, 460-10A-065, 460-10A-075 through 460-10A-105, 460-10A-115 through 460-10A-125, and 460-10A-135 through 460-10A-155; and amending WAC 460-10A-050, 460-10A-060, 460-10A-110, 460-10A-130, 460-10A-170, and 460-10A-180.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-084 on March 20, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, amended 6, repealed 17.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, amended 6, repealed 17.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 6, amended 6, repealed 17.

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

May 6, 1995 [1996]

John L. Bley  
 Director

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-10A-050 Promotional shares defined.** "Promotional shares" means any ~~(securities which are:~~

~~(1) Issued in consideration for services rendered in connection with the founding or organizing of a business enterprise, or~~

~~(2) Issued to a promoter in consideration for any tangible or intangible property, such as patents, copyrights or~~

~~goodwill, to the extent that the value has not been satisfactorily established, or~~

~~(3) Issued to a promoter in the recent past or proposed to be issued at a price substantially lower than the price at which other securities of the same class or substantially similar class have been or are to be sold without any change in the conditions of the market or in the circumstances of the issuer which would justify such different prices)) equity securities which were, or are to be, issued to promoters for less than eighty-five percent of the proposed public offering price. Equity securities which were, or are to be, issued for services rendered, patents, copyrights or other intangibles are presumed to be promotional shares unless, and to the extent that, the value of such intangibles has been established to the satisfaction of the administrator pursuant to recognized standards of valuation acceptable to the administrator. Consideration for shares of equity securities may include out-of-pocket development and marketing expenses (excluding promoters' salaries) to the extent that such expenses are not reimbursed by the issuer.~~

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-10A-060 Affiliate.** Means ~~((1))~~ any person directly or indirectly controlling, controlled by or under common control with another person including, but not limited to:

~~((2))~~ (1) A person owning or controlling ~~((ten))~~ five percent or more of the outstanding voting securities of such other person~~((;))~~; or

~~((3))~~ (2) Any officer, director, partner or employee, or such person, and if such other person is an officer, director, partner or employee, any company for which such person acts in any such capacity.

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-10A-110 Net worth.** The excess of total assets over total liabilities as determined by generally accepted accounting ~~((practices))~~ principles.

**AMENDATORY SECTION** (Amending Order 304, filed 2/28/75, effective 4/1/75)

**WAC 460-10A-130 Person.** Any ~~((natural person, partnership, corporation, association or other legal entity))~~ individual, corporation, partnership, trust, or other legal entity, or any unincorporated association or organization including the following:

(1) Any relative, spouse, or relative of the spouse of the specified person;

(2) Any trust or estate in which the specified person or any of the persons specified in subsection (1) of this section, collectively own five percent or more of the total beneficial interest or of which any such persons serve as trustee, executor, or in any similar capacity; and

(3) Any corporation or other organization, other than the issuer, in which the specified person or any of the persons specified in subsection (1) of this section, are the beneficial owners collectively of five percent or more of any class of

equity securities or five percent or more of the equity interest.

AMENDATORY SECTION (Amending Order SD-131-77, filed 11/23/77)

**WAC 460-10A-170 Officer.** The term "officer" means a president, ~~((treasurer or secretary))~~ vice-president in charge of a business unit or division, treasurer, secretary, chief executive officer, chief operating officer, chief financial officer, person who performs a principal policy making function for a principal business unit or division, or any person occupying a similar status and performing a similar function with respect to any organization, whether incorporated or unincorporated.

AMENDATORY SECTION (Amending Order SD-131-77, filed 11/23/77)

**WAC 460-10A-180 Promoter.** The term "promoter" includes, but is not limited to:

(1) Any person who, acting alone or in conjunction with one or more persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer; ~~((or))~~

(2) Any person who, in connection with the founding or organizing of the business or enterprise of the issuer, directly or indirectly receives in consideration of services or property, ~~((ten))~~ or both services and property, five percent or more of any class of ~~((securities or))~~ equity security of the issuer or five percent or more of the proceeds from the sale of any class of ~~((securities))~~ equity security of the issuer. However, a person who receives such securities or proceeds ~~((either))~~ solely as underwriting commissions ~~((or solely in consideration of property.))~~ shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise;

(3) Any person who is an officer, director, or who beneficially owns, directly or indirectly, more than five percent of any class of equity security of the issuer, excluding equity securities purchased by any unaffiliated institutional investor more than one year prior to the filing date of the proposed offering; or

(4) Any person who is an affiliate of a person specified under subsection (1), (2), or (3) of this section.

#### NEW SECTION

**WAC 460-10A-185 Control.** Means the power to direct the management or policies of a person, directly or indirectly, whether it be through ownership of voting securities, by contract, or otherwise.

#### NEW SECTION

**WAC 460-10A-190 Equity security.** Means any common stock or similar security, or any instrument convertible, with or without consideration, into such a security, or a warrant, option or right to subscribe to or purchase such a security; or any such warrant, option or right.

#### NEW SECTION

**WAC 460-10A-195 Promotional or developmental stage corporation.** Means an issuer which has no public market for its shares and has no significant earnings.

#### NEW SECTION

**WAC 460-10A-200 Public market.** Excludes thin markets which do not result in reliable prices. If there is doubt as to the reliability of the market for an issuer's shares, the administrator may consider the market history, the public trading volume, the spread between the bid and asked prices, the number of market makers, public float, the pricing formula and other relevant factors.

#### NEW SECTION

**WAC 460-10A-205 Significant earnings.** Means annual earnings per share of at least five percent of the public offering price for the last two fiscal years, or average annual earnings per shares of at least five percent of the public offering price for the last five fiscal years. Where good cause is shown, the administrator may consider other factors in determining whether significant earnings exist.

#### NEW SECTION

**WAC 460-10A-210 Unaffiliated institutional investor.** Means any unaffiliated bank; investment company registered under, or business development company as defined in, the Investment Company Act of 1940; small business investment company licensed by the U.S. Small Business Administration under section 301 of the Small Business Investment Act of 1958; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974; insurance company; private business development company as defined in section 202 (a)(22) of the Investment Advisors Act of 1940 or any comparable business entity engaged as a substantial part of its business in the purchase and sale of securities and which owns less than twenty percent of the securities to be outstanding upon the completion of the proposed public offering.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 460-10A-035	Seasoned corporation.
WAC 460-10A-055	Acquisition fee.
WAC 460-10A-065	Appraised value.
WAC 460-10A-075	Capital contribution.
WAC 460-10A-080	Cash flow.
WAC 460-10A-090	Cash available for distribution.
WAC 460-10A-095	Construction fee.
WAC 460-10A-100	Cost of property.
WAC 460-10A-105	Development fee.
WAC 460-10A-115	Nonspecified property program.
WAC 460-10A-120	Organization and offering expenses.
WAC 460-10A-125	Participant.
WAC 460-10A-135	Program.

WAC 460-10A-140	Program interest.
WAC 460-10A-145	Program management fee.
WAC 460-10A-150	Property management fee.
WAC 460-10A-155	Sponsor.

**WSR 96-11-027**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed May 6, 1996, 2:59 p.m.]

Date of Adoption: May 6, 1996.

Purpose: Amend the provisions of chapter 460-17A WAC to change the name from uniform limited offering registration (ULOR) to small company offering registration (SCOR); to allow limited liability companies (LLC's) to utilize SCOR registration; and to lower the minimum offering price per share of corporate common stock from \$5.00 to \$1.00.

Citation of Existing Rules Affected by this Order: Amending WAC 460-17A-010 through 460-17A-070.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-083 on March 20, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 7, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 7, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 7, repealed 0.

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

May 6, 1996

John L. Bley

Director

**Chapter 460-17A WAC**  
**~~((UNIFORM LIMITED))~~ SMALL COMPANY OF-**  
**FERING REGISTRATION**

AMENDATORY SECTION (Amending Order SDO-048-88, filed 8/8/88)

**WAC 460-17A-010 ~~((ULOR-C))~~ SCOR registration.** These rules are intended to encourage investment in small businesses. The rules in this chapter offer an optional method of registration for ~~((corporations))~~ companies issuing securities exempt from registration with the Securities and Exchange Commission under Rule 504 of Regulation D or under Section 3(a)(11) of the Securities Act of 1933. The administrator recognizes that small issuers raising small amounts of money face special problems not faced by issuers raising larger amounts, and that standards appropriate to registrations of larger offerings may become unduly burdensome when applied to registrations of small offerings. The optional registration method offered by these rules is intended to reduce the costs and burdens of raising capital for small business without sacrificing investor protection, and to maximize the amount of offering proceeds available to the issuer for investment in the business. Issuers eligible for this method of registration shall use the SCOR registration form ~~((ULOR-C))~~ as the disclosure document for the offering. This method of registration shall be known as ~~((ULOR-C))~~ SCOR registration.

AMENDATORY SECTION (Amending Order SDO-048-88, filed 8/8/88)

**WAC 460-17A-020 Application.** (1) The rules in this chapter shall apply to ~~((ULOR-C))~~ SCOR registrations. While applications not conforming to the standards contained herein shall be looked upon with disfavor, where good cause is shown certain rules may be modified or waived by the administrator.

(2) Where individual characteristics of specific offerings warrant modification from these standards, they will be accommodated, insofar as possible, while still being consistent with the spirit of these rules.

AMENDATORY SECTION (Amending WSR 91-04-009, filed 1/25/91, effective 2/25/91)

**WAC 460-17A-030 Availability.** (1) ~~((ULOR-C))~~ SCOR is intended to allow small ~~((corporations))~~ companies to conduct limited offerings of securities. ~~((ULOR-C))~~ SCOR uses a simplified offering format designed to provide adequate disclosure to investors concerning the issuer, the securities offered, and the offering itself. Certain issuers may not be able to make adequate disclosure using the ~~((ULOR-C))~~ SCOR format and will, therefore, be unable to utilize ~~((ULOR-C))~~ SCOR. The administrator finds that ~~((ULOR-C))~~ SCOR is generally unsuitable for the following issuers and programs and that, therefore, they will not be allowed to utilize ~~((ULOR-C))~~ SCOR unless written permission is obtained from the administrator based upon a showing that adequate disclosure can be made to investors using the ~~((ULOR-C))~~ SCOR format:

(a) Holding companies, companies whose principal purpose is owning stock in, or supervising the management of, other companies;

(b) Portfolio companies, such as a real estate investment trusts as defined in Section (1)(q) of the North American Securities Administrators Association's Statement of Policy

regarding real estate investment trusts as adopted by the administrator in WAC 460-16A-205 (1)(e);

- (c) Issuers with complex capital structures;
- (d) Commodity pools;
- (e) Equipment leasing programs; and
- (f) Real estate programs.

(2) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. In addition, each of the following requirements must be met:

(a) The issuer must be a corporation or limited liability company organized under the laws of one of the states or possessions of the United States.

(b) The issuer must engage in a business other than petroleum exploration or production or mining or other extractive industries.

(c) The offering is not a "blind pool" or other offering for which the specific business to be engaged in or property to be acquired by the issuer cannot be specified.

(d) The offering price for common stock (and the exercise price, if the securities offered are options, warrants or rights for common stock, and the conversion price if the securities are convertible into common stock) must be equal to or greater than ~~(\$5.00)~~ \$1.00 per share. The offering price for common ownership interests in limited liability company (and the exercise price, if the securities are options, warrants, or rights for common ownership interests, and the conversion price if the securities are convertible into common ownership interests) must be equal to or greater than \$100.00 per unit of interest.

(e) The aggregate offering price of the securities offered (within or outside this state) shall not exceed \$1,000,000 less the aggregate offering price of all securities sold within the twelve months before the start of and during the offering of the securities under Securities and Exchange Commission Rule 504 in reliance on any exemption under section 3(b) of the Securities Act of 1933, in reliance on the exemption under section 3 (a)(11) of that act, or in violation of section 5(a) of that act.

(3) ~~((ULOR-C))~~ SCOR registration is not available to investment companies subject to the Investment Company Act of 1940, nor is it available to issuers subject to the reporting requirements of section 13 or section 15(d) of the Securities Exchange Act of 1934.

AMENDATORY SECTION (Amending Order SDO-048-88, filed 8/8/88)

**WAC 460-17A-040 Disqualification from use of ~~((ULOR-C))~~ SCOR registration.** ~~((ULOR-C))~~ SCOR registration shall not be available for securities of any issuer if that issuer or any of its officers, directors, ten percent shareholders, promoters or any selling agents of the securities to be offered, or any officer, director, or partner of such selling agent:

(1) Has filed a registration statement which is the subject of a currently effective registration stop order entered pursuant to any federal or state securities law within five years prior to the filing of the ~~((ULOR-C))~~ SCOR registration application;

(2) Has been convicted within five years prior to the filing of the ~~((ULOR-C))~~ SCOR registration application of

any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(3) Is currently subject to any federal or state administrative enforcement order or judgment entered by any state securities administrator or the Securities and Exchange Commission within five years prior to the filing of the ~~((ULOR-C))~~ SCOR registration application or is subject to any federal or state administrative enforcement order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within five years prior to the filing of the ~~((ULOR-C))~~ SCOR registration application;

(4) Is subject to any federal or state administrative enforcement order or judgment which prohibits, denies, or revokes the use of any exemption from registration in connection with this offer, purchase, or sale of securities;

(5) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment, or decree of any court of competent jurisdiction, permanently restraining or enjoining such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state or with the Securities and Exchange Commission entered within five years prior to the filing of the ~~((ULOR-C))~~ SCOR registration application; provided, however, the prohibition of this subsection and subsections (1) through (3) of this section shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such person or if the broker-dealer employing such party is licensed or registered in this state and the Form BD filed in this state discloses the order, conviction, judgment, or decree relating to such person. No person disqualified under this section may act in any capacity other than that for which the person is licensed or registered. Any disqualification caused by this section is automatically waived if the state securities administrator or other state or federal agency which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

AMENDATORY SECTION (Amending Order SDO-048-88, filed 8/8/88)

**WAC 460-17A-050 Agreement by registrant on ~~((stock))~~ splits and ~~((stock))~~ dividends of stock or ownership interests.** By filing for ~~((ULOR-C))~~ SCOR registration in this state, the registrant agrees with the administrator that the registrant will not split its common stock or common ownership interests, or declare a stock or ownership interest dividend, for two years after the effectiveness of the registration without the prior written approval of the administrator.

**AMENDATORY SECTION** (Amending Order SDO-048-88, filed 8/8/88)

**WAC 460-17A-060 Documents to be filed with administrator by ~~((ULOR-C))~~ SCOR registrant.** In addition to filing a properly completed form ~~((ULOR-C))~~ SCOR, applicants for ~~((ULOR-C))~~ SCOR registration shall file the following exhibits with the administrator:

- (1) Form of selling agency agreement;
- (2) The issuer's articles of incorporation, articles of organization, or other charter documents and all amendments thereto;
- (3) The issuer's bylaws or operating agreement, as amended to date;
- (4) Copy of any resolutions by directors setting forth terms and provisions of capital stock to be issued or by managers or managing members setting forth terms and or capital ownership interest to be issued;
- (5) Any indenture, form of note or other contractual provision containing terms of notes or other debt, or of options, warrants, or rights to be offered;
- (6) Specimen of security or ownership interest certificate to be offered (including any legend restricting resale);
- (7) Consent to service of process accompanied by appropriate corporate or company resolution;
- (8) Copy of all advertising or other materials directed to or to be furnished investors in the offering;
- (9) Form of escrow agreement for escrow of proceeds;
- (10) Consent to inclusion in disclosure document of accountant's report;
- (11) Consent to inclusion in disclosure document of any tax advisor's opinion or description of tax consequences;
- (12) Consent to inclusion in disclosure document of any evaluation of litigation or administrative action by counsel;
- (13) Form of any subscription agreement for the purchase of securities in this offering;
- (14) Opinion of attorney licensed to practice in a state or territory of the United States that the securities to be sold in the offering have been duly authorized and when issued upon payment of the offering price will be legally and validly issued, fully paid and nonassessable and binding on the issuer in accordance with their terms;
- (15) Schedule of residence street addresses of officers, directors, and principal stockholders or managers, managing members, and principal members.

**AMENDATORY SECTION** (Amending WSR 91-04-009, filed 1/25/91, effective 2/25/91)

**WAC 460-17A-070 Application of chapter 460-16A WAC to registrations under this chapter.** The provisions of chapter 460-16A WAC shall not apply to registrations under this chapter except:

- (1) The promotional shares rules ~~((contained in WAC 460-16A-101 through 460-16A-109))~~ adopted in WAC 460-16A-205 (1)(p) shall apply except that~~((:~~
  - ~~((a)))~~ promotional shares need be escrowed ~~((pursuant to WAC 460-16A-104))~~ only to the extent that such shares exceed sixty percent of the shares to be outstanding upon the completion of the offering; ~~((and~~
    - ~~((b) WAC 460-16A-103 shall not apply;))~~
  - (2) The impound provisions of WAC 460-16A-150 through 460-16A-175 shall apply;

- (3) WAC 460-16A-035 shall apply;
- (4) WAC 460-16A-075 shall apply except that for offerings with an aggregate offering price of under \$500,000 selling expenses which do not exceed twenty percent of the offering price will be considered reasonable so long as total compensation paid to any underwriter does not exceed fifteen percent;
- (5) WAC 460-16A-200 shall apply;
- (6) WAC 460-16A-210 shall apply;
- (7) The administrator reserves the right to apply chapter 460-16A WAC (or any provision therein) to offerings under this chapter if the administrator determines that such application, even in the small business offering context, is necessary for the protection of investors.

**WSR 96-11-028**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed May 6, 1996, 3:01 p.m.]

Date of Adoption: May 6, 1996.

Purpose: Repeal WAC 460-42A-010 Employee plans.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 460-42A-010.

Statutory Authority for Adoption: RCW 21.20.450.

Adopted under notice filed as WSR 96-07-067 on March 19, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, no rule may be made unless the director finds the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by policy and provisions of this chapter.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 1.

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

May 6, 1996

John L. Bley

Director

PERMANENT

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 460-42A-010 Employee plans.

**WSR 96-11-029**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 (Securities Division)  
 [Filed May 6, 1996, 3:03 p.m.]

Date of Adoption: May 6, 1996.

Purpose: Repeal WAC 460-80-160 Franchise cross reference sheets.

Citation of Existing Rules Affected by this Order: Repealing WAC 460-80-160.

Statutory Authority for Adoption: RCW 19.100.250.

Adopted under notice filed as WSR 96-07-066 on March 19, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 1; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 1.

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

May 6, 1996  
 John L. Bley  
 Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 460-80-160 Cross reference sheets.

**WSR 96-11-035**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
 [Filed May 6, 1996, 4:35 p.m.]

Date of Adoption: May 1, 1996.

Purpose: To establish consistent adjudicative rules for all divisions of the department.

Statutory Authority for Adoption: RCW 43.320.040 and 34.05.250.

Adopted under notice filed as WSR 96-06-085 on March 6, 1996.

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 208-08-020 was changed to allow the department to use brief adjudicative proceedings for escrow officers whose registrations are suspended for nonpayment of student loans. This change was necessitated by chapter 293, Laws of 1996 (SHB 2371).

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 14, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 14, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

John L. Bley  
 Director

**NEW SECTION**

**WAC 208-08-010 Application of this chapter.** This chapter applies to all adjudicative proceedings under the jurisdiction of the department of financial institutions or the director of the department of financial institutions. This chapter does not apply to investigations conducted under the authority granted by the acts administered by the department.

**NEW SECTION**

**WAC 208-08-020 Adoption of rules of procedure.**

(1) **Model rules.** The department adopts the model rules of procedure as set forth in WAC 10-08-035 through 10-08-230. If there is a conflict between the model rules and this chapter, the rules in this chapter shall govern. Wherever the term "agency" appears in the model rules it means the department of financial institutions.

(2) **Brief adjudicative proceedings.** The department specifically adopts the criteria and procedures for brief adjudicative proceedings contained in RCW 34.05.482 through 34.05.494. The department will use this procedure in any proceeding under chapter 293, Laws of 1996, regarding the suspension of escrow agent licenses for nonpayment of student loans.

**NEW SECTION**

**WAC 208-08-030 Appearance and practice before the department.** (1) Only the following persons may appear in a representative capacity before the department or its designated presiding officer:

(a) Attorneys at law entitled to practice before the supreme court of the state of Washington.

PERMANENT

(b) Attorneys at law entitled to practice before the highest court of record of another state, if attorneys at law are permitted to appear in a representative capacity before administrative agencies of that state, and if not otherwise prohibited by the laws of this state.

(c) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

(2) The presiding officer may allow other forms of representation if he or she deems the representation satisfactory.

#### NEW SECTION

**WAC 208-08-040 Notice of appearance or withdrawal.** (1) **Appearance.** Each attorney or other representative shall file a written notice of appearance with the department and the presiding officer and shall serve a notice of appearance on all attorneys and representatives then of record and on all unrepresented parties. The notice shall contain the name, address and telephone number of the attorney or representative.

(2) **Withdrawal.** Any attorney or representative who withdraws from representing a party shall file a written notice of withdrawal with the department and the presiding officer and shall serve the notice of withdrawal on all attorneys and representatives then of record and on all unrepresented parties. The notice shall contain the effective date of the withdrawal, and, if known, the name of the person who will represent the party from that time forward. Withdrawal of a party's attorney or representative after the service of a notice of hearing shall not be grounds for the continuance of the hearing unless good cause is shown.

#### NEW SECTION

**WAC 208-08-050 Requests for adjudicative hearing.**

(1) **Where filed—form.** All requests that the department conduct an adjudicative hearing shall be filed with the department on the form provided by the department or on a form that is substantially similar.

(2) **Time limits for request.** The department must receive the request for an adjudicative hearing no later than twenty calendar days after the department serves the applicant with a written notice of an opportunity to request a hearing upon department action or contemplated department action. Service upon the applicant is completed when made in accordance with WAC 10-08-110 (2) and (3) or as provided by the statute under which the department initiated the action. If the statute under which the department initiated the action specifically provides for a different time limit, the time limit in that statute shall apply unless it has been superseded by the Administrative Procedure Act, chapter 34.05 RCW, but in no case shall the time limit for requesting an adjudicative hearing be less than twenty calendar days.

(3) **Failure to request hearing.** Failure of an applicant to file an application for an adjudicative hearing within the time limit set forth in subsection (2) of this section constitutes a default and results in the loss of the applicant's right to an adjudicative hearing. When an applicant defaults, the

department may proceed to resolve the case pursuant to RCW 34.05.440(1).

#### NEW SECTION

**WAC 208-08-060 Discovery.** (1) **Motion required.** Unless discovery is included in the prehearing order as provided in WAC 208-08-110, a party wishing to make discovery must file a motion for discovery with the presiding officer. The party must also serve the discovery motion on all other parties to the proceeding. Any party opposing the motion must file a response with the presiding officer and the response must be served on all parties within ten calendar days after service of the motion.

(2) **Hearing on discovery motion.** Any party may request a hearing on a discovery motion. If the presiding officer determines that a hearing on the motion is warranted, he or she shall give all parties at least three business days notice of the time and place for the hearing.

(3) **Decision on motion.** The presiding officer may determine the extent and conditions of discovery in any adjudicative proceeding, considering the criteria set forth in RCW 34.05.446(3) and WAC 208-08-070 and 208-08-080. The presiding officer shall rule upon the motion only after all parties have responded or the time for response has passed.

#### NEW SECTION

**WAC 208-08-070 Production of documents to parties.** (1) **Place of production.** When production of documents is allowed, they shall be produced for inspection and copying at the department's headquarters, at such other place as the parties may agree in writing, or as the presiding officer orders. In the case of documents produced by the department, a party may not remove the documents from the department's offices other than by written agreement of the department. This agreement shall specify the document subject to the agreement, the date for return of the document, and any other terms or conditions as are appropriate to provide for the safe keeping of the documents.

(2) **Copying procedures and charges.** The party requesting production may photocopy any documents produced. The requesting party is responsible for the cost of photocopying. The documents produced by the department may be copied at the department's offices or such other places as the parties may agree. Charges for copies made by the department for a requesting party will be at a rate agreed upon by the parties, or as ordered by the presiding officer.

#### NEW SECTION

**WAC 208-08-080 Depositions upon oral examination.** (1) **Filing of transcripts.** If a deposition is allowed, it shall be recorded, including all questions and objections. If one of the parties orders a transcript, the testimony shall be transcribed verbatim under the direction of the court reporter, who shall certify the transcript. The witness shall sign the transcript or waive signature. If a deposition is transcribed, the court reporter shall file the original transcript and any exhibits to it with the presiding officer. The witness and any party may purchase a copy of the transcript from the court reporter.

(2) **Cost.** The party requesting the deposition shall pay the cost of the deposition, including any sitting or facility fee. A party ordering a copy of a transcript must make appropriate arrangements to pay the court reporter.

(3) **Videotaping of depositions.** If a videotaped deposition is allowed, Superior Court Civil Rule 30 (b)(8) shall apply.

NEW SECTION

**WAC 208-08-090 Submission on stipulated facts.**

With the agreement of the department, a party may waive a hearing and submit its case upon stipulated facts and briefs. Submission of a case without a hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. The presiding officer shall review the submissions of the parties and shall enter a proposed order, including findings of fact and conclusions of law. If the parties agree, they may submit the stipulated facts to the director or designee for a final order, bypassing the presiding officer.

NEW SECTION

**WAC 208-08-100 Consolidation of proceedings.**

If there are multiple adjudicative proceedings involving common issues, the department or a party may notify the presiding officer of the common issues and request consolidation of the actions. If no other party objects, the presiding officer shall consolidate the proceedings. If another party objects, the presiding officer, in his or her discretion, may consolidate the proceedings.

NEW SECTION

**WAC 208-08-110 Prehearing conferences.**

The department encourages the use of prehearing conferences. If a party requests a prehearing conference, the presiding officer shall grant the request unless good cause is shown. WAC 10-08-130 governs the conduct of prehearing conferences.

NEW SECTION

**WAC 208-08-120 Informal settlements.**

The department encourages informal settlement of matters before the agency. Any person who believes his or her interest in an adjudicative proceeding may be settled informally may contact the department. The department specifically adopts WAC 10-08-230 setting forth procedures for informal settlements.

NEW SECTION

**WAC 208-08-130 Prehearing and posthearing memoranda.**

The presiding officer shall grant all timely requests to submit prehearing and posthearing memoranda and shall set a reasonable time for the submission of the memoranda. If a party files a posthearing memorandum, the opposing party has the right to file a response.

NEW SECTION

**WAC 208-08-140 Transcript of proceedings (1) Recording and transcripts.** Testimony and argument at the hearing shall be recorded either electronically or stenographically. Any party, upon motion, may order the court reporter to transcribe the proceedings at the party's expense. A party who orders a transcript of the proceedings shall provide the original transcript to the presiding officer at that party's expense, and upon such other terms as the presiding officer shall order.

(2) **Correction of transcript.** Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. The presiding officer may call for the submission of proposed corrections and may dispose of them at appropriate times during the proceeding. If the parties agree and the presiding officer approves, transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence. All corrections must be made within ten calendar days after receipt of the transcript unless the presiding officer allows a different period.

**WSR 96-11-036  
PERMANENT RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS  
[Filed May 7, 1996, 11:18 a.m.]**

Date of Adoption: May 7, 1996.

Purpose: To provide for the director to designate an employee as presiding officer with final order authority over adjudicative proceedings commenced under chapter 34.05 RCW.

**Signature Requirement on Appeals**

The Department of Retirement Systems (DRS) has generally adopted the model rules of procedure under chapter 10-08 WAC for its adjudicative proceeding. To the extent that DRS adopts a different standard, WAC 10-08-001 requires DRS to "include in the order of adoption a finding stating the reason for the variance." This finding is entered to comply with that requirement.

WAC 10-08-035 of the model rules allows an application for an adjudicative proceeding to be signed "by the applicant of [or] the applicant's representative." DRS, on the other hand, requires the appealing party's signature on the appeal. DRS has consistently enforced this requirement for appealing parties. In at least one case, *Boatsman et al. v. DRS*, the initial appeal was filed on behalf of several parties who did not sign. Because of the absence of the finding required by WAC 10-08-001, the administrative law judge allowed the appeal to proceed on behalf of those parties. DRS later learned that at least one of those parties had not been approached prior to filing the appeal and had not consented to the appeal. DRS has a legitimate interest in making sure that all appeals are instituted by and with the consent of the aggrieved party. This requirement is satisfied by requiring the aggrieved party to sign the application for an adjudicative proceeding.

PERMANENT

In light of DRS's longstanding practice as well as specific instances of appeals filed with questionable authorization, WAC 415-108-023 retains the requirement that the appealing party must personally sign the appeal in order for it to be acceptable as the basis for commencing an adjudicative proceeding.

Citation of Existing Rules Affected by this Order: Amending WAC 415-08-010, 415-08-020, 415-08-025, 415-08-030, 415-08-040, 415-08-050, 415-08-080, 415-08-090, 415-08-100, 415-08-105, 415-08-280, and 415-08-420.

Statutory Authority for Adoption: RCW 41.50.050, 41.50.060, and 34.05.425.

Adopted under notice filed as WSR 96-07-080 on March 19, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 12, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, amended 12, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 6, 1996  
Sheryl Wilson  
Director

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-010 Scope.** This chapter governs the procedure ~~((for))~~ the department follows in conducting adjudicative proceedings ~~((as defined in RCW 34.05.010))~~ under chapter 34.05 RCW. The department adopts the model rules of procedure contained in chapter 10-08 WAC to the extent that those provisions are not contrary to the provisions of this chapter. These rules shall govern all ~~((hearings))~~ adjudicative proceedings before the ~~((director of retirement systems))~~ department. ~~((These rules shall also govern requests for the promulgation, amendment or repeal of any rule of the director. Where the context requires, reference to a board shall be construed to include the director of retirement systems.))~~

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-020 Time limit for filing appeals—Procedure.** (1) Any ~~((person))~~ party aggrieved by a petition decision rendered pursuant to chapter 415-04 WAC ~~((must, before he or she appeals to the superior court, invoke the jurisdiction of the director by filing with the director personally or by mail,))~~ may appeal the decision by filing a notice of appeal within sixty days from the date such decision was communicated to ~~((such person, a notice of~~

~~appeal before the board or director))~~ the party. ~~((The notice of appeal must contain:~~

~~(a) The name and mailing address of the member or beneficiary, and the employer of the member;~~

~~(b) The name and legal residence of the appealing party, together with the mailing address of his or her representative, if any;~~

~~(c) In the case of disability claims:~~

~~(i) The date and nature of the accident, injury or disease, the place it occurred and location of the employer, in the case of disability claims; and~~

~~(ii) If the injury or disease did not occur in the county where the member or beneficiary resides, the name of the county in which the appealing party desires to have the hearing held and a city or town most convenient within the county where hearing is to be held;~~

~~(d) A statement identifying the decision or award appealed from and that portion of the decision or award considered to be unjust or unlawful;~~

~~(e) A clear and concise statement of facts in support of the grounds stated including, where applicable, a description of the physical facts constituting the claimant's present disability and how it is manifested;~~

~~(f) The type of relief sought, including specific dates at which time the appealing party believes the benefit accrued; and~~

~~(g) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by his or her signature and the signature of his or her representative, if any.))~~

(2) The appealing parties shall file ~~((with the department by mail or otherwise,))~~ the original and two copies of the notice of appeal ~~((and))~~ with the department. The department will acknowledge receipt of the copies filed. The department's stamp placed upon such copies shall be prima facie evidence of the date of receipt. The department may thereafter require additional copies to be filed if necessary.

(3) If a party fails to file a timely appeal the party waives the right to judicial review due to failure to exhaust administrative remedies as required by RCW 34.05.534.

#### NEW SECTION

**WAC 415-08-023 Contents of the notice of appeal.** The notice of appeal must contain:

(1) The name and mailing address of the member or beneficiary, and the employer of the member;

(2) The name and legal residence of the appealing party, together with the mailing address of his or her representative, if any;

(3) In the case of disability claims:

(a) The date and nature of the accident, injury or disease, the place it occurred and location of the employer, in the case of disability claims; and

(b) If the injury or disease did not occur in the county where the member or beneficiary resides, the name of the county in which the appealing party desires to have the hearing held and a city or town most convenient within the county where the hearing is to be held;

(4) A statement identifying the decision appealed from and that portion of the decision considered to be unjust or unlawful;

(5) A clear and concise statement of facts in support of the grounds stated including, where applicable, a description of the physical facts constituting the claimant's present disability and how it is manifested;

(6) The type of relief sought, including specific dates at which time the appealing party believes the benefit accrued; and

(7) A statement that the appealing party has read the notice of appeal and believes the contents to be true, followed by his or her signature and the signature of his or her representative, if any.

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-025** (~~(Reviewing)~~) **Presiding officer.** The director will designate a presiding officer to issue an order. The director may issue a general or specific presiding officer designation.

(1) (~~(Either the director or an employee of the department designated by the director, will serve as reviewing officer and render the department's final decision on the appeal.)~~) If the director designates a ((department employee to render a decision, such employee)) presiding officer to issue a final order, that person shall be a different person than director's designee under chapter 415-04 WAC.

(2) (~~(In general, an administrative law judge will be appointed to serve as)~~) If the director designates a presiding officer ((and to render)) to issue a proposed order((-)) the director, or ((the employee)) a person designated by the director, will ((serve as)) be the reviewing officer. ((If the parties agree to stipulate to a record, a hearing before and initial decision by an administrative law judge may be waived by agreement of all parties. In the event of such a waiver, the reviewing officer will render the department's final decision on the stipulated record-)) In that event, the reviewing officer will issue a final order.

**NEW SECTION**

**WAC 415-08-027 Parties may stipulate to the record on appeal.** If the parties stipulate to a record, a hearing before the presiding officer may be waived by agreement of all parties. The presiding officer will then issue a final order on the stipulated record.

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-030 Parties.** The parties to an appeal shall be the appealing party((-)) or parties and the department(~~(- all persons who have filed a notice of appearance and made a proper showing of interest in the appeal. The director may exclude from the appeal any party who has unreasonably delayed the filing of a notice of appearance. Upon determination that a person has made a proper showing of interest the department will forthwith mail him or her a copy of the notice of appeal).~~). There is no obligation to serve notices, pleadings or correspondence upon any person who has not entered an appearance as ((provided herein)) a party. Service upon the representative of a party shall constitute service upon such party.

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-040** (~~(Appearance and practice before the department— Who may appear-))~~ **Representing another person before the presiding officer.** (~~(No))~~ Only the following persons may appear in a representative capacity before the ((department or its designated hearing examiner other than the following)) presiding officer:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law.

(3) A legal intern authorized to practice law pursuant to Admission to Practice Rule (APR) 9 of the state supreme court and subject to the limitations contained in said rule. A legal intern shall not appear ((before the department or its designated examiner)) without the presence of the supervising attorney except in *ex parte* matters and noncontested cases.

(4) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears ((for such individual firm, association, partnership, or corporation)) on behalf of the entity.

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

**WAC 415-08-050** (~~(Appearance and practice before the board-))~~ **Appearance in certain proceedings may be limited to attorneys.** In all hearings involving the taking of testimony and the formulation of a record subject to review by the courts, where the ((board or its examiner)) presiding officer determines that representation in such hearing requires a high degree of legal training, experience, and skill, the board or its examiner may limit those who may appear in a representative capacity to attorneys-at-law.

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-080** (~~(Appearance and practice before the department-))~~ **Withdrawal or substitution of representatives.** An attorney or other representative withdrawing from a case shall immediately so notify the ((department)) presiding officer and all parties of record in writing, or shall state such withdrawal for the record at a conference or hearing. Any substitution of an attorney or representative shall be accomplished by written notification to the ((department)) presiding officer and to all parties of record.

**AMENDATORY SECTION** (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-090** (~~(Appearance and practice before the department-))~~ **Ethical conduct required.** All persons appearing in a representative capacity in proceedings before the ((department or its designated examiner)) presiding officer shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If

any such person does not conform to such standards, the ~~((examiner))~~ presiding officer may, in his/her discretion and depending on all the circumstances, admonish or reprimand such person, ~~((or))~~ exclude such person from further participation in the proceedings and adjourn the same, or report the matter to the department.

AMENDATORY SECTION (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-100** ~~((Appearance and practice before the department—))~~ Appearance by former employee of agency or former member of attorney general's staff. No former employee of the department or system or former member of the attorney general's staff may ~~((at any time after severing his/her employment with the department or the attorney general appear, except with the written permission of the department in compliance with RCW 42.22.040,))~~ appear in a representative capacity on behalf of other parties in a formal proceeding wherein he or she previously took an active part as a representative of the department. No such former employee shall appear where to do so would violate RCW ~~((42.18.221))~~ 42.52.080.

AMENDATORY SECTION (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-105 Prehearing and posthearing memoranda.** A presiding officer shall grant all timely requests to submit prehearing and posthearing memoranda, and shall set a reasonable time for the submission of memoranda. ~~((In the event that posthearing briefs are filed,))~~ The department reserves the right to file a brief in response to any posthearing brief submitted by another party.

AMENDATORY SECTION (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-280 Discovery.** Any party may obtain discovery in the manner~~((s))~~ specified in Superior Court Civil Rule 26(a). The attendance of witnesses may be compelled by the use of a subpoena. Such discovery shall be governed generally by the procedures established by Superior Court Civil Rules 26-37, inclusive.

AMENDATORY SECTION (Amending WSR 93-11-079, filed 5/18/93, effective 6/18/93)

**WAC 415-08-420** ~~((Expert or opinion testimony number and qualifications of witnesses—Procedures at hearings—))~~ Presentation of evidence—Burden of proof. (1) ~~((Order of presentation of evidence,))~~ The presiding officer shall determine the proper order of presentation of evidence. ((As a general rule, the appealing party shall initially introduce all evidence in his/her case in chief. The adverse parties may then introduce the evidence necessary to their cases in chief. Rebuttal evidence will then be received. Witnesses may be called out of turn in contravention of this rule only by agreement of all parties.))

(2) The person appealing or requesting a hearing shall have the burden of proof in the matter.

**WSR 96-11-042**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
(Board of Pharmacy)  
[Filed May 8, 1996, 9:07 a.m.]

Date of Adoption: April 10, 1996.

Purpose: WAC 246-861-040, application for approval of continuing education programs will allow the board to approve organizations that provide continuing education to the pharmacy profession.

Statutory Authority for Adoption: RCW 18.64.005.

Adopted under notice filed as WSR 96-04-080 on February 7, 1996.

Changes Other than Editing from Proposed to Adopted Version: No changes were made to this rule from proposed rule.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

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

April 10, 1996

G. Kirby White

Vice-Chair

Board of Pharmacy

AMENDATORY SECTION (Amending WSR 95-08-019, filed 3/27/95, effective 4/27/95)

**WAC 246-861-040 Applications for approval of continuing education program—Post-approval of continuing education program.** (1) Applications for approval or post-approval of a continuing education program which is not an accredited program or provided by an approved provider shall be made on the form provided for this purpose by the Washington state board of pharmacy in the law book.

(2) The provider shall submit an application form forty-five days prior to the date the program will be held.

(3) A pharmacist who attends a program that has not been preapproved according to this rule, must submit application for approval within twenty days following the program.

(4) All programs approved by the American Council on Pharmaceutical Education or the board, are accepted for continuing education credit and do not require that an individual provider approval be obtained in each case.

(5) The board of pharmacy may accept comparable continuing education units which have been approved by other boards of pharmacy.

PERMANENT

**WSR 96-11-043**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed May 8, 1996, 9:10 a.m., effective June 28, 1996]

Date of Adoption: April 25, 1996.

Purpose: Adjusts the fees that are charged for radioactive materials licensing and x-ray machine registration to cover the costs of administering the program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-254-053, 246-254-070, 246-254-080, 246-254-090, and 246-254-100.

Statutory Authority for Adoption: RCW 43.70.110 and [43.70.]250.

Other Authority: Chapter 70.98 RCW.

Adopted under notice filed as WSR 96-07-103 on March 20, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 5, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: June 28, 1996.

May 8, 1996

Bruce A. Miyahara  
Secretary

**AMENDATORY SECTION** (Amending WSR 95-12-004, filed 5/25/95, effective 6/25/95)

**WAC 246-254-053 Radiation machine facility registration fees.** (1) Persons owning and/or leasing and using radiation-producing machines shall submit an eighty-~~((five))~~ nine dollar registration fee to the department at the time of application and every two years thereafter. In addition:

(a) For dentists, veterinarians, and podiatrists, add:

- (i) Ninety dollars for the first tube; and
- (ii) Forty-two dollars for each additional tube.

(b) For hospitals and medical or chiropractic facilities, add:

- (i) Two hundred fifty dollars for the first tube; and
- (ii) One hundred ~~((fifteen))~~ twenty dollars for each additional tube.

(c) For industrial, research, and other uses, add:

- (i) One hundred forty dollars for the first tube; and
- (ii) Forty-two dollars for each additional tube.

(2) The department shall charge a maximum total fee of five thousand five hundred dollars for any facility or group of facilities where an in-house, full-time staff of at least two or more is devoted entirely to in-house radiation safety.

(3) A penalty fee of eighty-~~((five))~~ nine dollars shall be charged for late registration or late reregistration.

(4) A fee of eighty-~~((five))~~ nine dollars shall be charged for review of medical x-ray shielding calculations and floor plans submitted under WAC 246-225-030. This fee shall be added to the registration fee described above.

(5) A penalty fee of eighty-~~((five))~~ nine dollars shall be charged to a facility where submittal of medical x-ray shielding calculations and floor plans is not made before x-ray machine installation as required under WAC 246-225-030. This penalty fee shall be added to the registration fee described above.

(6) Facilities electing to consolidate x-ray machine registrations into a single registration shall be able to demonstrate and document that their businesses are under one business license.

(7) No additional tube fee shall be charged for electron microscopes, mammographic x-ray machines or airport baggage cabinet x-ray systems. Only the base registration fee described above is applicable.

**AMENDATORY SECTION** (Amending WSR 95-12-004, filed 5/25/95, effective 6/25/95)

**WAC 246-254-070 Fees for specialized radioactive material licenses.** (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) Four thousand ~~((two))~~ three hundred ~~((forty))~~ seventy dollars for operation of a single nuclear pharmacy.

(b) Seven thousand ~~((two))~~ four hundred ~~((seventy))~~ sixty dollars for operation of a single nuclear laundry.

(c) Seven thousand ~~((two))~~ four hundred ~~((seventy))~~ sixty dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) Two thousand ~~((five))~~ six hundred ~~((fifty))~~ twenty dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) Six hundred ~~((sixty-five))~~ eighty dollars for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) ~~((Four))~~ Five thousand ~~((eight hundred fifty))~~ dollars for a license authorizing decontamination services operating from a single facility.

(g) Two thousand three hundred seventy dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) One thousand ~~((thirty))~~ sixty dollars for a license authorizing equipment servicing involving:

(i) Incidental use of calibration sources;

(ii) Maintenance of equipment containing radioactive material; or

(iii) Possession of sealed sources for purpose of sales demonstration only.

(i) One thousand nine hundred (~~(forty)~~) eighty dollars for a license authorizing health physics services, leak testing, or calibration services.

(j) One thousand two hundred (~~(ten)~~) forty dollars for a civil defense license.

(k) Three hundred (~~(sixty-five)~~) seventy dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) Fourteen thousand (~~(five)~~) eight hundred (~~(forty-five)~~) dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Six thousand (~~(six)~~) eight hundred (~~(sixty-five)~~) forty dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) Five thousand (~~(four)~~) five hundred (~~(fifty)~~) dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of one thousand dollars;

(b) Billing at the rate of ninety dollars for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise nonrefundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

**AMENDATORY SECTION** (Amending WSR 95-12-004, filed 5/25/95, effective 6/25/95)

**WAC 246-254-080 Fees for medical and veterinary radioactive material licenses.** (1) Persons licensed or authorized to possess or use radioactive material in the

following medical or veterinary categories shall forward annual fees to the department as follows:

(a) Three thousand (~~(six)~~) seven hundred (~~(ten)~~) dollars for operation of a mobile nuclear medicine program from a single base of operation.

(b) Two thousand (~~(six)~~) seven hundred (~~(seventy)~~) dollars for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) Two thousand three hundred (~~(five)~~) forty dollars for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) Three thousand (~~(six)~~) seven hundred (~~(thirty)~~) twenty dollars for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) (~~(One)~~) Two thousand (~~(nine hundred forty)~~) dollars for a license authorizing group VI of WAC 246-235-120 for brachytherapy at a single facility.

(f) One thousand two hundred (~~(five)~~) forty dollars for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) One thousand eight hundred (~~(twenty)~~) eighty dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand (~~(four)~~) five hundred (~~(fifty-five)~~) dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at a single facility.

(i) One thousand (~~(eighty-five)~~) one hundred ten dollars for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) Nine hundred (~~(sixty)~~) eighty dollars for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) Six hundred ten dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

**AMENDATORY SECTION** (Amending WSR 95-12-004, filed 5/25/95, effective 6/25/95)

**WAC 246-254-090 Fees for industrial radioactive material licenses.** (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Four thousand (~~(two)~~) three hundred (~~(ninety-five)~~) sixty dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Five thousand (~~(seven)~~) eight hundred (~~(five)~~) forty dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) Two thousand (~~(seven)~~) eight hundred (~~(ninety)~~) sixty dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) Six hundred (~~(ten)~~) twenty dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Six hundred (~~(sixty-five)~~) eighty dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) Four hundred (~~(twenty)~~) thirty dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand one hundred (~~(fifty)~~) eighty dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) Six thousand (~~(ninety)~~) two hundred forty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) Five thousand (~~(three)~~) four hundred forty dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) One thousand (~~(six)~~) seven hundred (~~(ninety)~~) forty dollars for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) Two hundred eighty dollars for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of sixty dollars to the department.

**AMENDATORY SECTION** (Amending WSR 95-12-004, filed 5/25/95, effective 6/25/95)

**WAC 246-254-100 Fees for laboratory radioactive material licenses.** (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) Two thousand nine hundred (~~(fifteen)~~) eighty dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

- (i) One millicurie of I-125 or I-131; or
- (ii) One hundred millicuries of H-3 or C-14; or
- (iii) Ten millicuries of any single isotope.

(b) One thousand four hundred (~~(fifty)~~) eighty dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

- (i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or
- (ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or

(iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) One thousand two hundred (~~(five)~~) forty dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or

(ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or

(iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) Four hundred (~~(twenty)~~) thirty dollars for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

(i) Less than or equal to 0.01 millicurie of I-125 or I-131; or

(ii) Less than or equal to one millicurie of H-3 or C-14; or

(iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) Five hundred (~~(fifty-five)~~) seventy dollars for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of sixty dollars to the department.

#### WSR 96-11-044

#### PERMANENT RULES

#### DEPARTMENT OF AGRICULTURE

[Order 5097—Filed May 8, 1996, 9:14 a.m.]

Date of Adoption: April 8, 1996.

Purpose: Increase certification fees for forest reproductive material.

Citation of Existing Rules Affected by this Order: Amending WAC 16-319-041.

Statutory Authority for Adoption: RCW 15.49.370(3). Adopted under notice filed as WSR 96-03-065 on January 16, 1996.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The fee increase is within the fiscal growth factor for fiscal year 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 May 3, 1996  
 James M. Jesernig  
 Director

**AMENDATORY SECTION** (Amending Order 1930, filed 5/22/87)

**WAC 16-319-041 Application for certification of forest reproductive material.** (1) The conditions of applicant's submittal and of certifying agency's acceptance of application are:

- (a) The application should show all classes for which certification services are requested.
- (b) All reproductive material acquired or distributed by applicant of a type for which certification is requested is subject to audit.
- (c) Applicant shall be responsible for payment of fees for certification services.
- (d) Applicant is responsible for developing a record keeping system and labels available and satisfactory to the certifying agency.
- (e) Certifying agency reserves the right to refuse certification service to applicant.
- (f) Application for audit certification reproductive material shall be filed with certifying agency of the state in which warehouse, nursery, etc., is located with a copy to the certifying agency in the state where the reproductive material is collected.

(2) Timing of application requests for certification services:

(a) Application requests for source identified subclass B and lower classes for the current year's production of reproductive material shall be received by certifying agency from applicant not later than three days prior to initiation of collection, production, or propagation of forest reproductive material.

(b) For source identified subclass A and higher certification class, the applicant shall make application for service, and present a written plan to the certifying agency two weeks prior to the beginning of the collection season. The written plan will include the following:

- (i) For subzone collection, areas shall be defined by legal description.
- (ii) Details of the collection organization including names of buyers and field supervisors, estimated harvest volume, receiving station location(s), and other pertinent information.

(c) Application requests for all other services shall be received by certifying agency from applicant not later than seven days before need.

(3) The certifying agency establishes the fee schedule for certification services. These may be adjusted at the beginning of a crop year if certifying agency determines that costs are significantly more or less than anticipated: *Provided*, That increases shall not exceed twenty-five percent.

(a) Cones and seed:

(i) Tested and selected - the service includes review of test plans, audit of pertinent records and field inspection at the hourly job time rate shown in current fee schedule.

(ii) Source identified classes - the fee includes field inspection at the per bushel rate shown in the current fee schedule and audit of conditioning at the hourly rate also shown in the current fee schedule.

The fee for each lot containing less than sixty bushels shall be a maximum of thirty-six dollars: *Provided*, That the certifying agency, due to specific circumstances, may waive this maximum fee or a part thereof.

(iii) Audit class - the fee includes audit of applicant's field and conditioning records at the hourly rate shown in the current fee schedule.

(b) Trees: The fee includes the verification of the source of the trees from the seed source, stratification, sowing, bed identification, lifting, sorting, package identification, storing and/or transplanting.

(c) Not entered for certification: The fee for audit of reproductive material not entered for certification service is performed as required by and satisfactory to certifying agency to exercise said audit simultaneously with audit of reproductive material which applicant has requested certification service.

(d) The fee for certification classes applied for shall be charged whether or not offered material qualifies.

(e) The certifying agency may provide other services, such as training to comply with these standards, advising on the development of recordkeeping systems directly connected with certification needs if requested by the applicant.

(4) Fee schedule:

(a) Tree cones and seed -

Certification Classes	Field Inspection		Fee Due
	Audit		
Tested and Selected	<del>(\$20.50/hr.)</del>	<del>\$20.50/hr.</del>	When billed
	<u>\$21.55/hr.</u>	<u>\$21.55/hr.</u>	<u>When billed</u>
Source Identified Classes:			
Lots 11 bu. and more	<del>(\$0.70/bu.)</del>	<del>\$20.50/hr.)</del>	
	<u>\$0.73/bu.</u>	<u>\$21.55/hr.</u>	
Lots 6-10 bu.	<del>(\$16.50/lot)</del>	<del>\$20.50/hr.)</del>	
	<u>\$17.34/lot</u>	<u>\$21.55/hr.</u>	
Lots 0-5 bu.	<del>(\$10/lot)</del>	<del>\$20.50/hr.)</del>	
	<u>\$10.51/lot</u>	<u>\$21.55/hr.</u>	
Audit	<del>(None)</del>	<del>\$20.50/hr.</del>	When billed
	<u>None</u>	<u>\$21.55/hr.</u>	<u>When billed</u>

(b) Tree certification - ~~(\$20.50)~~ \$21.55/hr.

Seedling certification - experience has shown that seedling certification normally requires a minimum of five nursery visits totalling approximately thirty-two hours. Plantation certification procedures shall be billed at the hourly rate.

(c) Other services including education to comply with the standards, development of record system, verification of source of pollen, cuttings, audit of forest reproductive material not offered for certification by applicant or other services requested, etc. at ~~(\$20.50)~~ \$21.55/hour payable when billed.

(d) OECD certification (certificates of provenance) - ~~(\$0.50)~~ \$0.52 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

PERMANENT

**WSR 96-11-045**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3979—Filed May 8, 1996, 10:42 a.m.]

Date of Adoption: May 7, 1996.

Purpose: To establish in rule, contract requirements for assisted living services, adult residential care, and enhanced adult residential care, three residential care services provided to department clients in licensed boarding homes. New chapter 388-110 WAC, WAC 388-110-005, 388-110-010, 388-110-020, 388-110-030, 388-110-040, 388-110-050, 388-110-060, 388-110-070, 388-110-080, 388-110-090, 388-110-100, 388-110-110, 388-110-120, 388-110-140, 388-110-150, 388-110-170, 388-110-180, 388-110-190, 388-110-200, 388-110-210, 388-110-220, 388-110-230, 388-110-240, 388-110-250, 388-110-260, 388-110-270, and 388-110-280.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-15-900 through 388-15-955.

Statutory Authority for Adoption: RCW 74.39A.010, 74.39A.020, 74.39A.060, 74.39A.080, 74.39A.170, 18.88A.210 - [18.88A.]240, and 70.129.040.

Adopted under notice filed as WSR 96-10-077 on May 1, 1996.

Changes Other than Editing from Proposed to Adopted Version: Only clarifying, technical and editorial changes were made.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 27, amended 0, repealed 11.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 27, amended 0, repealed 11.

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

May 8, 1996

Philip A. Wozniak

for Merry A. Kogut, Supervisor  
Rules and Policies Assistance Unit

**Chapter 388-110 WAC**  
**CONTRACTED RESIDENTIAL CARE SERVICES:**  
**ASSISTED LIVING SERVICES, ENHANCED ADULT**  
**RESIDENTIAL CARE, AND ADULT RESIDENTIAL**  
**CARE**

**PART I**

**ALL CONTRACTED**  
**RESIDENTIAL CARE SERVICES**

NEW SECTION

**WAC 388-110-005 Authority.** The following rules are adopted under RCW 74.39A.010, 74.39A.020, 74.39A.060, 74.39A.070, 74.39A.080, 74.39A.170, and 18.88A.210 through 18.88A.240.

NEW SECTION

**WAC 388-110-010 Scope and applicability.** (1) These rules apply only to boarding homes licensed under chapter 18.20 RCW, or boarding homes located within the boundaries of a federally recognized Indian reservation and licensed by a tribe, that contract with the department to provide assisted living services, enhanced adult residential care, or adult residential care.

(2) Only services provided to or on behalf of the assisted living services, enhanced adult residential care, or adult residential care resident, and paid for fully or partially by the department shall be subject to these rules.

NEW SECTION

**WAC 388-110-020 Definitions.** (1) "Adult residential care" is a package of services, including personal care services, that the department contracts with a licensed boarding home to provide in accordance with Parts I and IV of this chapter.

(2) "Aging in place" means being in a care environment that can accommodate a resident's progressive disability or changing needs without relocating. For aging in place to occur, needed services are adjusted to meet the changing needs of the resident.

(3) "Applicant" means the individual, partnership, corporation or other entity which has applied for a contract with the department to provide assisted living services, enhanced adult residential care, or adult residential care to state funded residents in a licensed boarding home.

(4) "Assisted living services" is a package of services, including personal care and limited nursing services, that the department contracts with a licensed boarding home to provide in accordance with Parts I and II of this chapter. Assisted living services include housing for the resident in a private apartment-like unit.

(5) "Boarding home" means the same as the definition found in RCW 18.20.020(2), or a boarding home located within the boundaries of a federally recognized Indian reservation and licensed by the tribe.

(6) "Caregiver" means any person responsible for providing direct personal care services to a resident and may include but is not limited to the contractor, employee, volunteer, or student.

(7) "Case manager" means the department staff person or designee assigned to negotiate, monitor, and facilitate a service plan for residents receiving services fully or partially paid for by the department.

(8) "Contractor" means the individual, partnership, corporation, or other entity which contracts with the department to provide assisted living services, enhanced adult residential care, or adult residential care to state funded residents in a licensed boarding home.

(9) "Department" means the Washington state department of social and health services (DSHS).

(10) "Dignity" means the quality or condition of being esteemed and respected in such a way as to validate the self-worth of the resident.

(11) "Enhanced adult residential care" is a package of services, including personal care and limited nursing services, that the department contracts with a licensed boarding home to provide in accordance with Parts I and III of this chapter.

(12) "Frail elder or vulnerable adult" means the same as the definition found in RCW 74.34.020 or 43.43.830.

(13) "Homelike" means an environment having the qualities of a home, including privacy, comfortable surroundings, and the opportunity to modify one's living area to suit one's individual preferences. A homelike environment provides residents with an opportunity for self-expression, and encourages interaction with the community, family and friends.

(14) "Independence" means free from the control of others and being able to assert one's own will, personality and preferences.

(15) "Individuality" means the quality of being unique; the aggregate of qualities and characteristics that distinguishes one from others. Individuality is supported by modifying services to suit the needs or wishes of a specific individual.

(16) "Limited nursing services" means the same as the definition found in WAC 246-316-265.

(17) "Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks as determined by the resident's needs as defined in WAC 388-15-202(38). Personal care services do not include assistance with tasks that must be performed by a licensed health professional.

(18) "Resident" means a person residing in a boarding home for whom services are paid for, in whole or in part, by the department under a contract for assisted living services, enhanced adult residential care, or adult residential care. "Resident" includes former residents when examining complaints about admissions, re-admissions, transfers or discharges. For decision-making purposes, the term "resident" includes the resident's surrogate decision maker in accordance with state law or at the resident's request.

#### NEW SECTION

**WAC 388-110-030 Contract application.** (1) In order to apply for a contract with the department to provide assisted living services, enhanced adult residential care, or adult residential care, an applicant shall:

(a) Have a valid boarding home license for the facility at which the contracted services will be provided;

(b) Complete and submit a contract application on department provided forms at least sixty days before the requested effective date for the contract; and

(c) Provide information regarding any facilities the applicant, and any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with in the last ten years.

(2) Within sixty days of the receipt of the application the department shall approve a contract, refuse to enter into a contract, or request additional information the department deems relevant from the applicant. The department may extend the sixty days to allow the applicant to supply or

clarify information requested by the department. The department shall conduct an on-site review of the contracting facility before issuing a contract.

#### NEW SECTION

**WAC 388-110-040 Contract qualifications.** (1) The department shall consider separately and jointly as applicants each person and entity named in the application for a contract for assisted living services, enhanced adult residential care, or adult residential care. If the department finds any person or entity unqualified, the department shall deny the contract.

(2) In making a determination whether to grant a contract, the department shall review:

(a) The information in the application; and

(b) Other documents and information the department deems relevant, including inspection and complaint investigation findings for each facility with which the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant has been affiliated.

(3) The applicant and the facility for which a contract is sought shall comply with all requirements established by chapter 74.39A RCW and this chapter. The department may deny a contract for noncompliance with any such requirements.

(4) The department shall deny a contract if an applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant applying for a contract has a history of significant noncompliance with federal or state regulations in providing care or services to frail elders, vulnerable adults or children. The department shall consider, at a minimum, the following as a history of significant noncompliance requiring denial of a contract:

(a) Revocation or suspension of a license for the care of children, frail elders or vulnerable adults;

(b) Enjoined from operating a facility for the care of children, frail elders or vulnerable adults; or

(c) Termination, cancellation, suspension, or nonrenewal of a Medicaid or Medicare provider agreement, or any other agreement with a public agency for the care or treatment of children, frail elders or vulnerable adults.

(5) The department shall deny, terminate, or refuse to renew a contract if an applicant or any partner, officer, director, managerial employee, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations has been:

(a) Convicted of a crime against a person as defined under RCW 43.43.830 or 43.43.842;

(b) Convicted of a crime related to financial exploitation as defined under RCW 43.43.830 or 43.43.842;

(c) Found by a court in a protection proceeding or in a civil damages lawsuit under chapter 74.34 RCW to have abused, neglected, abandoned or exploited a vulnerable adult;

(d) Found in any final decision issued by a disciplinary board to have sexually or physically abused, neglected, or exploited any minor or vulnerable adult;

(e) Found in any dependency action under RCW 13.34.030 (2)(b) to have sexually assaulted, neglected, exploited, or physically abused any minor; or

(f) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused, exploited, or physically abused any minor.

(6) The department may deny, terminate, or refuse to renew a contract if an applicant or any partner, officer, director, managerial employee, an owner of fifty percent or more of the entity applicant, or an owner who exercises control over daily operations has:

(a) Obtained or attempted to obtain a license or contract by fraudulent means or misrepresentation;

(b) Been convicted of a felony or a crime against a person if the conviction reasonably relates to the competency of the person to contract with the department;

(c) Had sanction, corrective or remedial action taken by federal, state, county, or municipal health or safety officials related to the care or treatment of children, frail elders or vulnerable adults;

(d) A poor credit history;

(e) Engaged in the illegal use of drugs or the excessive use of alcohol;

(f) Operated a facility for the care of children or adults without a license;

(g) Failed to meet financial obligations as the obligations fell due in the normal course of business;

(h) Misappropriated property of residents;

(i) Filed for bankruptcy, reorganization, or receivership;

(j) Been denied a license or license renewal to operate a facility that was licensed for the care of children, frail elders or vulnerable adults;

(k) Relinquished or returned a license in connection with the operation of any facility for the care of children, frail elders or vulnerable adults, or did not seek the renewal of such license, following written notification of the licensing agency's initiation of denial, suspension, cancellation or revocation of the license; or

(l) Had resident trust funds or assets of an entity providing care to children, frail elders or vulnerable adults seized by the IRS or a state entity for failure to pay income or payroll taxes.

#### NEW SECTION

**WAC 388-110-050 Change of contractor.** (1) A change of contractor occurs when there is a substitution of the individual contractor or contracting entity ultimately responsible for the daily operational decisions of the assisted living service, enhanced adult residential care, or adult residential care, or a substitution of control of such contracting entity.

(a) Events which constitute a change of contractor include but are not limited to the following:

(i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Assisted living services, enhanced adult residential care, or adult residential care contract rights and responsibilities are transferred by the initial contractor to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the facility are also transferred;

(iii) If the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) If the contractor is a corporation, and the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation;

(v) If the contractor is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock is transferred to one or more:

(A) New or former stockholders; or

(B) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(vi) Any other event or combination of events which results in a substitution or substitution of control of the individual contractor or the contracting entity.

(b) The contractor does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the assisted living, enhanced adult residential care, or adult residential care facility as the contractor's agent, i.e., subject to the contractor's general approval of daily operating and management decisions; or

(ii) The real property or personal property assets of the facility contractor change ownership or are leased, or a lease of the real property or personal property assets is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity.

(2) When a change of contractor is contemplated, the current contractor shall notify the department and all residents at least sixty days prior to the proposed date of transfer. The notice shall be in writing and shall contain the following information:

(a) Name of the present contractor and prospective contractor;

(b) Name and address of the facility being transferred; and

(c) Date of proposed transfer.

(3) The operation or ownership of an assisted living services, enhanced adult residential care, or adult residential care contract shall not be transferred until the new operator has entered into a contract with the department. The new contractor shall comply with contract application requirements in WAC 388-110-030.

#### NEW SECTION

**WAC 388-110-060 Resident rights.** (1) The contractor shall comply with all requirements of chapter 70.129 RCW, Long-term care resident rights. The contractor shall promote and protect the resident's exercise of all rights granted under that law.

(2) The contractor shall provide care and services in compliance with the federal Patient self determination act and with applicable state statutes related to surrogate and health care decision making, including chapters 7.70, 70.122, 11.88, 11.92 and 11.94 RCW.

#### NEW SECTION

**WAC 388-110-070 General service standards.** The contractor shall:

(1) Ensure residents have control over their time, space and lifestyle to the extent that the health, safety and well-being of other residents is not disturbed;

(2) Promote the resident's right to exercise decision making and self-determination to the fullest extent possible;

(3) Follow the informed consent process as required in chapter 7.70 RCW, when applicable, in the development of the negotiated service agreement;

(4) Provide services for residents in a manner and in an environment that encourages maintenance or enhancement of each resident's quality of life, and promotes the resident's privacy, dignity, choice, independence, individuality, and decision-making ability; and

(5) Provide a safe, clean and comfortable homelike environment, allowing residents to use their personal belongings to the extent possible.

#### NEW SECTION

##### **WAC 388-110-080 Social and recreational activities.**

(1) The contractor shall provide social and recreational activities that provide and promote opportunities for the resident to participate in ongoing and varied activities based on the resident's choice and consistent with identified resident needs and functional ability.

(2) The contractor shall support the participation of residents and the resident council, if there is one, in the development of recreational and activity programs that reflect the needs and choices of the residents.

#### NEW SECTION

**WAC 388-110-090 Administration.** The contractor shall:

(1) Maintain substantial compliance with all requirements of chapter 18.20 RCW, Law for boarding homes and chapter 246-316 WAC, Boarding homes;

(2) Ensure all facility staff are knowledgeable about chapter 70.129 RCW, Long-term care resident rights;

(3) Provide residents, prior to move-in, a copy of the facility's admission agreement which clearly specifies the range of services the facility is able to provide to residents;

(4) Not require a resident to sign any admission contract or agreement that purports to waive any rights of the resident;

(5) Develop and implement a grievance procedure and process which is responsive to resident's complaints;

(6) Post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number;

(7) Comply with all federal and state statutory and regulatory requirements regarding nondiscrimination in all aspects of the facility's operation;

(8) Ensure resident rooms or resident units are not located in a separate unit within a facility that has exiting doors that restrict egress from the unit, such as, but not limited to automatic locking and unlocking exiting doors, unless the contractor is already providing services to residents in such a unit under a contract with the department for assisted living services, adult residential care, or enhanced adult residential care on the effective date of this chapter;

(9) Encourage residents and the resident council, if there is one, to provide input to the facility about residents'

preferences for food choices, taking into account the cultural and religious needs of residents;

(10) Ensure all instances of suspected abuse, neglect, exploitation, or abandonment are reported to the department, as required in chapter 74.34 RCW, and to the local law enforcement agency;

(11) Not have any sexual contact with any resident and shall ensure that facility staff and students not have sexual contact with any resident;

(12) Notify the department within five business days when there is a change in the facility administrator; and

(13) Permit department representatives to enter the facility without prior notification in order to monitor the contract requirements under this chapter and to conduct complaint investigations, including but not limited to observing and interviewing residents, and accessing resident records.

#### NEW SECTION

**WAC 388-110-100 Transfer and discharge, social leave, and bed hold.** The contractor shall:

(1) Comply with chapter 70.129 RCW and chapter 246-316 WAC pertaining to transfer and discharge (move-out);

(2) Include the department's case manager in the development of a relocation or discharge (move-out) plan, and have the case manager approve the plan before any notice required under subsection (1) of this section is issued to the resident, except in an emergency;

(3) Note an absence in a resident's record when a resident will be absent from the facility for more than seventy-two consecutive hours;

(4) Not be required to discharge (move-out) and readmit a resident for absences less than thirty-one consecutive days;

(5) Obtain department approval for payment for social leave in excess of fifteen consecutive days; and

(6) Retain a bed or unit for a resident hospitalized or temporarily placed in a nursing home for up to thirty days when the resident is likely to return, but if as part of the negotiated service agreement it is determined prior to the end of the thirty days that the resident will not return to the facility, the facility may discharge (move-out) the resident in accordance with subsections (1) and (2) above and release the bed or unit.

#### NEW SECTION

**WAC 388-110-110 Caregiver education and training requirements.** (1) The contractor shall ensure that:

(a) All caregivers hired on or after July 1, 1996 successfully complete the department designated fundamentals of caregiving training within one hundred twenty days of employment, unless he or she meets the requirements in subsection (2) below;

(b) All caregivers hired prior to July 1, 1996 successfully complete the department designated fundamentals of caregiving training prior to March 1, 1997, unless he or she meets the requirements in subsection (2) below; and

(c) All caregivers complete a minimum of ten hours of continuing education credits per calendar year, on topics relevant to caregiving:

(i) Topics include but are not limited to residents' rights, personal care, dementia, mental illness, developmental

disabilities, depression, medication assistance, communication skills, alternatives to restraints, and activities for residents;

(ii) Caregivers must receive a certificate of completion to meet the requirement for continuing education credit and each hour of completed instruction will count as one hour of continuing education credit; and

(iii) The continuing education requirement begins the calendar year after the year in which the caregiver completes the fundamentals or modified fundamentals of caregiving training.

(2) A caregiver who is a registered or licensed practical nurse, a physical or occupational therapist, a nursing assistant certified, a home health aide from a Medicaid-certified home health agency or who has successfully completed a department approved adult family home training, or department approved personal care training from an area agency on aging or its subcontractor, is exempt from the fundamentals of caregiving training in subsection (1) above if the caregiver successfully completes the department designated modified fundamentals of caregiving training in accordance with the dates specified in subsection (1) above.

(3) Contractors who meet the prescribed criteria may be approved by the department to provide the department's designated caregiver training programs within the facility.

(4) Volunteers are exempt from the training requirements listed above unless they provide unsupervised direct personal care to residents.

(5) The contractor shall document that caregivers have met the education and training requirements.

#### NEW SECTION

**WAC 388-110-120 Resident personal funds.** (1) Upon the death of a resident, the facility shall promptly convey the resident's personal funds held by the facility with a final accounting of such funds to the department or to the individual or probate jurisdiction administering the resident's estate no later than forty-five calendar days after the date of the resident's death:

(a) When the personal funds of the deceased resident shall be paid to the state of Washington, those funds and the final accounting shall be made payable to the secretary, department of social and health services, and sent to the office of financial recovery, estate recovery unit, P.O. Box 9501, Olympia, Washington 98507-9501, or such address as may be directed by the department in the future;

(b) The check and final accounting accompanying the payment shall contain the name and social security number of the deceased individual from whose personal funds account the monies are being paid; and

(c) The department of social and health services shall establish a release procedure for use of funds necessary for burial expenses.

(2) In situations where the resident is absent from the facility for an extended time without notifying the facility, and the resident's whereabouts is unknown:

(a) The facility shall make a reasonable effort to find the missing resident; and

(b) If the resident cannot be located after ninety days, the facility shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29

RCW. The facility shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(3) Prior to the change of contractor of the facility business, the contractor shall:

(a) Provide each resident with a written accounting of any personal funds held by the facility;

(b) Provide the new contractor with a written accounting of all resident funds being transferred; and

(c) Obtain a written receipt for those funds from the new operator.

## PART II

### ASSISTED LIVING SERVICES

#### NEW SECTION

**WAC 388-110-140 Assisted living services facility structural requirements.** (1) In a boarding home with an assisted living services contract, each resident shall have a private apartment-like unit with a private bathroom. Each unit shall have at least the following:

(a) In an existing facility, an individual unit with a minimum of one hundred eighty square feet including counters, closets and built-ins, and excluding the bathroom. In a new facility, an individual unit with a minimum of two hundred twenty square feet including counters, closets and built-ins, and excluding the bathroom;

(b) A separate private bathroom, which includes a sink, toilet, and a shower or bathtub. In a new facility, a minimum of fifty percent of resident bathrooms shall be wheelchair accessible and have a roll-in shower;

(c) A lockable entry door;

(d) A kitchen area equipped, at a minimum, with a refrigerator, a microwave oven or stovetop, and a counter or table for food preparation. In a new facility, a kitchen area must also be equipped with a sink and counter area, and storage space for utensils and supplies; and

(e) A living area wired for telephone and, where available in the geographic location, wired for television service.

(2) In a new facility, the contractor shall provide a private accessible mailbox in which the resident may receive mail.

(3) The contractor shall provide homelike smoke-free common areas with sufficient space for socialization designed to meet resident needs. Common areas shall be available for resident use at any time provided such use does not disturb the health or safety of other residents. When possible, access to outdoor areas shall be made available to all residents.

(4) The contractor shall provide a space for residents to meet with family and friends outside the resident's living unit.

(5)(a) For purposes of this section, a new facility is:

(i) A new building to be used as a boarding home or part of a boarding home, for which plans are submitted to the department of health for construction review, as required by WAC 246-316-070, on or after the effective date of this chapter; or

(ii) An addition, modification, or alteration to an existing building, for which plans are submitted to the

department of health for construction review, as required by WAC 246-316-070, on or after the effective date of this chapter.

(b) All facilities that are not new facilities under subsection (5)(a) of this section, are existing facilities. An existing building, or portion thereof, that is converted to boarding home use shall be considered an existing facility unless there is an addition, modification or alteration to the existing building.

#### NEW SECTION

##### **WAC 388-110-150 Assisted living service standards.**

(1) The contractor shall ensure that both the physical environment and the delivery of assisted living services are designed to enhance autonomy in ways which reflect personal and social values of dignity, privacy, independence, individuality, choice and decision-making of residents. The contractor shall provide the resident services in a manner which:

- (a) Makes the services available in a homelike environment for residents with a range of needs and preferences;
- (b) Facilitates aging in place by providing flexible services in an environment that accommodates and supports the resident's individuality;
- (c) Supports managed risk which includes the resident's right to take responsibility for the risks associated with decision-making; and
- (d) Develops a formal written, negotiated plan to decrease the probability of a poor outcome when a resident's decision or preference places the resident or others at risk, leads to adverse consequences, or conflicts with other residents' rights or preferences.

(2) Building on the department's assessment and service plan completed before admission, the contractor shall complete a negotiated service agreement within thirty days of move-in. The contractor shall involve the following persons in the negotiation and renegotiation of the agreement:

- (a) The resident to the greatest extent practicable;
- (b) Appropriate facility staff;
- (c) The department's case manager; and
- (d) If the resident chooses, the resident's family or any other person the resident wants included.

(3) The contractor shall ensure the negotiated service agreement:

- (a) Includes recognition of the resident's capabilities and choices, and defines the division of responsibility in the implementation of services;
- (b) Addresses, at a minimum, the following elements: assessed health care needs; social needs and preferences; personal care tasks; and if applicable, limited nursing and medication services, including frequency of service and level of assistance;
- (c) Is signed and approved by the resident, the contractor, and the department case manager; and
- (d) Includes the date the agreement was approved.

(4) The contractor shall provide the resident and case manager with a copy of the agreement, and place a copy in the resident's record.

(5) The contractor shall update the agreement when there are changes in the services the resident needs and

wants to receive. At a minimum, the contractor shall review and update the negotiated service agreement semiannually.

(6) The contractor shall provide personal care services based on the resident's negotiated service agreement.

(7) The contractor shall provide the range of services required to meet the increasing or changing needs of residents as they age in place to the maximum extent permitted by the boarding home regulations.

(8) The contractor shall provide or arrange for limited nursing services to meet the needs of residents who require nursing services, at no additional cost to the resident.

(9) The contractor shall provide written policies and procedures that ensure the facility will provide limited nursing services and will allow additional on-site health care services to the maximum extent allowed under chapter 246-316 WAC, and if requested, shall assist the resident to obtain the additional on-site health care services.

(10) If requested or needed by the resident, the contractor shall assist the resident to obtain, arrange, and coordinate services such as: transportation to medical services and recreational activities; ancillary services for medically related care (e.g., physician, pharmacist, mental health services, physical or occupational therapy, hospice, home health care, podiatry); barber/beauty services; and other services necessary to support and assist the resident in maintaining as much independence as possible.

(11) The contractor shall make available and offer at no additional cost to the resident generic personal care items needed by the resident such as soap, shampoo, toilet paper, toothbrush, toothpaste, deodorant, sanitary napkins, and disposable razors. This does not include items covered by medical coupons or preclude residents from choosing to purchase their own personal care items.

(12) The contractor shall provide all residents with access to an on-site washing machine and dryer for resident use.

(13) The contractor shall make beverages and snacks available to residents.

(14) The contractor shall develop written policies and procedures to be followed by staff and shared with residents which illustrate how employees shall deliver services to residents while ensuring resident's privacy, dignity, choice, independence, individuality and decision-making ability.

#### NEW SECTION

##### **WAC 388-110-170 Education and training requirements.**

(1) Any administrator hired after the effective date of this chapter shall have completed forty hours of training regarding assisted living services, resident rights, and the social model of services within the first six months of employment. All administrators shall have ten hours of continuing education credits per calendar year.

(2) The contractor shall provide and document a minimum of five hours of training for all staff regarding assisted living services, resident rights, the social model of services, and service planning for residents.

NEW SECTION

**WAC 388-110-180 Nurse delegation training and registration.** Before performing any delegated nursing task, facility staff must:

- (1) Be a nursing assistant certified or registered under chapter 18.88A RCW; and
- (2) Attend and successfully complete department designated core delegation training.

NEW SECTION

**WAC 388-110-190 Performance of delegated nursing care tasks.** (1) Facility staff who have been delegated a nursing care task in compliance with requirements established by the nursing care quality assurance commission shall perform the task:

- (a) In compliance with all requirements and protocols established by the commission in WAC 246-840-910 through 246-840-980;
  - (b) Only for the specific resident who was the subject of the delegation; and
  - (c) Only with the resident's consent.
- (2) The delegated authority to perform the nursing care task is not transferrable to another nurse assistant.
- (3) Facility staff may consent to perform a delegated nursing care task, and shall be responsible for their own actions with regard to the decision to consent to the performance of the delegated task.

NEW SECTION

**WAC 388-110-200 Nurse delegation—Penalties.** The department shall impose a civil fine on any contractor that knowingly performs or knowingly permits an employee to perform a nursing task except as delegated by a nurse pursuant to chapter 18.79 RCW and chapter 246-840 WAC as follows:

- (a) Two hundred fifty dollars for the first time the department finds an unlawful delegation;
- (b) Five hundred dollars for the second time the department finds an unlawful delegation; and
- (c) One thousand dollars for the third time or more the department finds an unlawful delegation.

NEW SECTION

**WAC 388-110-210 Client service eligibility.** The contractor shall provide assisted living services only to persons eligible for COPES level of services under WAC 388-15-202 through 388-15-205 and WAC 388-15-600 through 388-15-620 as determined by the department or the department's designee.

**PART III**

**ENHANCED ADULT RESIDENTIAL CARE**

NEW SECTION

**WAC 388-110-220 Enhanced adult residential care service standards.** (1) The contractor shall complete a negotiated service agreement within thirty days of move-in with participation from the resident and the department's

case manager, consistent with the general service standards set forth in WAC 388-110-070.

(2) The agreement shall include what services shall be provided, who will provide the services, and when and how the services will be provided.

(3) The service agreement shall support the principles of dignity, privacy, choice in decision making, individuality, and independence.

(4) At a minimum, the contractor shall review and update the negotiated service agreement semi-annually, give a copy of the agreement to the resident and case manager, and keep a copy in the resident's record.

(5) The contractor shall provide personal care services based on the resident's negotiated service agreement.

(6) The contractor shall provide or arrange for limited nursing services to meet the needs of residents who require nursing services, at no additional cost to the resident.

(7) The contractor shall allow a maximum of two residents per room.

NEW SECTION

**WAC 388-110-230 Client eligibility.** The contractor shall provide enhanced adult residential care services only to persons eligible for COPES level of services under WAC 388-15-202 through 388-15-205 and WAC 388-15-600 through 388-15-620 as determined by the department or the department's designee.

**PART IV**

**ADULT RESIDENTIAL CARE**

NEW SECTION

**WAC 388-110-240 Adult residential care service standards.** (1) The contractor shall complete a negotiated service agreement within thirty days of move-in with participation from the resident and the department's case manager, consistent with the general service standards set forth in WAC 388-110-070.

(2) The agreement shall include what services shall be provided, who will provide the services, and when and how the services will be provided.

(3) The service agreement shall support the principles of dignity, privacy, choice in decision making, individuality, and independence.

(4) At a minimum, the contractor shall review and update the negotiated service agreement semi-annually, give a copy of the agreement to the resident and case manager, and keep a copy in the resident's record.

(5) The contractor shall provide personal care services based on the resident's negotiated service agreement.

NEW SECTION

**WAC 388-110-250 Client service eligibility.** The contractor shall provide adult residential care services only to persons eligible for community-based services under WAC 388-15-562, 388-15-610, or 388-15-830 as determined by the department or the department's designee.

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## PART V

## REMEDIES FOR ASSISTED LIVING AND ENHANCED ADULT RESIDENTIAL CARE

NEW SECTION

**WAC 388-110-260 Remedies.** (1) The department may take one or more of the actions listed in subsection (3)(a) of this section in any case in which the department finds that a contractor of assisted living services or enhanced adult residential care services has:

(a) Failed or refused to comply with the applicable requirements of chapter 74.39A RCW, of chapter 70.129 RCW or of this chapter;

(b) Operated without a license or under a revoked license;

(c) Knowingly, or with reason to know, made a false statement of material fact on his or her application for a contract or any data attached thereto, or in any matter under investigation by the department; or

(d) Willfully prevented or interfered with any inspection or investigation by the department.

(2)(a) For failure or refusal to comply with any applicable requirements of chapter 74.39A RCW, of chapter 70.129 RCW or of this chapter, the department may provide consultation and shall allow the contractor a reasonable opportunity to correct before imposing remedies under subsection (3)(a) unless the violations pose a serious risk to residents, are recurring or have been uncorrected.

(b) When violations of this chapter pose a serious risk to a resident, are recurring or have been uncorrected, the department shall impose a remedy or remedies listed under subsection (3)(a). In determining which remedy or remedies to impose, the department shall take into account the severity of the impact of the violations on residents and which remedy or remedies are likely to improve resident outcomes and satisfaction in a timely manner.

(3)(a) Actions and remedies the department may impose include:

(i) Refusal to enter into a contract;

(ii) Imposition of reasonable conditions on a contract, such as correction within a specified time, training, and limits on the type of clients the provider may admit or serve;

(iii) Imposition of civil penalties of not more than one hundred dollars per day per violation;

(iv) Suspension, termination, or refusal to renew a contract; or

(v) Order stop placement of persons under the contract.

(b) When the department orders stop placement, the facility shall not admit any person under the contract until the stop placement order is terminated. The department may approve readmission of a resident to the facility from a hospital or nursing home during the stop placement. The department shall terminate the stop placement when the department determines that:

(i) The violations necessitating the stop placement have been corrected; and

(ii) The provider exhibits the capacity to maintain adequate care and service.

(c) Conditions the department may impose on a contract include, but are not limited to the following:

(i) Correction within a specified time;

(ii) Training related to the violations; and

(iii) Discharge of any resident when the department determines discharge is needed to meet that resident's needs or for the protection of other residents.

(d) When a contractor fails to pay a fine when due under this chapter, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from the contract payment.

NEW SECTION

**WAC 388-110-270 Notice, hearing rights, effective dates relating to imposition of remedies.** (1) Chapter 34.05 RCW applies to department actions under this chapter and chapter 74.39A RCW, except that orders of the department imposing contracts suspension, stop placement, or conditions for continuation of a contract are effective immediately upon notice and shall continue pending any hearing.

(2) Civil monetary penalties shall become due twenty eight days after the contractor is served with a notice of the penalty unless the contractor requests a hearing in compliance with chapter 34.05 RCW and RCW 43.20A.215. If a hearing is requested, the penalty becomes due ten days after a final decision in the department's favor is issued. Interest shall accrue beginning thirty days after the department serves the contractor with notice of the penalty at a rate of one percent per month in accordance with RCW 43.20B.695.

(3) A person contesting any decision by the department to impose a remedy shall within twenty-eight days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, PO Box 2465, Olympia, WA 98504; and

(b) Include in or with the application:

(i) The grounds for contesting the department decision; and

(ii) A copy of the contested department decision.

(4) Administrative proceedings shall be governed by chapter 34.05 RCW, RCW 43.20A.215, where applicable, this section, and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

NEW SECTION

**WAC 388-110-280 Dispute resolution.** (1) When a contractor disagrees with the department's finding of a violation under this chapter, the contractor shall have the right to have the violation reviewed under the department's dispute resolution process. Requests for review shall be made to the department within ten days of receipt of the written finding of a violation.

(2) When requested by a contractor, the department shall expedite the dispute resolution process to review violations upon which a department order imposing contract suspension, stop placement, or a contract condition is based.

(3) Orders of the department imposing contracts suspension, stop placement, or conditions for continuation of a contract are effective immediately upon notice and shall continue pending dispute resolution.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-15-900 Authority.
- WAC 388-15-905 Assisted living services.
- WAC 388-15-910 Definitions.
- WAC 388-15-915 Facility structural requirements.
- WAC 388-15-920 Service requirements.
- WAC 388-15-925 External or additional services coordinated by the contractor.
- WAC 388-15-935 Contract application process.
- WAC 388-15-940 Change of parties to the contract.
- WAC 388-15-945 Client eligibility.
- WAC 388-15-950 Relocation criteria.
- WAC 388-15-955 Assisted living services contract payment procedures.

**WSR 96-11-055**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fisheries)

[Order 96-43—Filed May 9, 1996, 4:05 p.m.]

Date of Adoption: March 5, 1996.  
 Purpose: Amend commercial fishing rules.  
 Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-44-030 and 220-44-050.  
 Statutory Authority for Adoption: RCW 75.08.080.  
 Adopted under notice filed as WSR 96-03-154 on  
 January 24, 1996.

Changes Other than Editing from Proposed to Adopted Version: Setline gear allowed in Area 29; setline limitation of thirty percent of fish on board not to exceed 100 pounds may be rockfish and/or lingcod.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 1, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 2, 1996  
 Judith Freeman  
 Deputy  
 for Robert Turner  
 Director

**AMENDATORY SECTION** (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

**WAC 220-44-030 Coastal bottomfish gear.** It is unlawful to take, fish for, possess, transport through the waters of the state or land in any Washington state ports, bottomfish taken for commercial purposes in Marine Fish-Shellfish Management and Catch Reporting Areas 29, 59A, 59B, 60A and that portion of Area 58 within the United States 200-mile Fishery Conservation Zone with any gear except as provided in this section:

- (1) Otter trawl and beam trawl.
- (a) It is unlawful to use, operate or carry aboard any fishing vessel otter trawl gear having meshes measuring less than 3 inches anywhere in the net.
- (b) It is unlawful to use or operate any bottom roller or bobbin trawl having meshes less than 4.5 inches anywhere in the net. ~~((A bottom roller or bobbin trawl must have a minimum of two continuous riblines sewn to the net and extending from the mouth of the trawl net to the terminal end of the codend if the fishing vessel is simultaneously carrying aboard a net of less than 4.5 inch minimum mesh size.~~

~~Chafing gear must not be connected directly to the terminal (closed) end of the codend. For all bottom roller or bobbin trawls, chafing gear must have a minimum mesh size of 15 inches unless only the bottom one half (underside) of the codend is covered by chafing gear.~~

~~((e))~~ (e) On roller or bobbin trawls, chafing gear covering the upper one half (top side) of the codend must have a minimum mesh size of 6.0 inches.) Rollers, bobbins, or discs used in roller or bobbin trawls must be a minimum of 14 inches in diameter.

~~((d))~~ (c) It is unlawful to use or operate a pelagic trawl with meshes less than 3.0 inches anywhere in the net. ~~((Chafing gear covering the upper one half (top side) of the codend must have a minimum mesh size of 6 inches.))~~ Footropes of pelagic trawls must be less than 1.75 inches in diameter, including twine necessary for seizing material. Sweeplines, including the bottom leg of the bridle, must be bare.

(d) For at least 20 feet immediately behind the footrope or headrope, bare rope or mesh of 16-inch minimum mesh size must completely encircle the net. A band of mesh may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: Over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(e) Chafing gear may encircle no more than 50 percent of the circumference of any bottom, roller, bobbin or pelagic trawl except as specified in (d) of this subsection. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

~~((e))~~ (f) It is unlawful to use double wall codends in any trawl gear.

~~((f))~~ (g) Licensing: A food fish trawl—non-Puget Sound fishery license is the license required to operate the gear provided for in this section. Additionally a federal

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limited entry permit is required in Areas 59A, 59B, 60A and that portion of Area 58 within the Exclusive Economic Zone.

(h) Area restriction: It is unlawful to use bottom roller, bobbin or disc trawl or to use a foot rope greater than 5 inches in diameter in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(2) Set lines.

(a) It is unlawful for the operator of set lines to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Set lines must be attended at least once every seven days. Set lines must be marked at the surface at each terminal end with a pole, flag, light, radar reflector, and a buoy displaying clear identification of the owner or operator.

(b) Licensing: A food fish set line fishery license is the license required to operate the gear provided for in this section.

(c) Area restriction: It is unlawful to use set line gear in state territorial waters (0-3 miles) within Areas 59A, 59B, 60A and that portion of Area 58 within the Exclusive Economic Zone.

(3) Bottomfish pots.

(a) It is unlawful for the operator of bottomfish pots to leave such gear unattended unless marked as provided in WAC 220-20-010(5). Bottomfish pots must be attended at least once every seven days. Bottomfish pots set individually must be marked at the surface with a pole and a flag, light, or radar reflector, and a buoy displaying clear identification of the owner. Bottomfish pots laid on a groundline must be marked at the surface at each terminal end of the groundline with a pole and a flag, light, and radar reflector, and a buoy displaying clear identification of the owner or operator.

(b) Licensing: A bottomfish pot fishery license is the license required to operate the gear provided for in this section.

(c) Area restriction: It is unlawful to use bottomfish pots in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(4) Commercial jig gear.

(a) Licensing: A bottomfish jig fishery license is the license required to operate the gear provided for in this section.

(b) Area restriction: It is unlawful to use commercial jig gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(5) Troll lines.

(a) Licensing: A bottomfish troll fishery license is the license required to operate the gear provided for in this section.

(b) Area restriction: It is unlawful to use bottomfish troll gear in state territorial waters (0-3 miles) within the catch areas provided for in this section.

(6) Incidental catch.

(a) It is lawful to retain bottomfish taken incidental to any lawful salmon fishery, up to a daily limit of 100 pounds or 30% of all fish on board, whichever is greater. No more than one trip per day provided the bottomfish could be lawfully taken.

(b) It is unlawful to take salmon incidental to any lawful bottomfish fishery.

(c) It is lawful to retain sturgeon taken incidental to any lawful bottomfish fishery, provided the sturgeon could be lawfully taken.

(d) It is unlawful to retain any species of shellfish taken incidental to any lawful bottomfish fishery, except that it is lawful to retain octopus and squid.

AMENDATORY SECTION (Amending Order 95-29, filed 4/4/95, effective 5/5/95)

**WAC 220-44-050 Coastal bottomfish catch limits.**

It is unlawful to possess, transport through the waters of the state, or land in any Washington state port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the species indicated. All weights are in round pounds:

(1) The following definitions apply to this section:

(a) Cumulative limit. A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

(b) Two-month cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per two fixed-calendar month period, without a limit on the number of landings or trips. The fixed two-month periods are January-February, March-April, May-June, July-August, September-October and November-December. No more than sixty percent of any two-month cumulative limit may be taken and retained, possessed or landed per vessel in either calendar month of the fixed, two-month period. The two-month cumulative limit includes all fish harvested by a vessel during the two-month period, whether taken in limited entry or open access fisheries. Once a two-month cumulative limit has been achieved, an operator may begin fishing on the next two-month cumulative limit so long as the fish are not landed until after the beginning of the next two-month cumulative period.

(c) Vessel trip. A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

~~((e))~~ (d) Vessel trip limit. The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

~~((d))~~ (e) Daily trip limit. The maximum amount of fish that may be taken and retained, possessed, or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours local time.

~~((e))~~ (f) Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

~~((f))~~ (g) Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot

gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

~~((g))~~ (h) Dressed length - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

(2) Groundfish limited entry fishery limits. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all listed bottomfish species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29:

(a) Pacific Ocean perch - Two-month cumulative limit of ~~((6,000)) 10,000~~ pounds. No minimum size.

(b) Widow rockfish - Two-month cumulative limit of ~~((30,000)) 70,000~~ pounds. No minimum size.

(c) Shortbelly rockfish - No maximum poundage. No minimum size.

(d) Black rockfish - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), and fishing beyond the three-mile territorial limit is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(e) *Sebastes complex* - All species of rockfish except Pacific Ocean perch, widow, shortbelly and thornyhead (*Sebastes spp.*).

(i) North of Cape Lookout and south of Cape Lookout if no declaration has been made - Two-month cumulative limit of ~~((35,000)) 70,000~~ pounds, of which no more than ~~((14,000)) 32,000~~ pounds may be yellowtail rockfish and no more than ~~((6,000)) 18,000~~ pounds may be canary rockfish. No minimum size on any species in this category.

(ii) South of Cape Lookout - Two-month cumulative limit of ~~((50,000)) 100,000~~ pounds of which no more than ~~((30,000)) 70,000~~ pounds may be yellowtail rockfish and no more than ~~((6,000)) 18,000~~ pounds may be canary rockfish, provided the licensee has made a declaration as follows:

(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the department Montesano office at (360) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.

(B) The declaration must include: Vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano office at 48 Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port and notified the Montesano office during business hours.

(iii) There is a maximum two-month cumulative limit for landings from both north and south of Cape Lookout of ~~((50,000)) 100,000~~ pounds of which no more than ~~((30,000)) 70,000~~ pounds may be yellowtail rockfish and no more than ~~((6,000)) 18,000~~ pounds may be canary rockfish.

(iv) Wholesale fish dealers purchasing more than ~~((30,000)) 42,000~~ pounds of the *Sebastes complex* (~~or 14,000~~), 19,200 pounds of yellowtail rockfish or 10,800 pounds of canary rockfish must enter the declaration number on the fish receiving ticket.

(f) DTS Complex - (sablefish, dover sole and thornyhead rockfish) - Two-month cumulative limit of ~~((35,000)) 70,000~~ pounds, of which no more than 12,000 pounds may be sablefish and not more than 20,000 pounds may be thornyhead rockfish of which no more than 4,000 pounds may be shortspine thornyheads.

(g) Sablefish.

(i) Trawl vessels - ~~((Cumulative limit of 6,000 pounds. Vessel trip limit of 1,000 pounds or 25 percent of the DTS complex, whichever is greater (the sablefish allowance equals .33 x the combined weight of dover sole and thornyhead rockfish). In the trip limit, no))~~ Not more than 500 pounds (round weight) of sablefish per trip may be sablefish less than 22 inches total length. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(ii) Nontrawl vessels - Daily trip limit of 300 pounds (round weight). No minimum size. Effective 0001 hours September 1, 1996, no maximum poundage. Not more than 1,500 pounds or 3 percent of all sablefish aboard, per trip, may be sablefish less than 22 inches in length (15.5 inches dressed length).

(h) Pacific whiting - ~~((No))~~ Vessel trip limit of 10,000 pounds. No minimum size. Effective 0001 hours May 15, 1996, no maximum poundage.

(i) Lingcod - Two-month cumulative limit of ~~((20,000)) 40,000~~ pounds. Total length minimum size limit of 22 inches. Lingcod total length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only) weight, multiply the dressed weight by 1.1.

(3) Groundfish open access fishery limits. The following limits apply to the ground fish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and, unless otherwise provided, apply to all listed species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29. Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or exceed fifty percent of a ground fish limited entry fishery two-month cumulative limit:

(a) Sablefish - Daily trip limit of 300 pounds (round weight). No minimum size.

(b) Rockfish.

Vessel trip limit of 10,000 pounds. Cumulative trip limit of 35,000 pounds.

(c) Lingcod - Cumulative limit of 20,000 pounds. Total length minimum size limit of 22 inches. Lingcod total

length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed head on (gutted only) weight, multiply the dressed weight by 1.1.

(d) Thornyhead rockfish - Daily trip limit of 50 pounds (round weight). No minimum size.

(e) Setline gear in Area 29:

It is lawful to use setline gear in Area 29, except that it is unlawful to retain rockfish and lingcod with a cumulative weight greater than thirty percent of the weight of all fish aboard not to exceed 100 pounds. Maximum one vessel trip per day.

(4) It is unlawful for the operator of any vessel during unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative limit, vessel trip limit, or a daily trip limit.

(5) The fishers copy of all fish receiving tickets showing landings of species provided for in this section must be retained aboard the landing vessel for 90 days after landing.

#### WSR 96-11-058

#### PERMANENT RULES

#### PERSONNEL RESOURCES BOARD

[Filed May 10, 1996, 9:43 a.m., effective June 6, 1996]

Date of Adoption: May 9, 1996.

Purpose: These modifications were necessary to be in compliance with new legislative requirements regarding shared leave.

Citation of Existing Rules Affected by this Order:  
Amending WAC 356-18-112.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-08-083 on April 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The effective date of June 6, 1996, is necessary to be in compliance with new legislation which becomes effective June 6, 1996.

Effective Date of Rule: June 6, 1996.

May 9, 1996  
Dennis Karras  
Secretary

AMENDATORY SECTION (Amending WSR 91-07-055 (Order 371), filed 3/19/91, effective 5/1/91)

**WAC 356-18-112 Shared leave.** (1) The purpose of the state leave sharing program is to permit state employees to donate vacation leave, sick leave, or personal holidays to a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. An employee is eligible to request participation in the shared leave program when the employee is able to use accrued vacation leave, sick leave, or a personal holiday. For purposes of the Washington state leave sharing program, the following definitions apply:

(a) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

(b) "Employee's relative" normally shall be limited to the employee's spouse, child, stepchild, grandchild, grandparent, or parent.

(c) "Household members" is defined as persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. This term shall include foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house, when the living style is primarily that of a dormitory or commune.

(d) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

(2) An employee may be eligible to receive shared leave under the following conditions:

(a) The employee's agency head determines that the employee meets the criteria described in this section.

(b) ~~((The employee is not eligible for time loss compensation under chapter 51.32 RCW. If the time loss claim is approved at a later time, all leave received shall be returned to the donors, and the employee will return any and all overpayments to the agency.))~~ For work related illness or injury, the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.

(c) The employee has abided by agency policies regarding the use of sick leave.

(d) Donated ~~((vacation))~~ leave is transferable between employees in different state agencies with the agreement of both agency heads.

(3) An employee may donate vacation leave, sick leave, or personal holiday to another employee only under the following conditions:

(a)(i) The receiving employee has exhausted, or will exhaust, his or her vacation leave, and sick leave due to an illness, injury, impairment, or physical or mental condition, which is of an extraordinary or severe nature, and involves the employee, the employee's relative or household member; and

(ii) The condition has caused, or is likely to cause, the employee to go on leave without pay or terminate state employment; and

(iii) The agency head permits the leave to be shared with an eligible employee.

(b) The donating employee may donate any amount of vacation leave provided the donation does not cause the employee's vacation leave balance to fall below eighty hours.

(c) Employees may not donate excess vacation leave that the donor would not be able to take due to an approaching anniversary date.

(d) The donating employee may donate any specified amount of sick leave provided the donation does not cause the employee's sick leave balance to fall below four hundred eighty hours after the transfer. In no event will the donating employee transfer more than six days of sick leave during any 12-month period.

(e) The donating employee may donate all or part of a personal holiday.

(4) The agency head shall determine the amount of donated leave an employee may receive and may only authorize an employee to use up to a maximum of two hundred sixty one days of shared leave during total state employment, except that a nonpermanent employee who is eligible to use accrued (~~vacation~~) leave or personal holiday may not use shared leave beyond the earlier date of:

(a) The termination date specified in the nonpermanent employee's appointment letter, or

(b) Nine months or 1560 nonovertime hours from date of appointment to the nonpermanent position; unless extended by the director per WAC 356-30-065(4), 356-30-067(6), and 356-30-140(6).

(5) The agency head shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

(6) Any donated leave may only be used by the recipient for the purposes specified in this section.

(7) The receiving employee shall be paid his or her regular rate of pay; therefore, one hour of shared leave may cover more or less than one hour of the recipient's salary. The calculation of the recipient's leave value shall be in accordance with office of financial management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received will be coded as shared leave and be maintained separately from all other leave balances.

(8) All forms of paid leave available for use by the recipient must be used prior to using shared leave.

(9) Any shared leave not used by the recipient during each incident/occurrence as determined by the agency director shall be returned to the donor(s). The shared leave remaining will be divided among the donors on a prorated basis based on the original donated value and returned at its original donor value and reinstated to each donor's (~~vacation~~) appropriate leave balance.

(10) All donated leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating (~~vacation~~) leave for purposes of this program.

(11) Agencies shall maintain records which contain sufficient information to provide for legislative review.

(12) An employee who uses leave that is transferred under this section will not be required to repay the value of the leave that he or she used.

## WSR 96-11-059

### PERMANENT RULES

### PERSONNEL RESOURCES BOARD

[Filed May 10, 1996, 9:44 a.m., effective June 6, 1996]

Date of Adoption: May 9, 1996.

Purpose: These modifications were necessary to be in compliance with new legislative requirements regarding shared leave.

Citation of Existing Rules Affected by this Order: Amending WAC 251-22-250, 251-22-270, 251-22-280, and 251-22-290.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-08-084 on April 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 4, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 4, amended 0, repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The effective date of June 6, 1996, is necessary to be in compliance with new legislation which becomes effective June 6, 1996.

Effective Date of Rule: June 6, 1996.

May 9, 1996  
Dennis Karras  
Secretary

AMENDATORY SECTION (Amending WSR 91-13-012, filed 6/7/91, effective 8/1/91)

**WAC 251-22-250 Shared leave.** The purpose of the Washington state leave sharing program is to permit state employees, at no significantly increased cost to the state of providing (~~annual~~) leave, to come to the aid of another state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. For purposes of the Washington state leave sharing program, the following definitions apply:

(1) "Employee's relative" normally shall be limited to the employee's spouse, child, stepchild, grandchild, grandparent, or parent.

(2) "Household members" is defined as persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. This term shall include, but is not limited to, foster children and legal wards. The term does not include persons sharing the same general

house when the living style is primarily that of a dormitory or commune.

(3) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

**AMENDATORY SECTION** (Amending WSR 89-22-019, filed 10/24/89, effective 12/1/89)

**WAC 251-22-270 Shared leave use.** (1) The agency/institution head shall determine the amount of leave, if any, which an employee may receive under these rules. However, an employee shall not receive more than two hundred sixty-one days of shared leave.

(2) The agency/institution head shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the employee's required absence, the description of the medical problem, and expected date of return-to-work status.

(3) The agency/institution head should consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time or special assignments in lieu of shared leave usage per WAC 251-10-070, 251-10-080, 251-10-090, 251-17-090, 251-18-180, 251-19-100, 251-19-105, and 251-24-030.

(4) Leave transferred under these rules may be transferred from employees of one agency/institution to an employee of the same agency/institution or, with the approval of the heads of both agencies/institutions, to an employee of another state agency/institution.

(5) Annual leave, sick leave, or all or part of a personal holiday transferred from a donating employee under these rules shall be used solely for the purpose stated in WAC 251-22-250.

(6) The receiving employee shall be paid his/her regular rate of pay; therefore, the value of one hour of shared leave may cover more or less than one hour of the recipient's salary.

**AMENDATORY SECTION** (Amending WSR 89-22-019, filed 10/24/89, effective 12/1/89)

**WAC 251-22-280 ((Annual)) ((h)) Leave donation.** An employee may donate annual leave, sick leave, or personal holiday to another employee for purposes of the Washington state leave sharing program under the following conditions:

(1) The employee's agency/institution head approves the employee's request to donate a specified amount of annual leave to an employee authorized to receive shared leave; and

~~((2))~~ (a) The employee's request to donate leave will not cause his/her annual leave balance to fall below ten days; and

~~((3))~~ (b) Employees may not donate excess vacation leave that they would not be able to take due to an approaching anniversary date; and

(2) The employee's agency/institution head approves the employee's request to donate a specified amount of sick leave to an employee authorized to receive shared leave; and

(a) The employee's request to donate leave will not cause his/her sick leave balance to fall below four hundred eighty hours after the transfer; and

(b) In no event will a donating employee transfer more than six days of sick leave during any 12-month period.

(3) Employee's agency/institution head approves the employee's request to donate all or part of his or her personal holiday to an employee authorized to receive shared leave.

(4) No employee may be intimidated, threatened, or coerced into donating leave for purposes of this program.

**AMENDATORY SECTION** (Amending WSR 89-22-019, filed 10/24/89, effective 12/1/89)

**WAC 251-22-290 Shared leave administration.** (1) The calculation of the recipient's leave value shall be in accordance with applicable office of financial management policies, regulations, and procedures. The leave received will be coded as shared leave and be maintained separately from all other leave balances. All compensatory time, sick leave, and annual leave accrued must be used prior to using shared leave.

(2) An employee on leave transferred under these rules shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(3) All salary and wage payments made to employees while on leave transferred under these rules shall be made by the agency/institution employing the person receiving the leave.

(4) Where agency/institution heads have approved the transfer of leave by an employee of one agency/institution to an employee of another agency/institution, the agencies/institutions involved shall arrange for the transfer of funds and credit for the appropriate value of leave in accordance with office of financial management policies, regulations, and procedures.

(5) Leave transferred under this section shall not be used in any calculation to determine an agency's/institution's allocation of full-time equivalent staff positions.

(6) Any shared leave not used by the recipient shall be returned to the donor(s).

The remaining shared leave is to be divided on a pro rata basis among the donors and reinstated to the respective donors' ~~((annual))~~ appropriate leave balances based upon each employee's current salary rate at the time of the reversion.

(7) Unused shared leave may not be cashed out under WAC 251-22-090 but shall be returned to the donors per subsection (6) of this section.

(8) An employee who uses leave that is transferred under this section will not be required to repay the value of the leave that he or she used.

#### WSR 96-11-060

#### PERMANENT RULES

#### PERSONNEL RESOURCES BOARD

[Filed May 10, 1996, 9:45 a.m., effective June 6, 1996]

Date of Adoption: May 9, 1996.

Purpose: These modifications were necessary to be in compliance with new legislative requirements regarding veteran's preference in examinations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 356-22-220.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-08-085 on April 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The effective date of June 6, 1996, is necessary to be in compliance with new legislation which becomes effective June 6, 1996.

Effective Date of Rule: June 6, 1996.

May 9, 1996  
Dennis Karras  
Secretary

**AMENDATORY SECTION** (Amending WSR 84-14-006 (Order 207), filed 6/22/84)

**WAC 356-22-220** (~~(Examinations—)~~Veterans preference(~~(—Eligibility periods—Percentage allowance)~~) in examinations. (1) The term veteran as used in this rule shall include any person who has served in any branch of the armed forces of the United States during:

(a) World War II(~~(-)~~);

(b) (~~(†)~~)The Korean Conflict(~~(-)~~);

(c) (~~(†)~~)The Viet Nam Era, (~~(†)~~) beginning August 5, 1964 (~~(-)~~) and ending May 7, 1975(~~(†)~~);

(d) The Persian Gulf War, beginning August 2, 1990 and ending on the date prescribed by presidential proclamation or law;

(e) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: the crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor; or

(f) (~~(\*)~~)Who has received the armed forces expeditionary medal, Marine Corps expeditionary medal, or Navy expeditionary medal, for opposed action on foreign soil.

(2) Further, only persons who received an honorable discharge or who received a discharge for physical reasons with an honorable record or who were released from active duty under honorable circumstances shall be eligible for this veterans preference.

(3) In all competitive examinations, veterans shall be given a preference by adding to the passing grade, based

upon a possible rating of 100 points as perfect, a percentage of such passing grade under the following conditions:

(a) Ten percent to a veteran who is not receiving any veterans retirement payments. This preference shall be utilized until one of the examinations results in a veteran's first appointment and not in any promotional examination.

(b) Five percent to a veteran who is receiving any veterans retirement payments. This percentage shall be utilized until one of the examinations results in a veteran's first appointment and not in any promotional examination.

(c) Five percent to a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be utilized on the first promotional examination only.

(4) The above preference provisions must be claimed within eight years of the date of release from active service.

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

### WSR 96-11-061

#### PERMANENT RULES

#### PERSONNEL RESOURCES BOARD

[Filed May 10, 1996, 9:46 a.m., effective June 6, 1996]

Date of Adoption: May 9, 1996.

Purpose: These modifications were necessary to be in compliance with new legislative requirements regarding veteran's preference in examinations.

Citation of Existing Rules Affected by this Order:  
Amending WAC 251-17-150.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-08-086 on April 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The effective date of June 6, 1996, is necessary to be in compliance with new legislation which becomes effective June 6, 1996.

Effective Date of Rule: June 6, 1996.

May 9, 1996  
Dennis Karras  
Secretary

**WSR 96-11-062**  
**PERMANENT RULES**  
**PERSONNEL RESOURCES BOARD**  
[Filed May 10, 1996, 9:48 a.m., effective June 6, 1996]

**AMENDATORY SECTION** (Amending WSR 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88)

**WAC 251-17-150 Veterans preference.** (1) Veterans who claim veterans preference and meet the criteria specified in subsections (2) through (4) of this section shall have added to their final passing scores:

(a) Ten percent of the final passing score for a veteran who is not receiving any veteran's retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(b) Five percent of the final passing score for a veteran who is receiving any veteran's retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(c) Five percent of the final passing score for a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be limited to the first promotional examination following return from military service.

(2) Veterans preference must be claimed within eight years of the date of release from active service.

(3) The term "veteran" as used in these rules shall include every person who has received an honorable discharge or received a discharge for physical reasons with an honorable record and:

(a) Has served in any branch of the armed forces of the United States between World War I and World War II or during any period of war; or

(b) Has served in any branch of the armed forces of the United States and received the armed forces expeditionary medal, or Marine Corps and Navy expeditionary medal, for opposed action on foreign soil.

(4) A "period of war" includes:

(a) World War I((?));

(b) World War II((?));

(c) ((†))The Korean conflict((?));

(d) ((†))The Viet Nam era, beginning August 5, 1964 and ending on May 7, 1975;

(e) The Persian Gulf War, beginning August 2, 1990 and ending on the date prescribed by presidential proclamation or law;

(f) The following armed conflicts, if the participant was awarded the respective campaign badge or medal; the crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor; and

(g) ((†))The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress. ((The "Viet Nam era" means the period beginning August 5, 1964, and ending on May 7, 1975.))

Date of Adoption: May 9, 1996.

Purpose: These modifications were necessary to be in compliance with new legislative requirements regarding classification and compensation.

Citation of Existing Rules Affected by this Order: Amending WAC 356-10-020 and 356-06-080.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-08-087 on April 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 2, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 2, amended 0, repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The effective date of June 6, 1996, is necessary to be in compliance with new legislation which becomes effective June 6, 1996.

Effective Date of Rule: June 6, 1996.

May 9, 1996  
Dennis Karras  
Secretary

**AMENDATORY SECTION** (Amending WSR 95-19-054, filed 9/15/95, effective 10/16/95)

**WAC 356-10-020 Classification plan—Revision.** The director shall submit proposed revisions to the classification plan to the board for review and approval.

(1) The board shall hold open hearings on the proposals after 20 days' notice to employee organizations and agencies. The board may modify the proposals.

(2) ~~((However, beginning July 1, 1995,))~~ ((†))In adopting these revisions the board shall comply with Senate Bill S6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW.

**AMENDATORY SECTION** (Amending WSR 95-19-054, filed 9/15/95, effective 10/16/95)

**WAC 356-06-080 Personnel board—Powers—Duties.** It shall be the responsibility of the personnel board to:

(1) Establish general policies for the administration of merit system examinations and the hearing of personnel appeals.

(2) Make rules and regulations providing for employee participation in the development and administration of personnel policies.

(3) Hear personnel appeals.

(4) Promote public understanding of the purposes, policies, and practices of the merit system.

(5) Adopt and promulgate rules and regulations consistent with the purposes and provisions of the state civil service law and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The demotion, suspension, reduction in salary or dismissal of an employee and appeals therefrom.

(b) Certification of names for vacancies including departmental promotions.

(c) Examinations for all positions in the competitive and noncompetitive service.

(d) Appointments.

(e) Probationary periods of six to twelve months and rejections therein.

(f) Transfers.

(g) Sick and vacation leaves.

(h) Hours of work.

(i) Layoffs, when necessary, and subsequent reemployment.

(j) Agreements between agencies and certified exclusive representatives providing for grievance procedures and collective negotiations on personnel matters.

(k) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of duties and responsibilities of each position. ~~((However, beginning July 1, 1995;))~~ ~~((i))~~ In adopting these revisions the board shall comply with Senate Bill S6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW.

(l) Allocation and reallocation of positions within the classification plan.

(m) Adoption and revision of a state salary schedule to reflect not less than the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature, with adoption and revision subject to approval by the director of the office of financial management in accordance with the provisions of chapter 43.88 RCW.

(n) Training programs, including in-service, promotional and supervisory.

(o) Regular increments within the series of steps for each pay range, based on length of service for all employees whose standards of performance are such as to permit them to retain job status within the classified service.

(p) Compliance with existing veterans preference statutes.

## WSR 96-11-063

### PERMANENT RULES

### PERSONNEL RESOURCES BOARD

[Filed May 10, 1996, 9:49 a.m., effective June 6, 1996]

Date of Adoption: May 9, 1996.

Purpose: These modifications were necessary to be in compliance with new legislative requirements regarding classification and compensation.

Citation of Existing Rules Affected by this Order: Amending WAC 251-06-020 and 251-04-050.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 96-08-088 on April 3, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 2, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 2, amended 0, repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The effective date of June 6, 1996, is necessary to be in compliance with new legislation which becomes effective June 6, 1996.

Effective Date of Rule: June 6, 1996.

May 9, 1996

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 95-19-055, filed 9/15/95, effective 10/16/95)

#### WAC 251-06-020 Classification plan—Adoption. (1)

The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by the director for adoption, revision or rejection. After twenty calendar days' notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board.

~~(2) ((However, beginning July 1, 1995;)) ((i))~~ In adopting these revisions the board shall comply with Senate Bill S6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures.

AMENDATORY SECTION (Amending WSR 95-19-055, filed 9/15/95, effective 10/16/95)

#### WAC 251-04-050 Higher education personnel board.

(1) The higher education personnel board is composed of

three members appointed by the governor, subject to confirmation by the senate. Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the board or performs statutorily prescribed duties approved by the chairperson of the board. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally, in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) ~~(f)~~ The dismissal, suspension, or demotion of an employee, and appeals therefrom;

~~(b)~~ ~~(e)~~ Certification of names for vacancies, including promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists;

~~(c)~~ ~~(e)~~ Examination for all positions in the competitive and noncompetitive service;

~~(d)~~ ~~(e)~~ Appointments;

~~(e)~~ ~~(f)~~ Probationary periods of six to twelve months and rejections therein depending on the job requirements of the class;

~~(f)~~ ~~(f)~~ Transfers;

~~(g)~~ ~~(f)~~ Sick leaves and vacations;

~~(h)~~ ~~(f)~~ Hours of work;

~~(i)~~ ~~(f)~~ Layoffs when necessary and subsequent reemployment according to seniority;

~~(j)~~ ~~(d)~~ Determination of appropriate bargaining units within any institution or related board: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees;

~~(k)~~ ~~(e)~~ Certification and decertification of exclusive bargaining representatives;

~~(l)~~ ~~(e)~~ Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his/her official duties;

~~(m)~~ ~~(e)~~ Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position: ~~((However, beginning July 1, 1995,))~~ ~~((f))~~ In adopting these revisions the board shall comply with Senate Bill S6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW;

~~(n)~~ ~~(e)~~ Allocation and reallocation of positions within the classification plans;

~~(o)~~ ~~(e)~~ Adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC;

~~(p)~~ ~~(f)~~ Training programs including in-service, promotional, and supervisory;

~~(q)~~ ~~(f)~~ Increment increases within the series of steps for each pay grade; and

~~(r)~~ ~~(\*)~~ Veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance

factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.

**WSR 96-11-067**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed May 10, 1996, 11:12 a.m., effective January 1, 1997]

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 96-12 issue of the Register.

This filing contains revisions to chapter 296-305 WAC, Safety standards for fire fighters, adopted on May 10, 1996.

**WSR 96-11-072**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3980—Filed May 10, 1996, 3:44 p.m.]

Date of Adoption: May 10, 1996.

Purpose: Further clarify the rules implementing the "Becca" legislation of 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1315 Eligibility determination—Institutional and 388-513-1320 Institutional status.

Statutory Authority for Adoption: RCW 74.08.090.

Adopted under notice filed as WSR 96-08-037 on March 28, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 2, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

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

May 10, 1996

Philip A. Wozniak

for Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending Order 3895, filed 9/6/95, effective 10/7/95)

**WAC 388-513-1315 Eligibility determination—Institutional.** (1) The department shall find a person (~~residing in or expected to reside in a Medicaid-approved medical facility for at least thirty consecutive days~~) meeting the requirements of WAC 388-513-1320 eligible for institutional care, if the person:

(a) Is (~~Title XVI~~) SSI-related with (~~gross~~) countable income:

(i) Equal to or less than three hundred percent of SSI Federal Benefit Amount. The department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than three hundred percent of SSI federal benefit amount. The department shall determine a person's eligibility under the limited casualty (~~program~~)—medically needy program as determined under WAC 388-513-1395.

(b) Is AFDC-related with countable income:

(i) Equal to or less than the one-person program standard as described under WAC 388-505-0590, 388-508-0805, or 388-509-0960. The department shall determine a person's eligibility under the categorically needy program; and

(ii) Greater than the program standards as described under subsection (1)(b)(i) of this section. The department shall determine a person's eligibility under the limited casualty—medically needy program as determined under WAC 388-513-1395.

(c) Does not have nonexcluded resources, under WAC 388-513-1360 and 388-513-1365, greater than limitations under WAC 388-513-1310 and 388-513-1395(2)(~~e~~); and

(d) Is not subject to a period of ineligibility for transferring of resources under WAC 388-513-1365.

(2) The department shall determine (~~institutional~~) nursing facility residents eligible for institutional care when the amount of the resources in excess of the amount in WAC 388-513-1310 plus countable income are less than the nursing facility private rate plus (~~verifiable~~) recurring medical expenses.

(3) The department shall allocate a client's income and resources as described under WAC 388-513-1380.

(4) When both spouses are institutionalized, the department shall determine the eligibility of each spouse individually.

(5) The department shall determine eligibility for a person residing or expected to reside in a Medicaid-approved medical facility less than (~~thirty consecutive days~~) the amount of time needed to achieve institutional status in WAC 388-513-1320 as for a noninstitutionalized person.

(6) The department shall determine eligibility for an AFDC-related child under eighteen years of age residing or expected to reside in inpatient chemical dependency treatment or inpatient mental health treatment as described under WAC 388-506-0610 (1)(f).

(7) For (~~an~~) other institutionalized persons twenty years of age or (~~under~~) younger, the department shall not consider the income and resources of the parents available unless the income and resources are actually contributed.

(8) The department shall determine as eligible for Medicaid a person who:

(a) Meets institutional status as a psychiatric facility resident; and

(b) Is twenty years of age or younger or is sixty-five years of age or older.

(9) The department shall not consider a person's transfer between medical institutions as a change in institutionalized status.

((9)) (10) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

**AMENDATORY SECTION** (Amending Order 3732, filed 5/3/94, effective 6/3/94)

**WAC 388-513-1320 Institutional status.** (1) The department shall find that a person has achieved institutional status when the person is residing or expected to reside in a Medicaid-certified medical facility for a period of at least:

(a) Ninety consecutive days for an AFDC-related child seventeen years of age or younger in residential mental health or chemical dependency/substance abuse treatment; or

(b) Thirty consecutive days for an SSI-related person and AFDC-related persons other than as described under subsection (1)(a) of this section.

(2) The department shall consider a person receiving waived program services or hospice services to have achieved institutional status.

(3) The department shall make medical assistance available to an otherwise eligible person who ~~((is in a Medicaid-certified medical facility))~~ has achieved institutional status as described under subsection (1) or (2) of this section.

**WSR 96-11-073  
PERMANENT RULES  
GAMBLING COMMISSION**

[Filed May 13, 1996, 10:19 a.m., effective July 1, 1996]

Date of Adoption: May 10, 1996.

Purpose: To add "Bid Whist" and "Dominos" to the list of authorized social card games, and to allow the director to temporarily approve social card games for up to six months.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-010 and 230-46-100.

Statutory Authority for Adoption: RCW 9.46.0281, 9.46.070 (1), (2), (14), (20).

Adopted under notice filed as WSR 96-07-073 on March 19, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 2, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 2, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1996.

May 10, 1996

Michael Aoki-Kramer  
Rules and Policy Coordinator

**AMENDATORY SECTION** (Amending Order 252, filed 6/15/94, effective 7/16/94)

**WAC 230-40-010 Types of card games authorized.** Only card games that have been specifically authorized are allowed to be played in public or social card rooms licensed by the commission. The commission hereby authorizes the following card games:

(1) Poker - Any poker game described in *Hoyle's Modern Encyclopedia of Card Games*, by Walter B. Gibson, published by Doubleday and Company, Inc., April 1974, 1st edition, pages 219 through 277: *Provided*, That only a maximum of five betting rounds per hand are permitted.

(2) Hearts.

(3) Pinochle.

(4) Cribbage.

(5) Rummy.

(6) Mah-jongg (tiles).

(7) Pan.

(8) Pitch.

(9) Washington blackjack - as set forth in WAC 230-40-125.

(10) Pai-Gow poker.

(11) Pan-9.

(12) Bid-Whist.

(13) Dominos.

(14) Those games the director approves on a temporary, case-by-case basis upon application by a licensee for approval of a particular game. An application for approval of a game not specifically authorized must include the rules of play. Temporary approvals granted are valid for no more than six months or until adopted by the commission, whichever occurs first.

**AMENDATORY SECTION** (Amending WSR 94-23-007, filed 11/3/94, effective 1/1/95)

**WAC 230-46-100 Bona fide charitable/nonprofit organizations—Limited social card games without obtaining a license—Conditions.** Bona fide charitable or nonprofit organizations may, as defined by RCW 9.46.0209, allow limited social card games to be played upon their premises without obtaining a license under the conditions set out below:

(1) Only bona fide members of the organization and members of a chapter or unit organized under the same state, regional, or national chapter who are players, as defined by RCW 9.46.0265, are allowed to participate;

(2) No person is, directly or indirectly, charged a fee to participate;

(3) Only bona fide members of the organization and members of a chapter or unit organized under the same state, regional, or national charter, who are not compensated for

such services, are permitted to perform any work or service in support of such card games;

(4) The types of card games played are limited to the following: Provided, That a charitable or nonprofit organization may petition the director for approval of additional games on a case-by-case basis, which would be effective for no longer than six months or until approved by the commission whichever occurs first:

- (a) Hearts;
- (b) Rummy;
- (c) Pitch;
- (d) Pinochle;
- (e) Cribbage; ~~((and))~~
- (f) Bridge;
- (g) Bid Whist; and
- (h) Dominos; and

(5) All restrictions regarding the granting of credit, method and amount of wagers, and rules of play set out in this title and chapter 9.46 RCW are ~~((complied with))~~ followed.

**WSR 96-11-076**  
**PERMANENT RULES**  
**LIQUOR CONTROL BOARD**  
 [Filed May 13, 1996, 10:56 a.m.]

Date of Adoption: May 1, 1996.

Purpose: Permit wineries and agents thereof to remove wine from a bonded wine warehouse and deliver same to retail accounts providing taxes due have been paid.

Citation of Existing Rules Affected by this Order: Amending WAC 314-24-220.

Statutory Authority for Adoption: RCW 66.08.030 and 66.24.185.

Adopted under notice filed as WSR 96-07-100 on March 20, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 13, 1996  
 Nathan S. Ford, Jr.  
 Chairman

AMENDATORY SECTION (Amending Order 170, Resolution No. 179, filed 11/27/85)

**WAC 314-24-220 Licensing and operation of bonded wine warehouses.** (1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a Class N license. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board appropriate documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use. Wine not under federal excise tax bond shall be identified as federally tax-paid and physically separated on the premises to the extent required under the license holder's federal basic permit.

(3) A bonded wine warehouse may provide storage for a domestic winery and for a United States winery outside the state of Washington holding a Washington certificate of approval. The wine may or may not ~~((must))~~ be under federal bond, and the Washington wine tax provided in RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington wine wholesaler or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases.

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse.

(5) ~~((Shipments))~~ Removals of wine from ((the)) a bonded wine warehouse may be made only for ((be made)) shipment (a) to a licensed independent Washington wine wholesaler((s)); (b) to another licensed bonded wine warehouse; (c) to the liquor control board((s)); (d) out of state; (e) for return to the producing winery((s)); or (f) to a producing domestic winery licensee. ((another bonded wine warehouse or for export.)) For purposes of this section, "producing domestic winery licensee" means the licensed Washington winery that produced the wine and its licensed agents. For purposes of this section, a "licensed agent" shall be an accredited representative, licensed pursuant to WAC 314-44, of only one producing domestic winery at the time of removal by such agent. A producing domestic winery licensee may take possession of wine from a bonded wine warehouse, after accepting an order therefor, and deliver the wine to a purchasing retail or special occasion licensee only by transporting the wine directly from the bonded wine warehouse to the licensed premises of the purchasing retail or special occasion licensee; provided, however, that in no event may a producing domestic winery licensee remove, in the aggregate, during any one calendar year, more than two thousand cases of wine for delivery directly to retail and special occasion licensees. Producing domestic winery licensees shall maintain records of removals and deliveries of wine from bonded wine warehouses and shall file with the liquor control board annually reports of the quantity of wine

removed and delivered directly to retail and special occasion licensees. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine wholesalers, and/or the liquor control board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(6) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(7) "Storage of bottled wine only" as used in RCW 66.24.185(1) shall mean the storage of wine packaged for sale at retail (i.e., other than in bulk form).

(8) As a condition precedent to license issuance, a bonded wine warehouse licensee shall guarantee payment to the state of any and all taxes under RCW 66.24.210 in the event the winery or other entity storing wine in the bonded wine warehouse fails to immediately pay such tax when due. Such guarantee shall be in the form of the bond referred to in subsection (9) of this section.

(9) As required by RCW 66.24.185(5) every holder of a bonded wine warehouse license must, at all times when said license is in force, have in effect and on file with the board a bond executed by a surety authorized to do business in the state of Washington, in a form approved by the board and in the amount of five thousand dollars.

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

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

**WSR 96-11-077**  
**PERMANENT RULES**  
**STATE BOARD OF HEALTH**  
[Filed May 13, 1996, 2:50 p.m.]

Date of Adoption: May 13, 1996.

Purpose: Requires laboratories that perform blood lead tests on Washington residents or any individual or organization which sends samples to an out-of-state laboratory for analysis to report the test results to the state Department of Health.

Citation of Existing Rules Affected by this Order:  
Amending WAC 246-100-042.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 96-04-078 on February 7, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 9, 1996

Sylvia Beck

Executive Director

**AMENDATORY SECTION** (Amending Order 358, filed 4/28/93, effective 5/29/93)

**WAC 246-100-042 Reporting of blood lead levels.**

(1) Pursuant to WAC 246-100-041, the state health officer finds as follows:

(a) Adverse health effects resulting from elevated levels of lead in the blood has been acknowledged as a public health concern throughout the United States;

(b) Epidemiologic investigation based on reports of the results of blood level tests may contribute to the understanding of the condition, its prevalence within the state of Washington, and especially the extent to which the condition affects both children and those who may be exposed to lead in the work place;

(c) Rapid follow-up and appropriate management of potentially hazardous blood lead levels is necessary to assure safe public health, and assists in development of programs to prevent future lead over-exposure.

(2) **Definitions.** For the purposes of this section, the following words and phrases have the following meanings:

(a) "Blood lead level" means a measurement of lead content in whole blood.

(b) "Reporting organization" means any medical laboratory which performs blood lead analysis at a site within the state of Washington; or any individual or organization which sends blood specimens to an out-of-state medical laboratory for lead testing, including in-state organizations which receive blood specimens from other in-state individuals or organizations, and then send those specimens to an out-of-state testing laboratory.

(c) "Testing laboratory" means a medical laboratory which performs a blood lead analysis.

(3) **Reporting of blood lead levels.**

(a) A reporting organization shall report all blood lead levels to the department of health, including those which are within normal limits. The department of health shall send a copy of any report with a blood lead level equal to or greater than 40 micrograms per deciliter in adults, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, to the local health department serving the jurisdiction in which the tested person resides.

(b) An individual or organization which sends blood specimens to an out-of-state laboratory may fulfill its reporting obligation by arranging for the testing laboratory to submit adequate reports.

(c) Reports shall be made in a format approved by the department.

(d) For blood lead levels equal to or greater than 40 micrograms per deciliter for adults, or equal to or greater

than 20 micrograms per deciliter in children less than 15 years of age, the department must be notified by telephone, fax or mail within seven calendar days of the date test was performed, or if the test was performed by an out-of-state laboratory the date when the test result was received. Telephone reports must be supplemented by a written report submitted no later than the fifth business day of the next month after the telephone contact. In event age of patient is not known, the reporting organization shall follow the reporting schedule for children less than 15 years of age.

(e) For blood lead levels equal to or greater than 20 micrograms per deciliter in adults, or equal to or greater than 10 micrograms per deciliter in children less than 15 years of age, a report shall be made to the department no later than the fifth business day of the next month after the month in which the test was performed, or if the test was performed by an out-of-state laboratory the month during which the test result was received. In the event age of patient is not known, the reporting organization shall follow the reporting schedule for children less than 15 years of age.

(f) Information to be reported to the department for blood lead levels specified in parts (3)(d) and (3)(e) shall include the following:

- (i) Name of the person tested;
- (ii) Name of the reporting organization;
- (iii) Name of the testing laboratory;
- (iv) Date specimen received;
- (v) Blood lead level of person tested;
- (vi) Name of health care provider ordering test;
- (vii) Address or telephone number of health care provider ordering test, if available;
- (viii) Date of birth or the age of the person tested, if available;
- (ix) Sex of person tested, if available;
- (x) Race and ethnicity of person tested, if available;
- (xi) Whether blood specimen is venous or capillary, if available;
- (xii) Free erythrocyte or zinc protoporphyrin or zinc protoporphyrin/heme ratio, if performed, when available;
- (xiii) Address and occupation of the person tested, or if a child the parents' occupation, if available;
- (xiv) Name, address and telephone number of the employer, or if a child the parents' employer, if available;

(g) For all other blood lead levels, the reporting organization must either report the information specified in (3)(f) or submit a monthly summary report by the fifth day of the next month. The monthly summary must be categorized by the number of tests performed on specimens for children less than 15 years of age, the number of tests performed for individuals 15 years of age or older and the number of tests performed where patient's age is unknown. In each category the number of tests must be sorted by one of the following geographic indicators: patient county of residence, or patient postal zip code of residence, or provider county of practice, or provider postal zip code of practice.

(4) **Responsibilities of health care providers.** Upon request of a representative of the department of health or the department of labor and industries, a health care provider who has ordered a blood lead test shall provide the patient's address and telephone number to the department of health or the department of labor and industries, and when known the following information:

- (a) Circumstances of lead exposure;
- (b) Employer's name, address and telephone number, or, if a child, the same information on the employers of the parents;
- (c) Occupation of person tested, or, if a child, occupation of parents;
- (d) Type of industry of employer of person tested, or, if a child, type of industry of the employers of the parents;
- (e) Reason for drawing lead level.

(5) **Confidentiality.**

(a) The medical laboratory report and all patient information provided by the health care provider shall be maintained in a confidential manner as with other disease reports and are not subject to public disclosure in any form under which the patient may be identified.

(b) The department of labor and industries shall have full access to information collected pursuant to this section, for the purposes of research, analysis, and follow-up of blood lead levels.

(6) This rule shall apply to tests performed for blood specimens drawn between May 15, ~~((1993))~~ 1996, and May 14, ~~((1996))~~ 1999.

**WSR 96-11-078**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-44—Filed May 13, 1996, 3:50 p.m.]

Date of Adoption: April 15, 1996.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-100, 220-56-105, 220-56-124, 220-56-190, 220-56-191, 220-56-195, 220-56-205, 220-56-330, 220-56-350, 220-56-380, 220-57-130, 220-57-135, 220-57-137, 220-57-155, 220-57-175, 220-57-200, 220-57-215, 220-57-235, 220-57-240, 220-57-310, 220-57-319, 220-57-350, 220-57-370, 220-57-385, 220-57-425, 220-57-435, 220-57-450, 220-57-455, 220-57-460, 220-57-465, 220-57-473, and 220-57-495.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 95-22-111 on November 1, 1995; and WSR 96-05-005 on February 9, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-56-105, add Kettle and Spokane river mouth definitions; WAC 220-56-124, increase chum limit to 4 fish; WAC 220-56-190, coastal salmon limits set as per PFMC recommendations; WAC 220-56-191, Puget Sound salmon limits set as per PFMC recommendations; WAC 220-56-195, Dungeness Bay closure modified as per PFMC recommendations, Pipers Creek proposal withdrawn; WAC 220-56-205, Naselle, Satsop, Stillaguamish and Skykomish rivers include all forks; South Fork Nooksack upstream from Skookum Creek June 1 - September 30; withdrew the following waters: Big Bear Creek, Carbon River, Lake Washington Ship Canal, Little Bear Creek, North River, Trap Creek, Williams Creek; WAC 220-56-310, withdrawn; WAC 220-56-330, all new verbiage withdrawn. Ring net gear allowed during Hood Canal shrimp season; WAC 220-

56-350, clam openings changed to reflect resource availability as per beach survey; WAC 220-56-380, oyster openings changed to reflect resource availability as per beach survey; chapter 220-57 WAC, changes were made to the following sections: WAC 220-57-130, 220-57-135, 220-57-137, 220-57-155, 220-57-175, 220-57-200, 220-57-215, 220-57-235, 220-57-240, 220-57-310, 220-57-319, 220-57-350, 220-57-370, 220-57-385, 220-57-425, 220-57-435, 220-57-450, 220-57-455, 220-57-460, 220-57-465, 220-57-473, and 220-57-495. All other sections withdrawn; WAC 220-57A-175 and 220-57A-180 withdrawn.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 2, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 30, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 13, 1996  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**AMENDATORY SECTION** (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

**WAC 220-56-100 Definitions—Personal use.** (1) "Daily limit" means the maximum number or pounds of food fish, shellfish or seaweed of the required size of a given species or aggregate of species which a person may legally retain in a single day.

(2) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

"In the field or in transit" means any place other than ((in)) at the residence or residential equivalency of the harvester or ((in)) at a residence where the harvester is an invited guest. A residential equivalency is any temporary domicile that has sleeping, cooking and toilet facilities, and includes hotels and motels, motorhomes, the living quarters of vessels so equipped, camp trailers, and enclosed areas within fishing and hunting camps where a reasonable expectation of privacy is demonstrated, but does not include cold storage lockers, charter boats, or public facilities.

(3) "Hook" means one single, double or treble hook. A "single hook" means a hook having a single point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank. "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(4) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber, or plastic which does not use scent and/or flavoring to attract fish.

"Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

"Bait" means any substance which attracts fish by scent and/or flavors. Bait includes any device made of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber, or plastic which uses scent and/or flavoring to attract fish.

(5) The term "processed" as it applies in this chapter is defined as food fish or shellfish which have been processed by heat for human consumption as kippered, smoked, or canned fish and is exclusive of iced, frozen, or salted fish.

(6) The term "fresh fish" is defined as salmon or other food fish which has not been processed by heat for human consumption and is inclusive of iced, frozen, or salted fish except that fresh fish as provided in WAC 220-56-180 shall not include frozen.

(7) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(8) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

"Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

"Spearing" or "spear fishing" means an effort to take fish by impaling the fish on a shaft, arrow, or other device.

(9) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(10) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.

(11) The term "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the lighthouse on Tatoosh Island to the buoy adjacent Duntz Rock then to Bonilla Point on Vancouver Island.

(12) The term "Buoy 10 Line" is defined as a true north-south line projected through Buoy 10 near the mouth of the Columbia River.

(13) The term "Buoy 10 Fishery" is defined as a fishery between the down stream side of the Megler-Astoria Bridge and the Buoy 10 Line.

(14) The term "Channel Marker 13 Line" is defined as a true north-south line through Grays Harbor Channel Marker 13.

AMENDATORY SECTION (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

**WAC 220-56-105 River mouth definitions.** When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

Deschutes River - A line projected across the river 400 feet below the lower Tumwater Falls fish ladder.

Drano Lake - Highway 14 Bridge.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Entiat River - Highway 97 Bridge.

Hoquiam River - Highway 101 Bridge.

Humtulsips River - Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.

Kettle River - Napoleon Bridge.

Lake Washington Ship Canal - A line 400 feet west of the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a boundary marker on a piling at Austin Point southerly across the Lewis River to a boundary marker on the opposite shore.

Methow River - Highway 97 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - 68th Avenue NE Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River - Lynn Point 117 degrees true to the opposite shore.

Spokane River - State Route 25 Bridge.

Tucannon River - State Highway 261 Bridge.

Wallace River - The furthest downstream railroad bridge.

Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek - A line projected approximately 14 degrees true from the flashing light at the southwesterly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

White Salmon River - Markers downstream of the Burlington Northern Railroad Bridge.

Little White Salmon River - At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River - South Bend boat launch.

Wind River - Boundary line markers at mouth.

Yakima River - Highway 240 Bridge.

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 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-56-124 Unlawful provisions—Hoodspout Hatchery.** During the period October 16 through December 15, those waters of Catch Record Card Area 12 within a ((1,000)) 2,000 foot arc seaward of yellow buoys at the mouth of Finch Creek at the Hoodspout Salmon Hatchery are regulated as provided for in this section:

(1) These waters are open to salmon angling regardless of the status of the surrounding waters of Area 12.

(2) Special daily limit of ((three)) four chum salmon.

(3) During the period October 16 through December 15 it is unlawful to fish for or possess salmon taken from these waters from 8:00 p.m. to 6:00 a.m.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-56-190 Coastal salmon—Saltwater seasons and daily limits.** It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the daily limit codes in WAC 220-56-180:

(1) Catch Record Card Areas 1 ((and 2—Open July 24 through September 28—Daily Limit F except release chinook salmon. Open Sunday through Thursday only. Closed within three miles of shore. Cumulative limit of no more than four salmon in any seven consecutive days.

~~(2) Catch Record Card Area 3—Open August 1 through September 28—Daily Limit F except release chinook salmon. Open Sunday through Thursday only. Closed within three miles of shore.~~

~~(3) Catch Record Card Area), 2, 3, 4 and those waters of the Strait of Juan de Fuca west of the mouth of the Sekiu River - ((Open August 1 through September 28—Daily Limit F except release chinook salmon. Area 4 is)) Closed ((within three miles of shore in those waters south of Skagway Rock)).~~

~~((4)) (2) Grays Harbor (Catch Record Card Area 2-2) (a) Special daily limit ((A)) of six salmon, not more than four of which may be adult salmon, defined as chinook salmon over 24 inches in length, coho salmon over 20 inches in length or pink, chum or sockeye salmon greater than 12 inches in length - August 16 through January 31 in the Westport boat basin only. (b) Daily Limit A - September 16 through January 31: Waters of Catch Record Card Area 2-2 east of the Channel Marker 13 Line.~~

~~((5)) (3) Willapa Bay (Catch Record Card Area 2-1) Special daily limit ((A)) of six salmon, not more than four of which may be adult salmon, defined as chinook salmon over 24 inches in length, coho salmon over 20 inches in length or pink, chum or sockeye salmon greater than 12 inches in length - August 16 through January 31.~~

**AMENDATORY SECTION** (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-56-191 Puget Sound salmon—Saltwater seasons and daily limits.** It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, sizes, and for the species designated in this section and as defined in the daily limit codes in WAC 220-56-180. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters as provided for in WAC 220-56-190. In all fisheries provided for in this section, chinook salmon minimum size 22 inches and no minimum size for other salmon.

(1) Catch Record Card Areas 5 and 6 -

(a) Special daily limit of 2 salmon April 16 through June 15 except all chinook salmon greater than 30 inches in length and all coho salmon must be released.

(b) During the period April 16 through September ~~((10))~~ 30 and November 1 through April 15, Dungeness Bay is closed to salmon angling.

~~(c) ((August 5 through September 10—Special daily limit of 2 salmon; release all chinook and coho salmon.)) June 16 through October 31 - Closed.~~

(d) Notwithstanding the provisions of this subsection October 1 through October 31 in Dungeness Bay - Special daily limit of 2 coho salmon.

(e) November 1 through ~~((November 30—Special daily limit of 2 salmon; release all coho; Dungeness Bay closed.~~

~~(f) December 1 through))~~ April 15 - Special daily limit of 2 salmon. ~~((Dungeness Bay closed December 1 through December 31.))~~ Release all coho.

(2) Catch Record Card Area 7:

(a) ~~((April 16))~~ May 1 through ~~((July 31))~~ April 30 - Special daily limit of 2 salmon. During the period April 16

through June 15 all chinook salmon greater than 30 inches in length must be released.

~~(b) ((August 1 through September 30—Special daily limit of 4 salmon no more than 2 of which may be any combination of chinook and coho salmon.—~~

~~(c) October 1 through April 15—Special daily limit of 2 salmon except that)) Notwithstanding the provisions of this subsection during the period ((October)) September 1 through ((December 31)) November 30 the special daily limit in Bellingham Bay is 4 salmon no more than 2 of which may be ~~((any combination of))~~ chinook ~~((and coho salmon)).~~~~

(3) Catch Record Card Area 8-1:

(a) ~~((May 1 through August 15—Open only))~~ September 1 through October 31 - Open only in those waters of Oak Harbor west of a line from Forbes Point to Blowers Bluff (Oak Harbor). Special daily limit of 2 coho salmon.

~~(b) ((August 16 through September 15—Special daily limit of 4 pink salmon except Oak Harbor special daily limit of 2 salmon.—~~

~~(c) September 16 through October 31—Open only in Oak Harbor—Special daily limit of 2 salmon.—~~

~~(d))~~ November 1 through April ~~((30))~~ 15 - Special daily limit of 2 salmon.

(4) Catch Record Card Area 8-2:

(a) August 1 through September 30 - Open in those waters adjacent to Tulalip Bay west of a line from Mission Point to Hermosa Point and within 2,000 feet from shore between the pilings at Old Bowers Resort northerly to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point (Tulalip Special Area Fishery). Special daily limit of ((4)) 2 salmon ((no more than 2 of which may be any combination of chinook or coho)).

(b) ~~((August))~~ October 1 through ~~((September))~~ April 30 - ~~((Open in waters other than Tulalip Special Area Fishery -))~~ Special daily limit of ~~((4))~~ 2 salmon ~~((, of which no more than 2 may be coho salmon. Chinook salmon must be released)).~~

(c) ~~((October))~~ May 1 through ~~((April))~~ September 30 - ~~((Special daily limit of 2 salmon))~~ Closed.

(5) Catch Record Card Area 9:

(a) May 1 through July 4 - Special daily limit of 2 salmon.

(b) ~~((August 1))~~ July 5 through ~~((September 4))~~ October 15 - ~~((Special daily limit of 2 pink salmon))~~ Closed.

(c) October 16 through October 31 - Special daily limit of 2 salmon except release coho salmon.

(d) November 1 through April 30 - Special daily limit of 2 salmon.

(e) Notwithstanding the provisions of this subsection, salmon fishing is permitted year-around from the Edmonds Fishing Pier - Special daily limit of 2 salmon and all salmon species may be retained.

(f) Notwithstanding the provisions of this subsection, those waters of Port Gamble south of a line from the Point Julia Dock true west to the mainland - Open September 1 through October 31 - Special daily limit of 2 salmon.

(6) Catch Record Card Area 10:

(a) October 16 through July 4 - Special daily limit of 2 salmon ((except waters of Shilshole Bay inside a line from Meadow Point to West Point are closed October 16 through April 30)).

(b) July 5 through ~~((August 31))~~ October 15 - Open only in those waters ~~((west of a line from Indianola Dock to Point Monroe and northwest of a line from Beans Point to Orchard Point))~~ south of Agate Pass Bridge and those waters south of a line from Restoration Point to Alki Point ~~((except after July 31 only waters south of the Restoration Point-Alki Point line are open))~~. Daily limit of 2 salmon.

(c) ~~((September 1 through October 15 - Open only in those waters south of a line from Skiff Point to West Point and east of a line from Beans Point to Orchard Point, except release chinook salmon taken in those waters of Elliott Bay east of a line from Duwamish Head to Pier 91. Daily limit of 2 salmon.))~~

(e)) Notwithstanding the provisions of this subsection, salmon fishing is permitted year-around from the Elliott Bay public fishing pier(s 62, 63,)) at Terminal 86 and Seacrest Pier - Special daily limit of 2 salmon and all salmon species may be retained.

(7) Catch Record Card Area 11 - May 1 through April 30 - Daily limit of 2 salmon.

(8) Catch Record Card Area 12 - May 1 through October 31, closed except Quilcene/Dabob Bays northerly of a line drawn due east from Whitney Point open August 16 through October 31: Special daily limit of 2 coho salmon. November 1 through April 30 - Daily limit of 2 salmon except waters of the Hoodspout Hatchery Zone provided for in WAC 220-56-124.

(9) Catch Record Card Area 13 - May 1 through April 30 - Daily limit of 2 salmon.

(10) In the above waters there are specified closures as provided for in WAC 220-56-128 and 220-56-195. Additionally, there are gear and area restrictions at Shilshole Bay, the Duwamish Waterway, and Budd Inlet, and at Titlow Beach and the Edmonds underwater park and the Elliott Bay, Les Davis, and Des Moines public fishing piers. See specific sections in chapter 220-56 WAC for salmon angling restrictions at these locations.

**AMENDATORY SECTION** (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-56-195 Closed areas—Saltwater salmon angling.** The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlenn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges

at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July 31.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April 16 through June 15.

(4) Dungeness Bay: Those waters westerly of a line ~~((projected 155 degrees true))~~ from Dungeness Spit Light to ~~((Kulakala Point))~~ the number 2 red buoy, and then to the Port Williams boat ramp are closed to salmon angling April 16 through ~~((June 30))~~ September 30 and November 1 through April 15.

(5) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

(6) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 16 through September 30 except waters of the Tulalip Special Area Fishery as provided for in WAC 220-56-191 (4)(a).

(7) Columbia River Mouth Control Zone 1: Washington waters within Control Zone 1, which Control Zone is described as the ocean area surrounding the Columbia River mouth west of the Buoy 10 line and bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° true to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Control Zone are open to salmon angling or the Buoy 10 fishery is open.

(8) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed from April 16 through June 30.

**AMENDATORY SECTION** (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

**WAC 220-56-205 Hook rules—Nonbuoyant lures.** It is unlawful to fish for or to possess salmon taken for personal use from freshwater unless the hooks used meet the requirements of this section:

(1) Nonbuoyant lure restriction: In the following waters and during the periods shown, it is unlawful to use a nonbuoyant lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank:

Area	Time period
Naselle River <u>(including all forks)</u>	September 1-November 30
Willapa River	September 1-November 30
Humtulsips River	September 1-November 30
Satsop River <u>(including all forks)</u>	September 1-November 30
North Nemah River	September 1-November 30
<del>((Carbon River</del>	<del>September 1-November 30))</del>
Dungeness and Gray Wolf Rivers	August 1-October 15
Kennedy Creek	October 1-December 31
South Fork Nooksack River	
<u>Mouth to Skookum Creek</u>	August 1-December 31
<u>South Fork Nooksack River</u>	
<u>Upstream from Skookum Creek</u>	<u>June 1-September 30</u>
Big Quilcene River	August 1-December 31
Samish River	August 1-December 31
Stillaguamish River <u>(including all forks)</u>	August 1- <del>(December 31))</del> <u>November 30</u>
Whatcom Creek	August 1-December 31
Cowlitz River	
From Mill Creek to Barrier Dam	April 1-October 31
Kalama River	
From 200 feet above Modrow Trap to mouth	September 1-October 31
North Lewis River	
From overhead powerlines below Ariel Dam to lower Cedar Creek Boat Ramp	April 1-October 31
Washougal River	
Downstream of Salmon Falls Bridge	September 1-October 31
Icicle River	
From Leavenworth Federal Fish Hatchery to mouth	May 8-June 30
Wenatchee River	
From mouth of Icicle River to Highway 2 Bridge	May 8-June 15
Skagit River (and tributaries)	
Upstream of Gilligan Creek	July 1-November 30
Tokol Creek	
From mouth to posted cable markers	December 1-March 31
<u>Capitol Lake</u>	<u>August 1 - November 30</u>
<u>Deschutes River</u>	<u>August 1 - November 30</u>
<u>Elochoman River</u>	<u>September 1 - November 30</u>
<u>Grays River</u>	<u>September 1 - November 30</u>
<u>Green/Duwamish River</u>	
<u>mouth to Highway 164 Bridge</u>	<u>August 1 - November 30</u>
<u>McAllister Creek</u>	<u>August 1 - November 30</u>
<u>Nisqually River</u>	<u>August 1 - November 30</u>
<u>Puyallup River</u>	
<u>mouth to Carbon River</u>	<u>August 1 - November 30</u>
<u>Skykomish River (including all forks)</u>	<u>August 1 - November 30</u>
<u>Snohomish River</u>	<u>August 1 - November 30</u>
<u>White/Stuck River</u>	<u>October 1 - November 30</u>

(2) No leads, weights or sinkers may be attached below or less than 12 inches above a buoyant lure.

(3) All hooks must be attached within three inches of the bait or lure.

**AMENDATORY SECTION** (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

**WAC 220-56-330 Crab—Areas and seasons.** (1) It is unlawful to fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear except during the open shellfish pot gear season. The open shellfish pot gear season for crab in

Puget Sound waters may open by emergency regulation prior to July 16, but if not previously opened by emergency regulation will open July 16 through April 15.

The open shellfish pot gear season in waters of the Pacific Ocean, Grays Harbor, Willapa Harbor, and waters of the Columbia River is December 1 through September 15.

(2) Except as provided in subsection (1) of this section and except when waters of Hood Canal are open to recreational shrimp fishing, it is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters.

(3) Except as provided in subsection (1) of this section and except when waters of Hood Canal are open to recreational shrimp fishing, it is lawful to fish for and possess red rock crabs of either sex taken for personal use the entire year in state waters.

(4) On days that Hood Canal is open to recreational shrimp fishing, it is unlawful to fish for or possess crab taken with shellfish pot ~~((or ring net))~~ gear ~~((except during the times that it is lawful to fish for shrimp))~~. Ring net gear may be used during daylight hours.

**AMENDATORY SECTION** (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons.** (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Ben Ure Spit: Open January 1 through May 15.

(b) Birch Bay State Park: Open January 1 through July 15.

(c) Brown Point - DNR Beach 57-B is open April 1 through ~~((August))~~ June 15.

~~((b))~~ (d) Cama Beach State Park: Closed the entire year.

~~((e))~~ (e) Camano Island State Park: Open June 1 through June ~~((30))~~ 15.

~~((f))~~ (f) Cultus Bay: State-owned tidelands northeast Cultus Bay is open January 1 through June 15.

(g) Cutts Island State Park: Open January 1 through June 15.

(h) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows: State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

~~((i))~~ (i) Dosewallips State Park: Open January 1 through July 15 only in area defined by boundary markers and signs posted on the beach.

(j) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of clams.

~~((k))~~ (k) Eagle Creek: Open January 1 through ~~((May))~~ April 15.

~~((l))~~ (l) Fort Flagler State Park: Open April 1 through June 30.

~~((m))~~ (m) Garrison Bay: Tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.

~~((n))~~ (n) Hood Canal (east side): DNR Beach 48 is open January 1 through May 15.

(o) Hoodspport: Tidelands at Hoodspport Salmon Hatchery are closed the entire year.

~~((p))~~ (p) Hope Island State Park (South Puget Sound): Open April 1 through June 15.

~~((q))~~ (q) Illahee State Park: Open April 1 through April 30.

~~((r))~~ (r) Kayak Point County Park: ~~((All tidelands are closed except tidelands north of the county fishing pier are open April 16 through May 15 of even numbered years and tidelands south of the county fishing pier are open April 16 through May 15 of odd numbered years.))~~ Closed the entire year.

~~((s))~~ (s) Kitsap Memorial State Park: Open ~~((April))~~ June 1 through June 30.

~~((t))~~ (t) Kopachuck State Park: Open ~~((January))~~ April 1 through ~~((April))~~ May 15.

~~((u))~~ (u) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

~~((v))~~ (v) Long Point: Open January 1 through April 15.

(w) Mystery Bay State Park: Open October 1 through April 30.

(x) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except ~~((as follows:))~~ state-owned Oyster Reserves on the east side of North Bay north of the power transmission lines ~~((which cross the bay at the north end of the inlet will remain open)).~~

~~((y))~~ (y) Oak Bay County Park: Open January 1 through June 15.

~~((z))~~ (z) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed the entire year except the following are open the entire year:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet.

(ii) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet.

(iii) Oakland Bay: Tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

(iv) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

(aa) Penn Cove: The state-owned tidelands at the head of Penn Cove on Whidbey Island starting at the north end of Coveland and extending south to a bulkhead 200 feet south of Mueller Park: Open January 1 through July 15.

~~((bb))~~ (bb) Penrose Point State Park: Open May 1 through June ~~((30))~~ 15.

(cc) Picnic Point County Park: Closed the entire year.

~~((dd))~~ (dd) Point Whitney ~~((excluding Point Whitney Lagoon)): ~~((Open April 1 through May 31))~~ Closed the entire year.~~

~~((ee))~~ (ee) Point Whitney Lagoon: Open June 1 through ~~((June 15))~~ December 31.

~~((ff))~~ (ff) Port Townsend Ship Canal: Open January 1 through May 15.

(gg) Potlatch: DNR tidelands at Potlatch are open April 1 through June 15.

(hh) Potlatch State Park: Open April 1 through June 15.

(ii) Purdy Spit County Park: The southern shore of the spit from the boat ramp to the bridge is closed the entire year.

~~((w))~~ Saltwater State Park: Open April 1 through April 30.

~~(\*)~~ (j) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year, except those tidelands on the west side of the bay defined by boundary markers and a sign on the beach are open April 1 through September 30, daily from official sunrise to official sunset only.

(kk) Rendlands Creek: Open January 1 through May 15.

(ll) Saltwater State Park: Closed the entire year.

(mm) Semiahmoo Marina: Open January 1 through August 15.

(nn) Shine Tidelands State Park: Open January 1 through June 15.

(oo) Snatellum Point: Open January 1 through June 15.

~~((y))~~ (pp) South Indian Island County Park: Open April 1 through ~~((December 31))~~ June 15.

~~((z))~~ (qq) South Lilliwaup: Open January 1 through ~~((May 31))~~ July 15 on those tidelands marked by orange posts attached to trees at south end of Lilliwaup Bay (approximately 700 feet of beach).

~~((ae))~~ (rr) Spencer Spit State Park: Open April 1 through June 30.

~~((bb))~~ (ss) Strait of Juan de Fuca: All beaches west of the tip of Dungeness Spit: Open November 1 through March 31.

~~((ee))~~ (tt) Triton Cove State Park: Open April 1 through June 30.

~~((dd))~~ (uu) Twanoh State Park: Closed the entire year.

(vv) Useless Bay Tidelands State Park: Open January 1 through July 15.

~~((ee))~~ (ww) West Dewatto: DNR Beach 44A is closed the entire year.

(xx) Winas-Maylor Point East: Open January 1 through June 15.

(yy) Wolfe Property State Park: Open January 1 through July 15.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

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 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-56-380 Oysters—Areas and seasons.** (1) It is lawful to take and possess oysters taken for personal use from public tidelands the entire year, except that public

tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point: DNR Beach 57-B is ~~((closed the entire year))~~ open April 1 through May 15.

(b) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters the entire year, except as follows: State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(c) Dosewallips State Park: Open January 1 through August 15 in areas defined by boundary markers and signs posted on the beach only.

(d) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of oysters the entire year.

~~((d))~~ (e) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

~~((e))~~ (f) Illahee State Park: Open ~~((January))~~ March 1 through ~~((April 30))~~ August 15.

~~((f))~~ (g) Kitsap Memorial State Park: Open ~~((April))~~ June 1 through ~~((June 30))~~ December 31.

~~((g))~~ (h) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

~~((h))~~ (i) Mystery Bay State Park: Open January 1 through August 15.

~~((i))~~ (j) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of oysters the entire year, except ~~((as follows:))~~ state-owned Oysters Reserves on the east side of North Bay north of the power transmission lines ~~((which cross the bay at the north end of the inlet will remain open)).~~

~~((j))~~ (k) Oyster Reserves: ~~((All))~~ Puget Sound and Willapa Bay oyster reserves are closed the entire year except the following are open the entire year:

(i) North Bay: State-owned oyster reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of Case Inlet.

(ii) Willapa Bay - Long Island oyster reserve: North-west side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59.

~~((k))~~ (l) Penrose Point State Park: Open May 1 through June 15.

~~((m))~~ Point Whitney Lagoon: ~~((Closed the entire year))~~ Open June 1 through December 31.

~~((h))~~ (n) Potlatch State Park: Open April 1 through ~~((June 30))~~ September 15.

~~((m))~~ (o) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed except those tidelands on the west side of the bay defined by boundary markers and a sign at the beach are open April 1 through September 30, daily from official sunrise to official sunset, only.

~~((n))~~ (p) Scenic Beach State Park: Open January 1 through ~~((April 30))~~ December 31.

PERMANENT

(q) Seal Rock: U.S. Forest Service tidelands at Seal Rock are open January 1 through July 15.

~~((p))~~ (r) Triton Cove State Park: Open April 1 through June 30.

~~((p))~~ (s) West Dewatto: DNR Beach 44A is open April 1 through ((June 15)) December 31.

(2) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-130 Bogachiel River.** Daily Limit A except release coho salmon - July 1 through ~~((October 22))~~ November 30: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-135 Calawah River.** Daily Limit A except release coho salmon - July 1 through ~~((October 22))~~ November 30: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-137 Carbon River.** Daily Limit A except up to 4 adult salmon may be retained, provided that not more than 2 are chinook - September 1 through November 30 downstream from the old bridge abutments near the east end of Bridge Street in Orting.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-155 Clearwater River (Jefferson County).** Daily Limit A - ~~((September))~~ June 1 through ((November 30)) August 31: Downstream from the mouth of the Snahapish River.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-175 Cowlitz River.** (1) Daily Limit A except release chinook salmon greater than 24 inches in length August 1 through October 15 and release chinook salmon greater than 28 inches in length caught upstream from Blue Creek October 16 through December 31 - ((June)) August 1 through April 30: Downstream from fishing boundary markers approximately 400 feet below barrier dam structures at the Cowlitz Salmon Hatchery Barrier Dam except closed to salmon angling from the markers to the mouth of Mill Creek when fishing from the south shore August 1 through October 15.

(2) Special daily limit ((A except release all chinook salmon 24 inches in length and greater August 16 through October 15)) of one salmon - May 1 through July 31: Downstream from ((fishing boundary markers approximately 400 feet below the barrier dam structures. During the period September 16 through October 15 those waters between the Barrier Dam and the mouth of Mill Creek are closed to salmon fishing)) I-5 Bridge.

~~(3) ((Daily Limit A - October 16 through December 31: Downstream from fishing boundary markers approximately 400 feet below the barrier dam structures. During the fishery provided for in this subsection, chinook salmon over 28 inches in length taken upstream of the mouth of Blue Creek must be released.~~

~~(4))~~ (4)) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

~~((5))~~ (4) Daily Limit A except minimum size of 8 inches - open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to ((Riffe (Davisson))) Scanewa Lake (Cowlitz Falls Reservoir).

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-200 Dickey River.** Daily Limit A except release coho salmon - July 1 through ~~((October 22))~~ November 30: Downstream of the mouth of east fork of the Dickey River to the National Park boundary.

AMENDATORY SECTION (Amending WSR 94-14-069, filed 7/1/94, effective 8/1/94)

**WAC 220-57-215 Dungeness River.** ~~((Closed to salmon angling.))~~ Special daily bag limit of 2 coho salmon - October 16 through November 30: Downstream from upstream end of metal walkway above hatchery intake pipe.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-235 Elochoman River.** (1) Daily Limit A except release chinook salmon 24 inches in length and greater - September 1 through October 15: Downstream from the mouth of the west fork.

(2) Daily Limit A except release chinook salmon 28 inches or greater taken upstream from the Foster Road Bridge - October 16 through December 31: Downstream from the mouth of the west fork ((to the Foster Road Bridge. All chinook salmon greater than 28 inches in length must be released immediately)).

~~(3) ((Daily Limit A - October 16 through December 31: Downstream from the Foster Road Bridge.~~

~~(4))~~ The following waters are closed to salmon angling at all times:

(a) From a point 100 feet above the upper hatchery rack to the Elochoman Salmon Hatchery Bridge located approximately 400 feet below the upper hatchery rack.

(b) From the department of fish and wildlife's temporary rack downstream to Foster (Risk) Road Bridge while this rack is installed in the river.

(c) Between points 50 feet above and 100 feet below the outlet pipes from the most downstream Elochoman Salmon Hatchery rearing pond and extending 30 feet out from the south bank of the river.

(d) From the Beaver Creek Bridge to 200 feet below the weir at Beaver Creek Hatchery.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-240 Elwha River.** (1) Daily Limit A except release chinook, pink and chum salmon - October 1 through October 31.

(2) It is unlawful to fish for or possess salmon taken from the waters of the Elwha River between markers located approximately 50 yards upstream and downstream from the tribal hatchery outfall, from the slough connecting the hatchery outfall to the mainstem of the river or within 200 feet downstream of the south spillway on Aldwell Lake Dam to Aldwell Dam.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-310 Kalama River.** (1) Daily Limit A - June 1 through December 31: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) fly fishing only.

(2) Daily Limit A - open the entire year: Downstream from the mouth of Summers Creek to the markers approximately 1,000 feet above the Kalama Falls (Upper) Salmon Hatchery.

(3) Daily Limit A except release chinook salmon ~~((twenty four inches in length or greater during the period August 16 through October 15 upstream from a point 200 feet above the temporary rack and release chinook salmon))~~ twenty-eight inches in length or greater during the period October 16 through December 31 upstream from the natural gas pipeline - ~~((June))~~ August 1 through April 30: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the Modrow Bridge, with the following special gear restrictions: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground fly fishing only.

~~((August 16 to October 15: Those waters downstream from the temporary rack are closed to salmon angling.))~~

(4) Daily Limit A except special daily limit of 1 salmon May 1 through July 31 - May 1 through April 30: Downstream from Modrow Bridge, except during the time the department of fish and wildlife's temporary rack is installed just below the Modrow Bridge, that portion of the river from a point 200 feet above the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling and August 1 through October 15 those waters downstream from the temporary rack are closed to salmon angling.

(5) Fishing from boats with motors is prohibited at all times in waters upstream of the Modrow Bridge.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-319 Lewis River.** (1) Mainstem - Daily Limit A except during the period May 1 through ~~((May))~~ July 31 the daily limit is one salmon and release chinook greater than 24 inches in length August 1 through December 31 - Open entire year: Downstream from east fork to mouth.

(2) East fork:

(a) Daily Limit A except 20 inch minimum length - April 16 through May 31: Downstream from posted markers at top boat ramp at Lewisville Park.

(b) Daily Limit A except 14 inch minimum length - June 1 through ~~((August 15))~~ July 31 and October ~~((15))~~ 16 through March 15: Downstream from posted markers downstream from Lucia Falls. All chinook salmon over 28 inches must be released during the period October 16 through December 31.

(3) North fork:

(a) Daily Limit A except during the period May 1 through ~~((May))~~ July 31 the daily limit is one salmon and release chinook salmon greater than 24 inches in length August 1 through December 31 - January 1 through December 31: Downstream from Johnson Creek.

(b) Daily Limit A except release chinook salmon greater than 24 inches in length August 1 through December 31 - ~~((June))~~ August 1 through April 30: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to Johnson Creek, except that at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery Fishway.

(c) Daily Limit A except release chinook salmon greater than 24 inches in length August 1 through September 30 - ~~((June))~~ August 1 through September 30 and January 1 through April 30: Downstream from the overhead powerlines downstream from Merwin Dam to Colvin Creek.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-350 Nooksack River.** (1) Daily Limit A except up to 4 adult salmon may be retained provided no more than 2 are chinook - September 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) North Fork - Daily Limit A - October 1 through December 31: Downstream from Maple Creek to mouth of north fork.

(3) South Fork - Daily Limit A - October 1 through December 31: Downstream from the Saxon Bridge to mouth of south fork.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-370 Puyallup River.** Daily Limit A except up to 4 adult salmon may be retained provided no more than 2 are chinook release pink salmon in odd-numbered years - July 16 through November 30: Downstream from the mouth of the Carbon River to the 11th Street Bridge.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

**WAC 220-57-385 Quillayute River.** Daily Limit A except release coho salmon - March 1 through ~~((October 22))~~ November 30: Downstream from the confluence of the

Soleduck and Bogachiel rivers including Olympic National Park waters.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-425 Skagit River. (1) ((Special Daily Limit of 4 pink salmon—August 16 through September 30: Downstream from Corkindale Creek. Terminal gear is restricted to one barbless single hook. Use of bait not allowed upstream of Sauk River.~~

~~((3))~~ (2)) Special daily limit of 2 chum salmon - November 1 through December 31: Downstream from the mouth of Corkindale Creek.

~~((3))~~ (2) All waters of the Skagit River between a line projected across the thread of the river 200 feet above the east bank of the Baker River and a line projected across the thread of the river 200 feet below the west bank of the Baker River are closed.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-435 Skykomish River. (1) ((Special Daily Limit of four salmon except release chinook salmon—August 16 through October 31: Downstream from the confluence of the north and south forks.~~

~~((3))~~ (2)) Special daily limit of two salmon except release chinook salmon - ~~((November))~~ September 1 through December 31: Downstream from the confluence of north and south forks.

~~((3))~~ (2) During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-450 Snohomish River. (1) ((Special Daily Limit of four salmon except release chinook salmon—August 16 through October 31: Downstream from the confluence of Skykomish and Snoqualmie rivers.~~

~~((3))~~ (2)) Special daily limit of two salmon except release chinook salmon - ~~((November))~~ September 1 through December 31: Downstream from confluence of Skykomish and Snoqualmie rivers.

~~((3))~~ (2) During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-455 Snoqualmie River. (1) ((Special Daily Limit of four salmon except release chinook salmon—August 16 through October 31.~~

~~((3))~~ (2)) Special daily limit of two salmon except release chinook salmon - ~~((November))~~ September 1 through December 31.

~~((3))~~ (2) During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-460 Sol Duc River. Daily Limit A except release coho salmon - March 1 through ((October 22))~~ November 30: Downstream from the concrete pump station at the ~~((Soleduck))~~ Sol Duc Hatchery.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-465 Stillaguamish River. (((1)) Special daily limit of four pink salmon—August 16 through September 30: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water control structure to a point 400 feet downstream.~~

~~((2))~~ (2)) Special daily limit of two chum salmon - November 1 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream.

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-473 Tilton River. (((+)) Mainstem - Daily Limit A - June 1 through December 31: Downstream from west fork Tilton River.~~

~~((2)) North fork—Daily Limit A—June 1 through October 31: Downstream from markers 400 feet above the 73 Road Bridge to the Tilton River (approximately lower two miles:))~~

AMENDATORY SECTION (Amending Order 95-46, filed 5/31/95, effective 7/1/95)

~~WAC 220-57-495 Washougal River. Daily Limit A except release chinook salmon over 28 inches in length upstream from the mouth of Little Washougal River during the period October 16 through December 31 - June 1 through ((August 15))~~ July 31 and October 16 through March 15: Downstream from bridge at Salmon Falls to mouth.

**WSR 96-11-079**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Wildlife)

[Order 96-45—Filed May 13, 1996, 3:57 p.m.]

Date of Adoption: April 15, 1996.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-001, 232-12-168, 232-12-619, and 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Adopted under notice filed as WSR 95-22-113 on November 1, 1995; and WSR 96-05-044 on February 15, 1996.

Changes Other than Editing from Proposed to Adopted Version: WAC 232-12-001, fish length measurement change

not adopted. Definitions of "seasonal wild steelhead limit" and "wild steelhead" adopted.

WAC 232-12-144, roe proposal withdrawn.

WAC 232-12-147, ice tip ups, barbed hook and treble hook proposals withdrawn.

WAC 232-12-619, change in annual steelhead limit not adopted; river system steelhead limit not adopted; bait allowance for youths in selective fishery areas not adopted; all proposed changes to open seasons not adopted; all proposed changes to daily limits and minimum sizes not adopted, except seasonal wild steelhead limits for Clearwater, Hoh, Bogachiel, Calawah, Dickey, Sol Duc and Quillayute rivers; Deschutes and Spokane river mouths added to river mouth definitions; nonbuoyant lure/night closures on the following waters not adopted: Big Bear Creek, Carbon River, Cedar River, Lake Washington Ship Canal, Nemah River, Nooksack River, Sammamish Slough, Trap Creek, Williams Creek; Stillaguamish, Skykomish and Snohomish rivers closure ends November 30; all forks of following rivers included in nonbuoyant lure night closure: Naselle, Satsop, Stillaguamish, Skykomish; night fishing for steelhead prohibition not adopted; minimum hook size for steelhead not adopted.

WAC 232-28-619, Region 1 - Stevens County proposal withdrawn; Amber, Fourth of July, Hatch, Williams lakes, additional season withdrawn; Asotin Creek steelhead closure applies to all forks; Bayley Lake daily limit 1 fish; Bear Lake open to juveniles and holders of free licenses; Chapman, Horseshoe, Loon lakes kokanee limit clarified; Clear Lake bonus limit withdrawn; Colville River trout bonus established and walleye provisions excluded from Valley upstream; Cottonwood Creek year around in all waters; Grande Ronde River proposals withdrawn; Kettle River seasons clarified; Liberty Lake year around season withdrawn; Long Lake catch and release withdrawn; Loon Lake night closure withdrawn; Muskegon Lake selective fishery established and catch and release withdrawn; Newman Lake crossbow proposal withdrawn; Potter's Pond proposals withdrawn; Roosevelt Lake walleye rules clarified; Snake River proposals withdrawn; Spokane River rules exclude Long Lake and catch and release above Upriver Dam; Touchet and Tucannon rivers trout rules clarified.

Region 2 - Aeneas and Palmer lakes catch and release withdrawn; Davis Lake proposals withdrawn; Dry Falls, Ell, Lenice, Merry, Nunally lakes additional season withdrawn; Fish Lake season extended to October 31; Gold Creek proposals withdrawn; Methow River proposals withdrawn; Moses and O'Sullivan lakes walleye proposals withdrawn; Osoyous Lake bass proposals withdrawn; Sidley Lake selective fishery established; Sinlahekin Lake proposal withdrawn; Columbia National Wildlife Refuge recommendations adopted to modify seasons on these waters: Bobcat Creek and ponds, Cattail Lake, Coyote Creek and ponds, Crab Creek, Deadman Lake, Dry Falls Lake, Gadwall Lake, Halfmoon Lake, Hays Creek and ponds, Hourglass Lake, Hutchinson Lake, Lemna Lake, Lenice Lake, Merry Lake, Morgan Lake, Nunnally Lake, Pillar Lake, Poacher Lake, Sago Lake, Shiner Lake, Shoveler Lake, Snipe Lake, and Widgeon Lake.

Region 3 - Chelan Lake salmon rules clarified; Entiat River and Icicle Creek catch and release withdrawn; Icicle

Creek selective fishery rules withdrawn; Rimrock Lake proposal withdrawn; Tieton River delay opening withdrawn.

Region 4 - King County Beaver Pond proposal withdrawn; Bearpaw Lake selective fishery rules reestablished; Cascade River proposals withdrawn; Cedar River season withdrawn; Goodwin and Shoecraft lakes bass proposals withdrawn; Green/Duwamish River floating device prohibition extension withdrawn; K-mart pond closure withdrawn; Lucerne, Pipe lakes year around fishery reestablished; Morton and Shady lakes split season withdrawn; Nooksack River South Fork steelhead release upstream from Skookum Creek; Pipers Creek proposals withdrawn; Ridley Lake season extension and selective fishery rules withdrawn; Sammamish River closure September 1 through May 31, selective fishery when open, catch and release applies to trout only and steelhead closure; Sauk amendments withdrawn except for repeal of 1995 conservation measures; Sixteen Lake proposals withdrawn except for closure at mouth of Baker River and repeal of 1995 conservation measures; Skookum Creek trout bonus limit withdrawn; Snoqualmie River proposals withdrawn; Soos Creek proposals withdrawn; South Prairie Creek proposals withdrawn; Spada Lake proposals withdrawn; Stillaguamish River proposals withdrawn; Suiattle River 1995 conservation measures withdrawn; Sultan and Tolt rivers additional season withdrawn; White River mouth to R St. Bridge closed June 1 through September 30 and open October 1 through February 28, R St. Bridge to 410 Bridge October only season and trout minimum 14 inches; Willow Lake season extension from last Saturday in April and selective fishery rules eliminated.

Region 5 - Cedar Creek season reduction withdrawn; Cispus River hatchery steelhead additional season established; Clear Creek, Clearwater Creek, Muddy Creek and Pine Creek trout retention prohibited as they are part of Lewis River, north fork catch and release; 1996 conservation measures established for Coweeman, Cowlitz, Green, Kalama, Toutle and Washougal rivers; Cowlitz River wild steelhead release below Mayfield Dam year around and ventral fin clipped release below Barrier Dam; Drano Lake proposals withdrawn; Kalama River tributaries closure withdrawn; Lewis River night fishing prohibition withdrawn and from Eagle Cliff Bridge to lower falls including tributaries selective fishery and catch and release; Lewis River East Fork proposals withdrawn except position of markers below Lucia Falls clarified; Merrill Lake internal combustion engine prohibition clarified; Silver Lake bass proposal withdrawn; Swift Reservoir and Wind River selective fishery proposal withdrawn; Toutle River additional season withdrawn; White Salmon and Wind rivers barbless hook proposal withdrawn.

Region 6 - Crappie minimum size proposal withdrawn; Bogachiel, Calawah, Hoh rivers vessel prohibition withdrawn; wild steelhead release established on Bogachiel, Calawah, Clearwater, Dickey, Goodman, Hoh, Quillayute and Sol Duc rivers; Crocker and Leland lakes and Naselle River internal combustion engine prohibition withdrawn; Dungeness River mouth to junction October 16 through February 28 season; East Twin, Lyre and West Twin rivers and Salt Creek wild steelhead release; Gray Wolf River 1995 conservation measures repealed; Horseshoe Lake selective fishery rules for all species; Nisqually River season reduction

to close November 30 and additional season repealed; Pattison Lake returned to opening day lake status; Promise Land Pond name change to Promised Land Pond; Skokomish River trout minimum size returned to 12 inches.

Marine waters, state-wide wild cutthroat release in marine waters withdrawn; Pipers Creek area closure withdrawn.

Columbia River, I-5 Bridge to Pasco trout closed March 16 through June 15; 1996 conservation measures established at Buoy 10; Priest Rapids to Chief Joseph barbless hook proposal withdrawn; boat fishing closure below Chief Joseph Dam to corps safety boundary markers.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 13, 1996

Mitchell S. Johnson, Chairman  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 95-11, filed 2/1/95, effective 5/1/95)

**WAC 232-12-001 Definition of terms.** Definitions used in rules of the commission are defined in RCW 77.08.010. In addition, unless otherwise provided:

(1) "Snagging" means an effort to take fish with a hook and line in a manner such that the fish does not take the hook voluntarily in its mouth.

(2) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(3) "Spearing" and "spear fishing" means an effort to take fish by impaling the fish on a shaft, arrow, or other device.

(4) A "valid" license, permit, tag, stamp or catch record card means a license, permit, tag, stamp, or catch record card that was issued to the bearer for the current season and is required to hunt, fish or possess wildlife and has not been altered except as provided by rule of the commission.

(5) "Hook" means one single, double, or treble hook. A "single hook" means a hook having a single point; a "double hook" means a hook having two points on a common shank; and a "treble hook" means a hook having three points on a common shank. "Barbless hook" means a hook on which all barbs have been deleted when manufactured, filed off, or pinched down.

(6) "Falconry" means possession, control, or use of a raptor for the purpose of hunting and free flight training.

(7) "Anadromous game fish" means:

(a) Steelhead trout, *Oncorhynchus mykiss*, defined as any searun rainbow trout over twenty inches in length

(b) Searun cutthroat, *Oncorhynchus clarkii*

(c) Searun Dolly Varden, *Salvelinus malma*

(8) "Handgun" means any pistol, revolver or short firearm with a barrel length of less than sixteen inches and does not have a shoulder stock.

(9) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent and/or flavoring to attract fish. "Nonbuoyant lure" means a lure, complete with hooks, swivels or other attachments, that does not float in freshwater.

(10) "Bait" means any substance which attracts fish or wildlife by scent and/or flavor. Bait includes any device made of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which uses scent and/or flavoring to attract fish or wildlife.

(11) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(12) "Daily limit" means the maximum number of game fish which a person may legally retain in a single day.

(13) "Boat fishing" means fishing while in or on a boat, raft, or any other floating device.

(14) "Catch-and-release" means a type of angling where none of the fish caught are retained by the angler.

(15) "Fish in possession" means any fish retained, secure from escape, whether dead or alive. Bass or Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.

(16) "Mouth" of stream, river, or slough means those waters upstream of a line projected between the outermost uplands at the mouth. Outermost uplands means those lands are not covered by water during an ordinary high water.

(17) Fish length means the length of a fish measured from snout to tip of tail ((~~l~~))not fork((~~l~~)).

(18) Slough means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Many waters commonly called sloughs are not connected to a river and, therefore, are considered lakes.

(19) "In the field or in transit" means any place other than ((~~h~~)) at the residence or residential equivalency of the harvester, or ((~~h~~)) at a residence where the harvester is an invited guest. A residential equivalency is any temporary domicile that has sleeping, cooking and toilet facilities, and includes hotels and motels, motor homes, the living quarters of vessels so equipped, camp trailers, and enclosed areas within fishing and hunting camps where a reasonable expectation of privacy is demonstrated, but does not include cold storage lockers, charter boats, or public facilities.

(20) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from May 1st through the following April 30th.

(21) "Wild steelhead" means a steelhead trout that does not have the adipose or a ventral fin removed and a healed scar at the removal site.

**AMENDATORY SECTION** (Amending Order 629, filed 2/18/94, effective 3/21/94)

**WAC 232-12-168 Fishing contests.** ~~((1))~~ **(1)**

Contest defined: By definition, a fishing contest exists when 6 or more persons fish competitively and determine winners, regardless of prize value.

~~((2))~~ **(2) Application:**

(a) Fishing contest permit applications should be submitted to the department by November 1 of each year for contests that are to take place the following calendar year. After November 1, applications must be submitted not less than 30 days prior to the date for which the contest is proposed.

(b) 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))~~ **(3) Approval:**

(a) Fishing contests which adversely affect fish or wildlife resources or other recreational opportunity may be denied.

(b) Contests will not be allowed on sea-run cutthroat trout, Dolly 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))~~ **(4) Prize value:** Total prize value per contest will not exceed \$400 when trout, steelhead, char, whitefish, grayling, or kokanee 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 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))~~ **(5) Legal requirements, all contests:**

(a) Fishing contest permits must be in the possession of the contest sponsor or official at the contest site.

(b) Contests are restricted to the species and ~~((water[s]))~~ **waters** 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) Sponsors must report contest information requested by the department within ~~((10))~~ **30** 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) Contests where all participants expect to fish at the same time from boats on 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) 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))~~ **(6) Special regulations, bass and walleye contests:**

(a) 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, 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 "nonstandard" (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 remain in effect. No size or number limit exceptions are allowed for walleye contests except as authorized under (6)(f) below.

(f) The contest director or director designee may exceed possession limits for bass or walleye for the purpose of

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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 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.

AMENDATORY SECTION (Amending Order 95-103, filed 8/15/95, effective 9/15/95)

**WAC 232-12-619 Permanent Washington state-wide game fish regulations.** The following state-wide regulations apply to all waters unless modified under regional regulation exceptions.

(1) Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day.

(2) It is unlawful to:

(a) Use a gaff hook to land steelhead in waters designated as "wild steelhead release."

(b) Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow. A hunting license is required to take bullfrogs.

(c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

(d) Fish for game fish with a bow and arrow or spear.

(e) Possess fish which are under the minimum size or over the maximum size as shown in general or special regional regulations.

(3) Annual limit - steelhead trout only: Each adult angler who possesses a valid steelhead catch record card may not retain more than thirty steelhead over twenty inches in length per year (May 1 to April 30).

(4) Military personnel, regardless of the length of time in the state of Washington, who are permanently stationed at a military installation within the state, are entitled to purchase a resident license. Military personnel must have a license to fish for game fish anywhere in the state. Dependents must establish a ninety-day residency.

(5) Selective fishery regulations: In waters designated as being under selective fishery regulations, only artificial flies with a barbless single hook or lures with a barbless single hook are lawful. It is unlawful to use bait. Fish may be released until the daily limit is retained. It is unlawful to fish from any floating device equipped with a motor, unless specifically allowed under special rules for individual waters.

(6) Night closure: In waters designated as having a night closure, it is unlawful to fish from one hour after official sunset to one hour before official sunrise.

(7) Wild cutthroat release: In waters requiring a wild cutthroat release, it is unlawful to possess any cutthroat that does not have a missing adipose fin and a healed scar in the location of the missing fin.

(8) Wild steelhead release: In waters requiring wild steelhead release, it is unlawful to possess any steelhead

trout that does not have a missing adipose or ventral fin and a healed scar at the location of the missing fin.

(9) Free fishing weekends: The weekends corresponding with National Fishing Week have been declared as family fishing weekends in Washington. On these weekends a fishing license is not required for any person, regardless of residency or age, to fish for or possess game fish, except that it is unlawful to fish for or possess steelhead trout without the required license and catch record card. During free fishing weekends only the licensing requirement is affected, and all other rules remain in effect.

(10) Trout taken with bait: When fishing with bait, all trout equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, except steelhead trout may be caught and released while using bait until the daily limit is retained.

(11) Fish taken with artificial flies and lures: Where use of bait is prohibited, or where artificial flies or lures are used voluntarily, fish may be released until the daily limit is retained. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to so.

(12) OPEN SEASONS:

LAKES, PONDS, AND RESERVOIRS: YEAR AROUND, unless specified otherwise under Exceptions - Regional Regulations.

RIVERS, STREAMS AND BEAVER PONDS: JUNE 1 THROUGH OCTOBER 31, unless specified otherwise under Exceptions - Regional Regulations.

Note: The date set for "traditional" April openers for Lakes, Ponds, and Reservoirs for this year and future years is the last Saturday in April.

Waters managed under April through October seasons are listed under the Exceptions - Regional Regulations.

(13) Daily limits and minimum sizes:

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
BASS	Five - not more than three over fifteen inches  Bass may be caught, retained, and released alive from a livewell until a daily limit is in possession.	None
GRASS CARP....	It is unlawful to fish for or retain grass carp.	
TROUT	A combined total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds (except Eastern Brook Trout).  No more than two of the combined trout daily catch limit of 5 may be Steelhead. Wild Steelhead Release June 1-November 30	None in Lakes, Ponds, and Reservoirs.  Eight inches in Rivers, Streams, and Beaver Ponds.

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**EASTERN BROOK TROUT**  
(*Salvelinus fontinalis*)

Five - to be considered part of the combined trout daily catch limit.

None

Chehalis River

Cowlitz River

U.P. Railway Bridge in Aberdeen.  
A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

(a) The following game fish species are managed as trout for purposes of the daily limit:

- Eastern brook trout
- Brown trout
- Cutthroat trout
- Dolly Varden/Bull trout
- Golden trout
- Kokanee/Silver trout
- Lake trout
- Landlocked Atlantic salmon
- Rainbow trout/Steelhead
- Landlocked chinook and coho

Dakota Creek

A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

(b) The daily limit for trout caught in either lakes or streams is a combined total and must not exceed five.

(c) All waters, state-wide, are CLOSED YEAR AROUND to fishing for or retaining Dolly Varden/Bull Trout.

Where exceptions to the above closure for Dolly Varden/Bull Trout occur under individual listings in the Exceptions - Regional Regulations, Dolly Varden/Bull Trout count as part of the combined trout daily limit of five.

Deschutes River

A line projected across the river 400 feet below the lower Tumwater Falls fish ladder.

**WALLEYE**

Five, not more than one over twenty-four inches

Eighteen inches

Drano Lake

Duwamish River

Highway 14 Bridge.  
First Avenue South Bridge.

Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.

Elk River

Entiat River

Hoquiam River

Humtuplups River

Highway 105 Bridge.  
Highway 97 Bridge.  
Highway 101 Bridge.  
Mouth of Jessie Slough.

**WHITEFISH**

Fifteen

None

Johns River

Kalama River

Highway 105 Bridge.  
Boundary markers located at the mouth.

**ALL OTHER GAME FISH**

No Limit

None

Kennedy Creek

An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.  
Napolean Bridge.

**BULLFROGS**

Ten

None

Kettle River

Lake Washington

Ship Canal

A line 400 feet west of the fish ladder at the Chittenden Locks.  
Boundary markers at the mouth.

(14) Seasonal wild steelhead limits.

(a) It is unlawful for any person to retain more than two wild steelhead from the following watersheds:

(i) Clearwater River - mouth to Snahapish River.

(ii) Hoh River - mainstem, south fork and tributaries thereto.

(b) It is unlawful for any person to retain more than five wild steelhead from all of the following rivers and tributaries thereto:

(i) Bogachiel River.

(ii) Calawah River.

(iii) Dickey River.

(iv) Sol Duc River.

(v) Quillayute River.

(15) Possession limit. Except as otherwise provided, the possession limit is two daily limits.

((45)) (16) River mouths. The following river mouth definitions are exceptions to the general river mouth definition:

- Abernathy Creek
- Bear River
- Bone River

- Highway 4 Bridge.
- Highway 101 Bridge.
- Highway 101 Bridge.

Lewis River

Little White Salmon River

At boundary markers on the river bank downstream from the Little White Salmon National Fish Hatchery.

Methow River

Naselle River

North Nemah

River

Niawiakum River

North River

Palix River

Puyallup River

Highway 97 Bridge.  
Highway 101 Bridge.  
Highway 101 Bridge.

Highway 101 Bridge.  
Highway 105 Bridge.  
Highway 101 Bridge.  
11th Street Bridge.

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Samish River	Samish Island Bridge (Bayview-Edison Road).	White Salmon River	Markers downstream of the Burlington Northern Railroad Bridge.
Sammamish River	68th Ave. N.E. Bridge.	Wind River	Boundary line/markers at mouth.
Skagit River	A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.	Willapa River	South Bend boat launch.
		Yakima River	Highway 240 Bridge.
		<p><del>((16))</del> (17) Nonbuoyant lure and night closure restriction: In the following waters and during the periods shown, it is unlawful to use a nonbuoyant lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank and a night closure is in effect:</p>	
		Area	Time period
		<hr/>	
Skamokawe Creek	Highway 4 Bridge.	Naselle River <u>(including all forks)</u>	September 1-November 30
Skookum Creek	A line 400 yards below the old railroad bridge.	Willapa River	September 1-November 30
Snohomish River	Burlington Northern Railway Bridges crossing main river and sloughs.	Humtulpis River	September 1-November 30
South Nemah River	Lynn Point 117 degrees true to the opposite shore.	Satsop River <u>(including all forks)</u>	September 1-November 30
<u>Spokane River</u>	<u>State Route 25 Bridge.</u>	North Nemah River	September 1-November 30
Tucannon Creek	State Highway 261 Bridge.	Dungeness and Gray Wolf Rivers	August 1-October 15 October 1-December 31
Wallace River	The furthest downstream railroad bridge.	Kennedy Creek	October 1-December 31
Washougal River	A straight line projected from the James River pumphouse southeasterly across the Washougal River to the east end of Highway 14 Bridge at the upper end of Lady Island.	South Fork Nooksack River <u>mouth to Skookum Creek</u>	August 1-December 31
Whatcom Creek	A line projected approximately 14 degrees true from the flashing light to the south-westerly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.	<u>South Fork Nooksack River</u> <u>Upstream from Skookum Creek</u>	June 1 - September 30
		Big Quilcene River	August 1-December 31
		Samish River	August 1-December 31
		Stillaquamish River <u>(including all forks)</u>	August 1- <del>(December 31)</del> <u>November 30</u>
		Whatcom Creek	August 1-December 31
		Cowlitz River	
		From Mill Creek to Barrier Dam	April 1-October 31
		Kalama River	
		From 200 feet above Modrow Trap to mouth	September 1-October 31
		North Lewis River	
		From overhead powerlines below Ariel Dam to lower Cedar Creek Boat Ramp	April 1-October 31
		Washougal River	
		Downstream of Salmon Falls Bridge	September 1-October 31
		Icicle River	
		From Leavenworth Federal Fish Hatchery to mouth	May 8-June 30
		Wenatchee River	
		From mouth of Icicle River to Highway 2 Bridge	May 8-June 15
		Skagit River (and tributaries)	
		Upstream of Gilligan Creek	July 1-November 30
		Tokul Creek	
		From mouth to posted cable markers	December 1-March 31
		<u>Capitol Lake</u>	<u>August 1 - November 30</u>

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<u>Deschutes River</u>	<u>August 1 - November 30</u>
<u>Elochoman River</u>	<u>September 1 - November 30</u>
<u>Grays River</u>	<u>September 1 - November 30</u>
<u>Green/Duwamish River</u> <u>mouth to Highway</u> <u>164 Bridge</u>	<u>August 1 - November 30</u>
<u>McAllister Creek</u>	<u>August 1 - November 30</u>
<u>Nisqually River</u>	<u>August 1 - November 30</u>
<u>Puyallup River</u> <u>mouth to Carbon River</u>	<u>August 1 - November 30</u>
<u>Skykomish River</u> <u>(including all forks)</u>	<u>August 1 - November 30</u>
<u>Snohomish River</u>	<u>August 1 - November 30</u>
<u>White/Stuck River</u>	<u>October 1 - November 30</u>

~~((17))~~ (18) Freshwater fishing hours: It is unlawful to fish during a night closure. A night closure is in effect for all waters during the period of a nonbuoyant lure restriction.

Reviser's note: The spelling 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.

**AMENDATORY SECTION** (Amending Order 95-114, filed 9/7/95, effective 10/8/95)

**WAC 232-28-619 Washington game fish seasons and daily limits—Regional regulation exceptions. Region I.**

Description: That area of the state contained within the boundaries of Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Walla, and Whitman counties.

When fishing or hunting within the boundaries of the Colville Indian Reservation, contact the office of the Colville Confederated Tribes to find out what tribal permits and regulations apply.

When fishing near Snake River dams, be aware of restricted zones upstream and downstream of the dams.

Exceptions - Region I Regulations: State-wide regulations apply to all waters except where modified in special regulations below.

Alkali Flat Creek (Whitman County): Year around season.

Amber Lake: Last Saturday in April through September 30 season. Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations, except electric motors allowed. Additional season October 1 through November 30, catch-and-release only, single barbless hooks, selective fishery regulations.

Alpowa Creek: Last Saturday in April through June 30 season.

Asotin Creek, ~~((from mouth upstream to SR129 Bridge))~~ mainstem and forks: ((Year around season.)) Closed to fishing for steelhead.

From SR129 Bridge upstream to the forks: ~~((Trout daily limit eight. Closed to fishing for steelhead.))~~ Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: ~~((Trout daily limit eight. Closed to fishing for steelhead.))~~ Selective fishery regulations.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

B.C. Mill Pond: Last Saturday in April through October 31 season.

Badger Lake: Last Saturday in April through September 30 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Trout - daily limit - ~~((two))~~ one, minimum length fourteen inches. Fly fishing only. Use of motors prohibited.

Additional season. July 5 through October 31. Catch-and-release, fly fishing only. Use of motors prohibited. Inlet stream: Closed waters.

Bear Lake (Spokane County): Juveniles and holders of free licenses only.

Beaver Lake (Columbia County): March 1 through July 31 season. Fishing from any floating device prohibited.

Big Four Lake: March 1 through July 31 season. Trout - daily limit - two. Fly fishing only. Fishing from any floating device prohibited.

Big Meadow Lake: Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

~~((Blue Creek (Walla Walla County): Last Saturday in April through June 30 season.))~~

Blue Lake (Columbia County): March 1 through July 31 season. Fishing from any floating device prohibited.

Browns Lake and inlet streams (Pend Oreille County): Fly fishing only. Last Saturday in April through October 31 season. Use of motors prohibited.

Burbank Slough: Fishing from any floating device prohibited.

Caldwell Lake: Last Saturday in April through October 31 season. Trout - daily limit - two minimum length twelve inches. Internal combustion engines prohibited.

Calispell River, from mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective fishery regulations.

Carl's Lake: Last Saturday in April through October 31 season.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Chapman Lake: Last Saturday in April through October 31 season. Trout ~~((-))~~ except kokanee: Daily limit ((-ten, at least)) five ((of which must be)). Additionally up to 10 kokanee may be retained. Feeding (chumming) permitted.

PERMANENT

Chewelah Creek, forks and tributaries: Selective fishery regulations.

Clear Lake (Spokane County): Last Saturday in April through October 31 season.

Colville River (Stevens County), from mouth to bridge at Town of Valley: Year around season. Trout: Daily limit 5 fish, not more than 2 of which may be brown trout October 1 through November 30. Walleye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 20 inches. Unlawful to retain walleye 16 to 20 inches in length.

From Valley upstream and tributaries: Selective fishery regulations.

Conger Pond: Last Saturday in April through October 31 season.

Coppei Creek: Last Saturday in April through June 30 season.

Cottonwood Creek (Asotin County): Closed to fishing for steelhead.

Cottonwood Creek (Lincoln County) ~~((, outside city limits of Davenport: Last Saturday in April through September 30))~~: Year around season.

Crab Creek (Lincoln County) and tributaries: Year around season.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season ~~((except closed October 1 through October 31, 1995)).~~

Curl Lake: June 1 through October 31 season. Fishing from any floating device prohibited.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles only (under fifteen years old).

Deadman Creek (Garfield County): Year around season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deer Lake (Columbia County): March 1 through July 31 season. Fishing from any floating device prohibited.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout, no more than two over twenty inches in length.

Diamond Lake: Last Saturday in April through October 31 season.

Downs Lake: Last Saturday in April through September 30 season.

Dry Creek (Walla Walla County): Last Saturday in April through June 30 season.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Fan Lake: Last Saturday in April through September 30 season. Internal combustion engines prohibited.

Fishhook Pond (Walla Walla County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Internal combustion engines prohibited.

Fishtrap Lake: Last Saturday in April through September 30 season.

Fourth of July Lake: December 1 through March 31 season. Trout, no more than two over fourteen inches in length. Internal combustion engines prohibited.

Frater Lake: Last Saturday in April through October 31 season.

Garfield Juvenile Pond (Whitman County): Juveniles only (under fifteen years old).

Gillette Lake: Last Saturday in April through October 31 season.

Goose Creek (Lincoln County), within the city limits of Wilbur: Limited to juveniles (under fifteen years old) and holders of complimentary or free licenses only. Year around season.

Grande Ronde River, from mouth to County Road Bridge about two and one-half miles upstream: Year around season. Trout, minimum length twelve inches, maximum length twenty inches. Retaining steelhead is prohibited. Selective fishery regulations September 1 through May 31.

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.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Harvey Creek (tributary to Sullivan Lake), from mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 on county road upstream: Selective fishery regulations.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hawk Creek (Lincoln County): Year around season.

Headgate Pond: Last Saturday in April through October 31 season. Limited to juveniles (under fifteen years old) and holders of complimentary or free licenses.

Heritage Lake: Last Saturday in April through October 31 season.

Hog Canyon Lake: December 1 through March 31 season. Trout, no more than two over fourteen inches in length.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout ~~((-))~~ except kokanee: Daily limit ~~((-ten, at least))~~ five ~~((of which must be))~~. Additionally up to 10 kokanee may be retained. Feeding (chumming) permitted.

Huff Lake (Pend Oreille County): Closed waters.

Jefferson Park Pond (Walla Walla County): Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Jump-Off Joe Lake: Last Saturday in April through October 31 season.

Kalispell Creek and tributaries: Last Saturday in April through October 31 season. Selective fishery regulations.

~~Kettle River ((from the Burlington Northern Railroad bridge at Twin Bridges upstream to Napoleon Bridge)) (Stevens County): June 1 through ((March)) October 31 season. Trout: Selective fishery regulations, minimum length 12 inches. Walleye ~~((daily limit eight, no more than one over twenty inches in length. Only walleye less than sixteen inches or over twenty inches in length may be kept. Trout:))~~. No minimum ~~((length twelve inches))~~ size. Daily limit 8 fish not more than one of which may be longer than 20 inches. Unlawful to retain walleye 16 to 20 inches in length.~~

~~((From Napoleon Bridge upstream: Trout, minimum length twelve inches; selective fishery regulations. Only single pointed hooks may be used.))~~ Additional season: November 1 through ~~((May 31,))~~ March 31. All gamefish except walleye and whitefish: Catch-and-release only, selective fishery regulations. ~~((Exception: Bait and))~~ Walleye: No minimum size. Daily limit 8 fish not more than one of which may be longer than 20 inches. Unlawful to retain walleye 16 to 20 inches in length. Whitefish: Single ~~((pointed barbed))~~ hook ~~((may be used for whitefish))~~ only ~~((November 1 through March 31))~~.

Additional season: April 1 through May 31. All gamefish except whitefish: Catch and release only, selective fishery regulations. Whitefish: Single hook only.

Kings Lake and tributaries: Closed waters.

Latah (Hangman) Creek: Year around season.

Ledbetter Lake: Last Saturday in April through October 31 season.

Ledking Lake: Last Saturday in April through October 31 season.

Leo Lake: Last Saturday in April through October 31 season.

Liberty Lake: Last Saturday in April through September 30 season.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Spokane River, from mouth to SR 291 Bridge: Year around season.

From SR 291 Bridge upstream to the West Branch: April 30 through October 31 season. Additional December 1 through March 31 season for whitefish only.

Little Twin Lake (Stevens County): Last Saturday in April through October 31 season.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Use of motors prohibited.

Long Lake (Spokane River Reservoir): Bass - catch-and-release only, May 1 through June 30. See also Spokane River.

Loon Lake: Last Saturday in April through October 31 season. Trout - except kokanee: Daily limit - ~~((ten, of which at least))~~ five ~~((must be))~~. Additionally up to 10 kokanee ~~((;))~~ may be retained. No more than two trout over twenty inches in length.

Lyons Park Pond (College Place): Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Marshal Lake: Last Saturday in April through October 31 season.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Catch-and-release, fly fishing only. Use of motors prohibited.

Medical Lake: Last Saturday in April through September 30 season. Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations.

Medical Lake, West: Last Saturday in April through September 30 season.

Mill Creek (Walla Walla County), from mouth to 9th St. Bridge: June 1 through April 15 season. Open only to fishing for steelhead from September 1 through April 15. Wild steelhead release.

From 9th St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge to ~~((Oregon state line))~~ Bennington Lake flood diversion dam: Trout - daily limit - five.

From Bennington Lake flood diversion dam upstream, including all tributaries: June 1 through October 31 season.

Mill Creek Reservoir: Internal combustion engines prohibited.

Mill Pond: Last Saturday in April through October 31 season.

Mudget Lake: Last Saturday in April through October 31 season.

Muskegon Lake: Last Saturday in April through October 31 season. Selective fishery regulations.

Mystic Lake: Last Saturday in April through October 31 season.

Negro Creek (Lincoln County): June 16 through March 31 season from mouth at Sprague Lake to town of Sprague.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Newman Lake: Tiger musky - daily limit - one, minimum length thirty-six inches.

Nile Lake: Last Saturday in April through October 31 season.

No Name Lake: Last Saturday in April through October 31 season.

Palouse River (Whitman County) and tributaries: Year around season.

Pampa Pond (Whitman County): Last Saturday in April through September 30 season. Fishing from any floating device prohibited.

Parker Lake: Last Saturday in April through October 31 season.

Pataha Creek, mouth to Pomeroy city limits: Year around season.

Within the city limits of Pomeroy: Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Remainder of creek Selective fishery regulations.

Pend Oreille River: Year around season.

Petit Lake: Last Saturday in April through October 31 season. Internal combustion engines prohibited.

Phalon Lake: Closed waters.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Potter's Pond: Last Saturday in April through October 31 season.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited.

Rainbow Lake (Columbia County): March 1 through July 31 season. Fishing from any floating device prohibited.

Renner Lake: Last Saturday in April through October 31 season.

Rigley Lake: Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. From June 1 through October 31 catch-and-release only, selective fishery regulations.

Roosevelt Lake (Columbia River): All species - Closed February 1 through May 31 in San Poil arm upstream from mouth of Manilla Creek. Trout - no more than two over twenty inches in length. Walleye ((-daily limit eight, not more than one over twenty inches in length; only walleye less than sixteen inches or over twenty inches in length may be kept)); No minimum size. Daily limit 8 fish not more

than one of which may be longer than 20 inches. Unlawful to retain walleye 16 to 20 inches in length. Closed April 1 through May 31 in ((Spokane arm upstream from SR25 Bridge and in)) Kettle arm upstream ((from Burlington-Northern Railroad)) to Napoleon Bridge ((at Twin Bridges)).

Roosevelt Lake (Columbia River) tributaries: 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.

Sacheen Lake: Last Saturday in April through October 31 season.

Sherman Creek (Ferry County), from the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters. Exception: From the mouth upstream to the hatchery boat dock December 1 through August 31 season.

Sherry Lake: Last Saturday in April through October 31 season.

Skookum Lake, North: Last Saturday in April through October 31 season.

Skookum Lake, South: Last Saturday in April through October 31 season.

Snake River: Year around season. Closed to the taking of all trout April 1 through May 31. Trout - daily limit - six minimum length ten inches, no more than two over twenty inches. Retaining steelhead is prohibited from June 1 through August 31. Wild steelhead release from September 1 through March 31. Barbless hooks required when fishing for steelhead on that portion of the Snake River which forms the boundary between Washington and Idaho.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Note: On the mainstem Snake River between Washington and Idaho the license of either state is valid. The angler must be in compliance with the laws of the state issuing the license. This provision does not allow an angler licensed in Idaho to fish on the Washington shore, or in the sloughs or tributaries of Washington. An angler fishing the Snake River is restricted to one daily limit even if licensed by both states.

Spokane River, from ~~((the mouth at Lake Roosevelt))~~ SR 25 Bridge upstream to the Seven Mile Bridge, ~~((including))~~ except Long Lake, formed by Long Lake Dam (see also Long Lake): Year around season. Trout - daily limit - five, no more than two over twenty inches in length. Walleye - daily limit - eight, no more than one over twenty inches in length. Only walleye less than sixteen inches or over twenty inches in length may be kept; closed April 1 through May 31.

From Seven Mile Bridge upstream to the Monroe Street Dam: Year around season. Trout - daily limit - one. Wild trout release (only rainbow trout with missing adipose fins

may be possessed. There must be a healed scar in the location of the missing fin.) Selective fishery regulations.

From Monroe Street Dam upstream to Upriver Dam: Year around season.

From Upriver Dam upstream to the Idaho/Washington state line: Trout - daily limit - one, minimum length 12 inches; selective fishery regulations, except motors allowed.

Sprague Lake: Channel catfish - daily limit - five. Bass - only bass less than twelve inches or over fifteen inches in length may be kept. Closed waters: ~~((March 1))~~ September 16 through June 30 in that part of the lake and Cow Creek from ~~((Harper Island and posted markers on the lake shore southwest))~~ the lakeside edge of the reeds to Danekas Road. Note: The inlet stream, Negro Creek, is closed April 1 through June 15.

Spring Lake (Columbia County): March 1 through July 31 season. Fishing from any floating device prohibited.

Starvation Lake: Last Saturday in April through May 31 season. Additional season June 1 through October 31, catch-and-release only, selective fishery regulations.

Sullivan Creek, from Mill Pond upstream: Selective fishery regulations.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Thomas Lake: Last Saturday in April through October 31 season.

Touchet River, from mouth to ~~((Highway 12 Bridge at Waitsburg))~~ confluence of north and south forks: June 1 through ~~((April 15))~~ October 31 season. Trout - daily limit 5 fish. Wild steelhead release. Additional season: November 1 through April 15. Open only to fishing for steelhead ~~((from September 1 through April 15))~~ and brown trout. Minimum size twenty inches. Wild steelhead release.

From ~~((Highway 12 Bridge at Waitsburg to Wolf Fork Bridge))~~ confluence of north and south forks upstream, including all tributaries: June 1 through ~~((April 15))~~ October 31 season. ~~((Wild))~~ Closed to fishing for steelhead ((release. Open only to fishing for steelhead and brown trout over twenty inches in length September 1 through April 15)).

~~((From Wolf Fork Bridge upstream and all tributaries: Trout, minimum length twelve inches selective fishery regulations.))~~

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Tucannon River, note: All tributaries closed. Wild steelhead release.

From the Highway 261 Bridge upstream to ~~((Highway 12))~~ Turner Road Bridge: Trout - ((June 1 through August 31 season. Open only to fishing for)) daily limit 5 fish, no more than 2 of which may be steelhead. Additional season steelhead and whitefish ((September)) only, November 1 through April 15.

From the ~~((Highway 12))~~ Turner Road Bridge upstream to the Cummings Creek Bridge: ~~((June 1 through October 31, trout, daily limit five. Open only to fishing for))~~ Additional season steelhead and whitefish only, November 1 through April 15.

From the Cummings Creek Bridge upstream to ~~((a point four hundred feet))~~ the Deer Lake footbridge about 3/4 mile upstream of the Tucannon hatchery ((intake dam)): Closed waters.

From ~~((a point four hundred feet upstream of))~~ ~~((hatchery intake dam))~~ Deer Lake footbridge to the Panjab Creek Bridge: Trout - ~~((daily limit five,))~~ selective fishery regulations. ~~((Only))~~ Two Dolly Varden/Bull Trout ((over)) minimum length twenty inches ~~((in length))~~ may be retained ~~((as part of))~~ in the trout daily limit.

From the Panjab Creek Bridge upstream: Closed waters.

Vanes Lake: Last Saturday in April through October 31 season.

Waits Lake: Last Saturday in April through February 28 season.

Walla Walla River, wild steelhead release.

From mouth to the Touchet River: Year around season. Closed to fishing for all trout April 1 through May 31 wild steelhead release.

From the Touchet River upstream to state line: June 1 through April 15 season. Open only to fishing for steelhead November 1 through April 15.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Watson Lake: March 1 through July 31 season. Fishing from any floating device prohibited.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Yokum Lake: Last Saturday in April through October 31 season.

## Region II.

Description: That area of the state contained within the boundaries of Adams, Douglas, Franklin, Grant, and Okanogan counties.

When fishing or hunting within the boundaries of the Colville Indian Reservation, contact the office of the Colville Confederated Tribes to find out what tribal permits and regulations apply.

Lawful to fish to base of all dams in Region II, except Zosel Dam (Okanogan River).

Exceptions - Region II Regulations. State-wide regulations apply to all waters except where modified in special regulations below.

Note: All seasons apply to inlet and outlet streams of named lakes in Grant and Adams counties.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Use of motors prohibited.

Alkali Lake (Grant County): Closed to the taking of walleye.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Trout - daily limit - one; selective fishery regulations except electric motors permitted.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (Sinlahekin, Washington - Okanogan County): Last Saturday in April through October 31 season. Trout - daily limit - one; selective fishery regulations, except electric motors allowed.

Blue Lake (near Wannacut Lake - Okanogan County): Last Saturday in April through October 31 season. Trout - daily limit - one; selective fishery regulations, except electric motors allowed.

Bobcat Creek and Ponds (~~Grant~~) Adams County): March 1 through ~~((July 31))~~ September 30 season.

Bonaparte Lake (Okanogan County): Trout, no more than one over twenty inches in length.

Burke Lake (Grant County): March 1 through July 31 season.

Caliche Lake (lower) (Grant County): March 1 through July 31 season.

Caliche Lake (upper) (Grant County): March 1 through July 31 season.

Campbell Lake (Okanogan County): September 1 through March 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cattail Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Chewuch River (Chewack River) (Okanogan County), from mouth to Lake Creek: Trout, minimum length twelve inches. Selective fishery regulations. Additional December 1 through March 31 season for whitefish only.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Trout - daily limit - one. Fly fishing only. Use of motors prohibited.

Cliff Lake (Grant County): March 1 through July 31 season.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conner Lake: Last Saturday in April through October 31 season.

Coot Lake (Grant County): March 1 through July 31 season.

Cougar Lake (near Winthrop - Okanogan County): September 1 through March 31 season.

Cow Lake (Adams County): Channel catfish - daily limit - five. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Coyote Creek and Ponds (Adams County): March 1 through ~~((July 31))~~ September 30 season.

Crab Creek (Grant and Adams counties), from Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season. From Morgan Lake Road in Section 36 to ((Goose Lake Road (excluding)) O' Sullivan Dam (including Marsh Unit I and II impoundments): ((March 1 through July 31 season. Trout - daily limit - five. Fishing from any floating device prohibited.

~~From Goose Lake Road to O' Sullivan Dam (excluding Marsh Unit I off stream impoundments): June 15 through September 30 season. Trout - daily limit - five. Fishing from any floating device prohibited.))~~ Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from vessels equipped with internal combustion engines prohibited.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Davis Lake (Okanogan County): September 1 through March 31 season.

Deadman Lake (Adams County): March 1 through ~~((July 31))~~ September 30 season.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Dollar Lake (Grant County): March 1 through July 31 season.

Dot Lake (Grant County): March 1 through July 31 season.

Dry Falls Lake (Grant County): Last Saturday in April through ~~((October 31))~~ November 30 season. Trout ((-)) daily limit ((-)) one. Selective fishery regulations.

Dusty Lake (Grant County): March 1 through July 31 season.

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Trout - daily limit - one. Selective fishery regulations.

Finnel Lake (Adams County): Channel catfish - daily limit - five. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Fish Lake (Okanogan County): Last Saturday in April through ~~((September 30))~~ October 31 season.

Forde Lake: Last Saturday in April through October 31 season.

Fourth of July Lake (Adams County): December 1 through March 31 season. Trout, no more than two over fourteen inches in length. Internal combustion engines prohibited.

Gadwall Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

George Lake (Grant County): March 1 through July 31 season.

Gold Creek (Okanogan County), from mouth to Foggy Dew Creek: Selective fishery regulations.

Green Lake (Okanogan County): December 1 through March 31 season.

Green Lake, lower (Okanogan County): December 1 through March 31 season. Trout - daily limit - five.

Grimes Lake: June 1 through August 31 season. Trout - daily limit - one. Selective fishery regulations, except electric motors allowed.

Halfmoon Lake (Adams County): March 1 through September 30 season.

Hallin Lake (Adams County): Channel catfish - daily limit - five. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Hampton Lake, lower (Grant County): March 1 through July 31 season. Internal combustion engines prohibited.

Hampton Lake, upper (Grant County): March 1 through July 31 season. Internal combustion engines prohibited.

Hays Creek and Ponds (Adams County): March 1 through ~~((July 31))~~ September 30 season.

Hourglass Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Hutchinson Lake (Adams County): March 1 through ~~((July 31))~~ September 30 season. Internal combustion engines prohibited.

Indian Dan Pond: July 1 through October 31 season.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek: Juveniles only (under fifteen years old).

Lake Creek, upstream from Pasayten Wilderness boundary: June 1 through August 31 season. Selective fishery regulations.

Leader Lake (Okanogan County): Last Saturday in April through ~~((October 31))~~ September 30 season.

Lemna Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Lenice Lake (Grant County): ~~((Last Saturday in April))~~ March 1 through October 31 season. Trout ~~((--))~~ daily limit ~~((--))~~ one. Selective fishery regulations.

Lenore Lake (Grant County): Closed: December 1 through February 28. March 1 through May 31 season.

Catch-and-release only, selective fishery regulations, except electric motors allowed. June 1 through November 30 season. Trout - daily limit - one. Selective fishery regulations, except electric motors allowed. Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17.

Little Twin Lake: December 1 through March 31 season.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Lost Lake: Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County): From one-quarter mile above bridge to mouth of Monument Creek: Trout, minimum length twelve inches. Selective fishery regulations.

From mouth of Drake Creek to outlet of Cougar Lake: Trout and Dolly Varden/Bull Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations.

Marie Lake (Hampton Sloughs) (Grant County): March 1 through July 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Merry Lake (Grant County): ~~((Last Saturday in April))~~ March 1 through October 31 season. Trout ~~((--))~~ daily limit ~~((--))~~ one. Selective fishery regulations.

Methow River, from mouth upstream to second powerline crossing (approximately one mile): June 1 through March 31 season. Trout, minimum length twelve inches. Wild steelhead release.

From second powerline crossing above railroad bridge (approximately one mile) upstream to mouth of Lost River: June 1 through March 31 season. Wild steelhead release. Trout, minimum length twelve inches; selective fishery regulations June 1 through September 30.

Migraine Lake (Grant County): March 1 through July 31 season.

Mirror Lake: Last Saturday in April through September 30 season.

Moran Slough (including inlet and outlet streams): Closed water.

Morgan Lake (Adams County): March 1 through September 30 season.

Moses Lake: Crappie - daily limit - five. Only crappie more than ten inches in length may be kept. Bluegill - daily limit - five. Only bluegill more than eight inches in length may be kept.

North Potholes Reserve Ponds (Grant County): February 1 through October 10 season. Fishing from any floating device prohibited, except float tubes permitted.

Nunnally Lake (Grant County): ~~((Last Saturday in April))~~ March 1 through October 31 season. Trout - daily

limit - one. Selective fishery regulations. Closed waters: Outlet stream of Nunnally Lake.

Okanogan River (Okanogan County): Year around season. Wild steelhead release. Trout, minimum length twelve inches. Closed waters: From Zosel Dam downstream one-quarter mile below the railroad trestle.

Palmer Lake (Okanogan County): Bass - only bass less than twelve inches or over fifteen inches in length may be kept. Burbot - set lines may be used for burbot. An angler may use no more than one set line having attached thereto any number of hooks. Set lines must be clearly identified with the angler's name and address.

Para-Juvenile Lake: March 1 through July 31 season. Juveniles only (under fifteen years old).

Park Lake: Last Saturday in April through September 30 season.

Patterson Lake: Last Saturday in April through October 31 season.

Pearrygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Perch Lake: Last Saturday in April through September 30 season.

Pillar Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Poacher Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Potholes Reservoir: Crappie and bluegill - daily limit - twenty-five (species combined).

Quail Lake: Catch-and-release, fly fishing only. Use of motors prohibited.

Quincy Lake (Grant County): March 1 through July 31 season.

Rat Lake (Okanogan County): December 1 through March 31 season.

Reflection Pond: Last Saturday in April through October 31 season.

Ringold Springs Creek (Hatchery Creek): Closed waters.

Rocky Ford Creek and Ponds (Grant County): Trout - daily limit - one. Fly fishing only. Fishing from bank only (no wading).

Roosevelt Lake (Columbia River) (Grant County): See Region I.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Royal Lake (Adams County): Last Saturday in April through September 30 season. Internal combustion engines prohibited.

Royal Slough (including Marsh Unit IV impoundments): Closed waters.

Rufus Woods Lake (Douglas County): Trout (including kokanee) - daily limit - two.

Saddle Mountain Lake: Closed waters.

Sago Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Salmon Creek, North Fork: Selective fishery regulations.

Salmon Creek, West Fork, from mouth to South Fork: Selective fishery regulations.

Scabrock Lake (Grant County): March 1 through July 31 season.

Shiner Lake (Adams County): March 1 through ~~((July 31))~~ September 30 season. Internal combustion engines prohibited.

Shoveler Lake: March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Sidley Lake: Trout - two fish daily limit.

Similkameen River (Okanogan County) from mouth to Enloe Dam: June 1 through March 31 season. Wild steelhead release. Trout, minimum length twelve inches. Selective fishery regulations June 1 through ~~((October 31))~~ November 30.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season for whitefish only.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective fishery regulations. Additional December 1 through March 31 season for whitefish only.

Snipe Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

Spectacle Lake (Okanogan County): March 1 through July 31 season. Possession of fish other than trout is prohibited.

Sprague Lake: Channel catfish - daily limit - five. Bass - only bass less than twelve inches or over fifteen inches in length may be kept. Closed waters: March 1 through June 30 in that part of the lake and Cow Creek from Harper Island and posted markers on lake shore southwest to Danekas Road. Note: The inlet stream, Negro Creek, is closed April 1 through June 15.

Spring Lakes (near Quincy - Grant County): March 1 through July 31 season.

Twisp River (Okanogan County), from mouth to War Creek: Trout, minimum length twelve inches. Selective fishery regulations.

Vic Meyers (Rainbow) Lake: Last Saturday in April through September 30 season.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Warden Lake (Grant County): March 1 through July 31 season.

Warden Lake, South (Grant County): March 1 through July 31 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Bass - only bass less than 12 inches or over fifteen inches in length may be kept. Internal combustion engines prohibited.

Whitestone Lake (Okanogan County): Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Widgeon Lake (Grant County): March 1 through ~~((July))~~ March 31 and September 1 through September 30 seasons.

### Region III.

Description: That area of the state contained within the boundaries of Benton, Chelan, Kittitas, and Yakima counties.

When fishing or hunting within the boundaries of the Yakama Indian Reservation contact the Office of the Confederated Tribes and Bands of the Yakama Indian Nation. Phone to find out what tribal permits and regulations apply. Waters open under tribal regulations are also open under state regulations.

In Benton County: Rivers, Streams and Beaver Ponds: Year around.

Exceptions - Region III Regulations. State-wide regulations apply to all waters except where modified in special regulations below.

American River, from mouth to Rainier Fork: Selective fishery regulations.

Bachelor Creek: Year around season. Trout - daily limit - five, no minimum length.

Bear Creek (tributary to South Fork Tieton River): Closed season, August 16 through May 31.

Beehive (Lake) Reservoir: Last Saturday in April through October 31 season. From July 5 through October 31 catch-and-release, selective fishery regulations.

Black Lake (Lower Wheeler Reservoir): Last Saturday in April through October 31 season. From July 5 through October 31 catch-and-release, selective fishery regulations.

Box Canyon Creek, from mouth to bridge on USFS Road No. 4930 (approximately four miles): Closed waters.

Buckskin Creek and Tributaries (Yakima County), from the west boundary of Suntides Golf Course to its mouth: Closed waters.

Bumping Lake (Reservoir): Kokanee daily limit - sixteen. Feeding (chumming) permitted.

Bumping River, from mouth to American River: Selective fishery regulations. Additional December 1 through March 31 season for whitefish only.

From mouth of American River to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Additional December 1 through March 31 season for whitefish only.

Cashmere Pond: Juveniles only (under fifteen years old).

~~((Chelan Hatchery Creek: Year around season. Juveniles only (under fifteen years old).))~~

Chelan Lake: Trout and salmon - daily limit - two in aggregate, minimum length fifteen inches ~~((and))~~. Kokanee - daily limit - five, no minimum length. Except closed ~~((season))~~ to the taking of game fish other than salmon April 1 through June 30, north (uplake) of a line between Purple Point (at Stehekin) and Painted Rocks, and within four hundred feet of the mouths of all ~~((other))~~ tributaries uplake from Fields Point. An angler may use one set line with any number of hooks for burbot. Set lines must be clearly identified with the angler's name and address. Except east (downlake) of Fields Point from May 15 through September 30: Trout, minimum length eight inches salmon minimum length 15 inches, daily limit an aggregate of 5 trout and salmon not more than two over fifteen inches ~~((and))~~. Kokanee - daily limit - five, no minimum length.

Chelan Lake Tributaries from mouths upstream one mile except Stehekin River: July 1 through October 31 season. Selective fishery regulations.

Chelan River: Year around season. Trout, minimum length twelve inches.

Chiwaukum Creek, from mouth to South Fork: Selective fishery regulations.

Chiwawa River, from mouth to Rock Creek: Selective fishery regulations.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31 catch-and-release, selective fishery regulations.

Cle Elum Lake (Reservoir): Trout - daily limit - two, minimum length twelve inches. Kokanee daily limit - sixteen. An angler may use one set line with any number of hooks for burbot. Set lines must be clearly identified with the angler's name and address.

Cle Elum River, from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Additional December 1 through March 31 season for whitefish only.

Columbia Park Pond: Juveniles only (under fifteen years old).

Deep Creek (tributary to Bumping Lake): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Eightmile Lake: Trout - daily limit - five, not more than two mackinaw.

North Elton Ponds: December 1 through March 31 season. Trout - daily limit - two. Internal combustion engines prohibited.

Enchantment Park Ponds: Juveniles only (under fifteen years old).

Entiat River, from mouth to Fox Creek: June 1 through March 31 season. Trout, minimum length twelve inches; selective fishery regulations June 1 through November 30. Wild steelhead release.

Fiorito Lakes: Internal combustion engines prohibited.

Fish Lake (Chelan County): Trout, no more than two over fifteen inches in length.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake): Closed waters.

I-82 Ponds (1-7): Internal combustion engines prohibited. In addition, I-82 Ponds (1-2) closed to the taking of walleye.

Icicle Creek (River), from mouth to four hundred feet below Leavenworth National Fish Hatchery rack: June 1 through March 31 season. Trout, minimum length twelve inches. Wild steelhead release.

From Rock Island Bridge upstream to Leland Creek: Selective fishery regulations.

Indian Creek (Yakima County): Closed waters.

Kachess Lake (Reservoir): Trout - daily limit - two, minimum length twelve inches. Kokanee daily limit - sixteen. Feeding (chumming) permitted. An angler may use one set line with any number of hooks for burbot. Set lines must be clearly identified with the angler's name and address.

Kachess River: Lawful to fish to base of Kachess Dam. From Kachess Lake (Reservoir) upstream to Mineral Creek: Closed waters.

Keechelus Lake (Reservoir): Trout - daily limit - two, minimum length twelve inches. Kokanee daily limit - sixteen. Feeding (chumming) permitted. An angler may use one set line with any number of hooks for burbot. Set lines must be clearly identified with the angler's name and address.

Leech Lake (White Pass area): Trout, no more than two over twelve inches in length, fly fishing only. Use of motors prohibited.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31 catch-and-release, selective fishery regulations.

Little Naches River, Pileup Creek to Road 1913 Bridge: Selective fishery regulations.

Little Wenatchee River, from Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Selective fishery regulations.

Mad River, from mouth upstream to Jimmy Creek: Closed waters.

McCabe Pond: Five fish daily limit for all species combined. Fishing from any floating device prohibited.

Mercer Creek, that portion within Ellensburg city limits: Juveniles only (under fifteen years old). Trout - daily limit - five, no minimum length.

Merritt Lake: Trout - daily limit - sixteen.

Mineral Creek (tributary to upper Kachess River) from mouth to Wilderness Boundary: Closed waters.

Mud Lake: Trout - daily limit - two. Selective fishery regulations.

Myron Lake: Trout - daily limit - two. Selective fishery regulations.

Naches River, from the mouth to Rattlesnake Creek: Trout, minimum length twelve inches, maximum length twenty inches. Closed to fishing for steelhead. Additional December 1 through March 31 season for whitefish only.

From Rattlesnake Creek to Little Naches River: Trout, maximum length twenty inches. Closed to fishing for steelhead. Additional December 1 through March 31 season for whitefish only.

Naneum Pond: Juveniles only (under fifteen years old).

Nason Creek, from the Kahler Creek Bridge (near Coles Corner) upstream to Stevens Creek: Selective fishery regulations.

Nason Creek Fish Pond: Juveniles (under fifteen years old) and handicapped persons only.

Oak Creek: Trout - daily limit - five, no minimum length.

Panther Creek (Chelan County): Closed waters.

Rattlesnake Creek: Catch-and-release only, selective fishery regulations.

Rimrock Lake (Reservoir): Kokanee - daily limit - sixteen. Feeding (chumming) permitted.

~~((Roses Lake: December 1 through March 31 season.))~~

Schaefer Lake: Trout - daily limit - sixteen.

Spectacle Lake (Kittitas County): Trout - daily limit - sixteen.

Stehekin River, from the mouth to Agnes Creek: July 1 through October 31 season. Trout, minimum length fifteen inches; selective fishery regulations. Additional March 1 through June 30 season: Catch-and-release only, selective fishery regulations.

Swauk Creek, from mouth to Iron Creek: Selective fishery regulations.

Taneum Creek: Selective fishery regulations.

Tieton River: Trout - daily limit - five, no minimum length. Lawful to fish to base of Tieton (Rimrock) Dam. Additional December 1 through March 31 season for whitefish only.

Tieton River, North Fork, from Rimrock Lake to within four hundred feet of Clear Lake Dam: June 1 through August 15 season. Fishing is prohibited in the spillway channel and within four hundred feet of Clear Lake Dam.

Tieton River, South Fork: From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Trapper Lake: Trout - daily limit - two.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Wapato Lake: Last Saturday in April through October 31 season. From August 1 through October 31 Trout - catch-and-release, selective fishery regulations. Internal combustion engines allowed.

**Wenas Lake:** Trout - daily limit - five, of which not more than two may be brown trout.

**Wenatchee Lake:** Trout - daily limit - two, minimum length twelve inches. Kokanee daily limit - sixteen. Feeding (chumming) permitted. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

**Wenatchee River, from mouth to Icicle River Road Bridge at Leavenworth:** June 1 through March 31 season. Trout, minimum length twelve inches. Wild steelhead release. Selective fishery regulations June 1 through November 30.

**From Icicle River Road Bridge at Leavenworth to Lake Wenatchee:** June 1 through November 30 season. Selective fishery regulations. Trout, minimum length twelve inches, maximum length twenty inches. Retaining steelhead is prohibited.

**White River, from mouth of Napeequa River upstream to White River Falls:** Selective fishery regulations.

**Wide Hollow Creek:** Trout - daily limit - five, no minimum length.

**Wilson Creek (two branches within Ellensburg city limits):** Juveniles only (under fifteen years old). Trout - daily limit - five, no minimum length.

**Yakima River, from mouth to four hundred feet below Roza Dam:** Year around season. Closed: April 1 through May 31 for trout. Trout, minimum length twelve inches; maximum length twenty inches. Closed to fishing for steelhead in the Yakima River including tributaries and drains.

**From Roza Dam to four hundred feet below Easton Dam:** Year around season. Trout: Catch-and-release, selective fishery regulations. Exception: Bait and single-pointed, barbed hooks may be used for whitefish only December 1 through February 28. Anglers may fish from boats equipped with motors from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile).

**From Lake Easton to Keechelus Dam:** Selective fishery regulations.

**Yakima Sportsmen's Park Ponds:** Juveniles only (under fifteen years old).

#### Region IV.

**Description:** That area of the state contained within the boundaries of Island, King, San Juan, Skagit, Snohomish, and Whatcom counties, and that portion of Pierce County east of a line from the mouth of the Nisqually River through Drayton Passage, Pitt Passage, Carr Inlet, and the Tacoma Narrows.

**Exceptions Region IV. Regulations.** State-wide regulations apply to all waters except where modified in special regulations below.

**American Lake:** Feeding (chumming) permitted.

**Armstrong Lake (Snohomish County):** Last Saturday in April through October 31 season.

**Baker Lake:** Last Saturday in April through October 31 season. Feeding (chumming) permitted. Trout - minimum length six inches and maximum length eighteen inches. An area two hundred feet in radius around the pump discharge, at the south end of the lake is closed.

**Ballinger Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Barnaby Slough:** Closed waters.

**Bearpaw Lake (Whatcom County):** Last Saturday in April through October 31 season. Trout - daily and possession limit - one, minimum length eighteen inches. Selective fishery regulations.

**Beaver Lake (King County):** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Big Bear Creek (tributary of Sammamish River):** Closed waters.

**Big Beaver Creek, from closed water markers on Ross Lake upstream one-quarter mile:** Closed waters. Upstream from one-quarter mile markers, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season; catch-and-release only, selective fishery regulations.

**Big Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Bosworth Lake (Snohomish County):** Last Saturday in April through October 31 season.

**Boxley Creek (North Bend), from its mouth to the falls located at approximately rivermile 0.9:** Closed waters.

**Boyle Lake (the inlet and outlet are closed waters):** Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations.

**Bridges Lake (the inlet and outlet are closed waters):** Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations.

**Cain Lake:** Last Saturday in April through October 31 season.

**Calligan Lake:** June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

**Campbell Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Canyon Creek, (S.F. Stillaguamish River) mouth to forks:** June 1 through February 28 season. Trout, minimum length fourteen inches.

**Carbon River, from its mouth to the Highway 162 Bridge:** June 1 through January 31 season. Trout, minimum length fourteen inches. Additional February 1 through March 31 season: Trout, minimum length fourteen inches. Wild steelhead release.

**Cascade Lake (San Juan County):** Last Saturday in April through October 31 season.

Cascade 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 the trout daily limit, minimum length twenty inches.

Note: The area from the Rockport-Cascade Road Bridge to the mouth is closed June 1 through September 30.

~~((1995 Conservation Measures-~~

~~Mouth to headwaters: Closed to fishing for steelhead September 1, 1995, through October 31, 1995-))~~

Cassidy Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Cavanaugh Lake: Feeding (chumming) permitted.

Cedar River: Closed waters.

Chambers Bay and that portion of Marine Area 13 inside a line from Gordan Point to the dock at Pioneer gravel pit (second gravel pit approximately 1.2 miles north of Chambers Bay): June 1 through October 31 season.

Chambers Lake (within Ft. Lewis Military Reservation): Trout - catch-and-release only. Selective fishery regulations, except electric motors allowed. Contact Ft. Lewis for a land use permit.

Chaplain Lake: Closed waters.

Clear Lake (Pierce County): Feeding (chumming) permitted.

Clough Creek (North Bend): Closed waters.

Clover Creek, within the boundaries of McChord Air Force Base: Trout - daily limit - one, minimum length twelve inches. Selective fishery regulations.

Coal Creek (tributary of Lake Washington): Closed waters.

Coal Creek, (near Snoqualmie) from Highway 10 downstream: Last Saturday in April through October 31 season. Trout - no minimum length. Juveniles only (under fifteen years old).

Cottage Lake (King County): Last Saturday in April through October 31 season.

County Line Ponds: Closed Waters.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

De Coursey Pond: Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish): Closed waters.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Desire, Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Eagle Lakes (Big and Little): Closed waters.

Ebey Lake: Fly fishing only. Trout - daily limit - one, minimum length eighteen inches. Use of motors prohibited.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Fazon Lake: Channel catfish - daily and possession limit - two. Bass - only bass less than twelve inches or over fifteen inches in length may be kept. Fishing from any floating device prohibited from first Friday in October through January 15.

Findley Lake: Closed waters.

Fisher Slough: From mouth to Highway 530 Bridge: Year around season. Trout, minimum length fourteen inches entire season. Upstream from Highway 530 Bridge: June 1 through October 31 season. Trout, minimum length fourteen inches.

Fishtrap Creek: From Koh Road to Bender Road: June 1 through October 31 season for juveniles only (under 15 years old).

Flowing Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Fortson Mill Pond #2: Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Geneva Lake (King County): Last Saturday in April through October 31 season.

Gissberg Ponds: ~~((Closed to fishing for))~~ Channel catfish - daily limit 2, no minimum size.

Goodwin Lake: Feeding (chumming) permitted. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Granite Lakes (Skagit County - near Marblemount): Grayling - catch-and-release only.

Green (Duwamish) River:

From the First Avenue Bridge to Tacoma Headworks Dam: June 1 through February 28 season. Trout, minimum length fourteen inches. Exempt from wild steelhead release July 1 through November 30. Fishing from any floating device prohibited November 1 through February 28. Note: Area from the Auburn-Black Diamond Bridge downstream to the 8th St. N.E. Bridge in Auburn is closed September 1 through October 15 and area from the Auburn-Black Diamond Bridge downstream to the Highway 18 Bridge is closed September 1 through October 31.

From the SR 167 Freeway Bridge to the Tacoma Headworks Dam: Additional March 1 through March 15 season. Trout, minimum length fourteen inches. Wild steelhead release. Fishing from any floating device prohibited.

Greenwater River, from mouth to Greenwater Lakes: Trout, minimum length twelve inches. Selective fishery regulations.

Hancock Lake: June 1 through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harrison Pond: Closed waters.

**Hart Lake (Pierce County):** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Heart Lake (Skagit County, near Anacortes):** Last Saturday in April through October 31 season.

**Howard Lake (Snohomish County):** Last Saturday in April through October 31 season.

**Hozomeen Lake (Whatcom County):** July 1 through October 31 season.

**Issaquah Creek:** Closed waters.

**Jennings Park Pond:** Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

**Johnson Creek (Whatcom County),** from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only (under fifteen years old).

**Kapowsin Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Kathleen Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Kelsey Creek (tributary of Lake Washington):** Closed waters.

**Ki Lake (Snohomish County):** Last Saturday in April through October 31. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Kimball Creek (near Snoqualmie):** Last Saturday in April through October 31 season. Trout - no minimum length. Juveniles only (under fifteen years old).

**Kings Lake Bog (King County):** Closed waters.

**Klaus Lake (the inlet and outlet to first Weyerhaeuser spur are closed waters):** Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length fourteen inches. Selective fishery regulations.

**Langlois Lake (King County):** Last Saturday in April through October 31 season.

**Little Bear Creek (tributary of Sammamish River):** Closed waters.

**Loma Lake (Snohomish County):** Last Saturday in April through October 31 season.

**Lucas Slough:** Closed waters.

**Margaret Lake (King County):** Last Saturday in April through October 31 season.

**Martha Lake (Snohomish County):** Last Saturday in April through October 31 season.

**May Creek (tributary of Lake Washington):** Closed waters.

**McMurray Lake (Skagit County):** Last Saturday in April through October 31.

**Mercer Slough (tributary of Lake Washington):** Closed waters.

**Mill Pond (Auburn):** Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Monte Christo Lake: June 1 through October 31 season. Selective fishery regulations.

**Muck Creek and tributaries (within Ft. Lewis Military Reservation):** Trout - catch-and-release only. Selective fishery regulations. Contact Ft. Lewis for a land use permit.

**New Mire Creek (tributary of Lake Sawyer):** Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

**Newhalem Ponds:** Closed waters.

**Nooksack River from mouth to forks, Middle Fork to Dam. North Fork to Nooksack Falls:** June 1 through March 15 season. Trout, minimum length fourteen inches. Wild steelhead release. Fishing from boats equipped with motors prohibited on the North and Middle Forks November 1 through March 15.

~~((1995 Conservation Measures:~~

~~Mouth to Forks, Middle Fork to Dam, North Fork to Nooksack Falls: Closed to fishing for steelhead June 1, 1995, through August 31, 1995.))~~

**South Fork, from its mouth to source:** Trout, minimum length fourteen inches. Wild steelhead release, and selective fishery regulations.

South Fork, upstream from Skookum Creek: Release all steelhead June 1 through September 30.

**South Fork, from its mouth to Skookum Creek:** Additional November 1 through March 15 season. Trout, minimum length fourteen inches. Wild steelhead release. Fishing from boats equipped with motors prohibited.

~~((1995 Conservation Measures:~~

~~South Fork, from its mouth to Skookum Creek: Closed to fishing for all game fish June 1, 1995, through September 30, 1995.))~~

**North Creek (tributary of Sammamish River):** Closed waters.

**North Lake (King County):** Last Saturday in April through October 31 season.

**Northern State Hospital Pond:** Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

**Ohop Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Old Fishing Hole Pond (Kent):** Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

**Padden Lake:** Last Saturday in April through October 31 season. Internal combustion engines prohibited.

**Pass Lake:** Trout - daily limit - one, minimum length eighteen inches. Fly fishing only. Use of motors prohibited.

**Phantom Lake:** Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

**Philippa Creek (tributary to N.F. Snoqualmie River):** Closed waters.

Pilchuck Creek, mouth to Highway 9 Bridge: June 1 through November 30 season. Trout, minimum length fourteen inches. Selective fishing regulations. Additional December 1 through February 28 season. Trout, minimum length fourteen inches.

Pilchuck River, its entire length: Closed March 1 through November 30.

From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through February 28 season. Trout, minimum length fourteen inches. Fishing from any floating device prohibited.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pipers Creek (Carkeek Creek), from its mouth to its source, including tributaries: Closed waters.

Pratt River (tributary to Middle Fork Snoqualmie): Catch-and-release only, and selective fishery regulations.

Puyallup River, from its mouth to the Electron power plant outlet: June 1 through January 31 season. Trout, minimum length fourteen inches.

From its mouth to the Soldier's Home Bridge in Orting: Additional February 1 through March 31 season. Trout, minimum length fourteen inches. Wild steelhead release.

Raging River, from its mouth to the Highway 18 Bridge (three miles upstream from Preston): June 1 through February 28 season. Trout, minimum length fourteen inches.

Rapjohn Lake: Last Saturday in April through October 31 season. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Rattlesnake Lake: Last Saturday in April through October 31 season. Selective fishery regulations, except electric motors allowed.

Ravensdale Lake: Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length twelve inches. Selective fishery regulations.

Ridley Lake (Whatcom County): July 1 through October 31 season. Trout - daily and possession limit - one, minimum length eighteen inches. Selective fishery regulations.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rock Creek (below Landsburg): Closed waters.

Ross Lake (Reservoir): July 1 through October 31 season. Trout - daily limit - three, possession limit - six, minimum length thirteen inches. Selective fishery regulations. Fishing from boats with motors allowed.

Note: The following tributaries to Ross Lake are closed from the closed water markers near their mouths upstream the distance indicated. Big Beaver Creek, one-quarter mile (see special Big Beaver Creek regulations), Ruby Creek, entire stream. All other tributaries - one mile.

Ross Lake Tributary Streams not listed as closed: July 1 through October 31 season.

Samish(∓) Lake: Feeding (chumming) permitted. Cutthroat - daily limit - two, minimum length fourteen inches.

Samish River, from its mouth to the old Highway 99 Bridge and from the department rack to the Hickson Bridge: June 1 through March 15 season. Trout, minimum length fourteen inches. December 1 through March 15 wild steelhead release. Note: Closed from Highway 99 Bridge to department salmon rack.

Sammamish Lake: Trout - no more than two over fourteen inches in length. December 1 through June 30 season: No retention of steelhead or rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. Kokanee may not be kept.

Sammamish River (Slough), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters September 1 through May 31. Selective fishery regulations. Trout - catch and release. Closed to steelhead. All tributaries are closed.

Sauk River, from its mouth to the mouth of the 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 limit, minimum length twenty inches.

From the mouth of the White Chuck River to headwaters, including North and South Forks: Trout, minimum length fourteen inches. Selective fishery regulations. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From its mouth to the Darrington Bridge: Additional March 1 through April 30 season. Catch-and-release only, and selective fishery regulations.

~~((1995 Conservation Measures-~~

~~Mouth to headwaters, including North and South Forks: Closed to fishing for steelhead September 1, 1995, through October 31, 1995.))~~

Sawyer, Lake: Feeding (chumming) permitted.

Sequallitchew Lake: Contact Ft. Lewis for land use permit.

Serene Lake (Snohomish County): Year around season.

Shady Lake: June 1 through October 31 season. Trout, no more than one over fourteen inches in length.

Shannon, Lake: Last Saturday in April through October 31 season. Feeding (chumming) permitted. Trout - minimum length six inches and maximum length eighteen inches.

Shoecraft Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Silver Lake (Pierce County): Last Saturday in April through October 31 season. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River, from its mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year around season. Trout, minimum length fourteen inches. Retaining steelhead is prohibited from April 1 through May 31. (See Fisher Slough.) Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gorge Powerhouse at Newhalem: June 1 through February 28 season except closed June 15 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Trout, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) to pipeline crossing at Sedro Woolley: Additional March 1 through March 31 season. Trout, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From pipeline crossing at Sedro Woolley to mouth of Bacon Creek: Additional March 1 through March 15 season. Trout, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Note: Closed waters from the pipeline crossing at Sedro Woolley to the Dalles Bridge at Concrete March 16 through May 31.

From the Dalles Bridge at Concrete to the mouth of Bacon Creek: Additional March 16 through April 30 season. Catch-and-release only, and selective fishery regulations, except lawful to fish from a boat with motor but not while under power.

~~((1995 Conservation Measures.~~

~~Waters within 200 feet radius of the mouth of the Baker River: Closed to fishing for steelhead and Dolly Varden/Bull Trout June 1, 1995, through August 15, 1995.~~

~~Mouth to mouth of Corkindale Creek: Tackle limited to the use of one single point barbless hook August 16, 1995, through September 30, 1995.~~

~~Upstream from the mouth of the Sauk River: Unlawful to fish with bait August 16, 1995, through September 30, 1995.~~

~~From the Dalles Bridge upstream to the mouth of the Baker River: Closed to fishing for steelhead and Dolly Varden/Bull Trout October 1, 1995, through October 31, 1995.))~~

Skykomish River, from its mouth to mouth of Sultan 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 limit,

minimum length twenty inches. Fishing from any floating device prohibited November 1 through February 28 from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Additional March 1 through April 30 season: Trout - catch-and-release only, and selective fishery regulations. Fishing from any floating device prohibited from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet.

From the mouth of the Sultan River to the forks: June 1 through March 31 season. Trout, minimum length fourteen inches. Wild steelhead release March 1 through March 31. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds and that same area is closed to fishing June 1 to 8:00 a.m. August 1.

Skykomish River, North Fork, from its mouth to one thousand feet downstream from Bear Creek Falls: June 1 through February 28 season. Trout, minimum length fourteen inches. Closed waters from one thousand feet below Bear Creek Falls to one thousand feet above Bear Creek Falls.

From one thousand feet upstream of Bear Creek Falls to: Quartz Creek: Catch-and-release, selective fishery regulations.

Skykomish River, South Fork, from its mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through February 28 season. Trout, minimum length fourteen inches. Closed waters from Sunset Falls Fishway to a point six hundred feet downstream of the fishway.

From Sunset Falls to source: June 1 through November 30 season. Trout, minimum length fourteen inches. Selective fishery regulations. Additional December 1 through February 28 season for whitefish only.

~~Snohomish River, all channels, sloughs, and interconnected waterways (excluding all tributaries) ((from mouth to Highway 529: Year around season. Trout, minimum length fourteen inches. Wild steelhead release May 1 through November 30. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.~~

~~From Highway 529 upstream (all channels))): June 1 through March 31 season. Trout - daily limit - two, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain as part of trout daily limit, minimum length twenty inches.~~

Snoqualmie River, from its mouth to the falls: June 1 through March 31 season. Trout, minimum length fourteen inches. June 1 through November 30 selective fishery regulations. Fishing from boats with motors allowed. Fishing from any floating device prohibited November 1 through March 31 from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Note: Waters within the Puget Power tunnel at the

falls and within fifty feet of any point on Puget Power's lower Plant #2 building (north bank) are closed.

From Snoqualmie Falls, including the North and South Forks: Trout, minimum length ten inches. Selective fishery regulations. Additional November 1 through February 28 season for whitefish only.

Middle Fork Snoqualmie from mouth to source including all tributaries: Catch-and-release only, and selective fishery regulations.

Soos Creek, from mouth to salmon hatchery rack: June 1 through August 31 season. Trout, minimum length fourteen inches.

South Prairie Creek, closed downstream from Page Creek to its mouth.

Spada Lake (Reservoir): Last Saturday in April through October 31 season. Trout - twelve inch minimum length. Selective fishery regulations except use of electric motors allowed. Note: All tributaries to lake are closed to fishing.

Spanaway Lake, and its outlet downstream to the dam (approximately 800 feet): Year around season.

Sportsman's Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Spring Lake (King County): Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Squalicum Lake: Trout - daily limit - two. Fly fishing only. Use of motors prohibited.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stetattle Creek, from its mouth for one and one-half miles upstream, to mouth of Bucket Creek: Closed waters.

Stevens, Lake: Feeding (chumming) permitted. Bass - daily limit - one over eighteen inches in length.

Stillaguamish River, and all sloughs, downstream of Warm Beach-Stanwood Highway: Year around season. Trout - daily limit - two, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain as part of trout daily limit, minimum length twenty inches.

Stillaguamish River, upstream from the Warm Beach-Stanwood Highway to the forks (except Harvey Creek, Pioneer Ponds, and Portage Creek are closed): June 1 through March 31 season. Trout, minimum length fourteen inches. Wild steelhead release May 1 through November 30. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Closed waters from the barrier dam (downstream of I-5) downstream two hundred feet.

Stillaguamish River, North Fork, from its mouth to Swede Heaven Bridge: Year around season. Trout, minimum length fourteen inches. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). March 1 through November 30 wild steelhead release. Fly fishing only April 16 through November 30.

Stillaguamish River, South Fork, from its mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through February 28 season. Trout, minimum length fourteen inches. Note: Closed from Mt. Loop Highway bridge above Granite Falls downstream to a point four hundred feet below the outlet of the end of the fishway.

Stillaguamish River, South Fork, above Mountain Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stuck River: See White River.

Suiattle River: Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

~~((1995 Conservation Measures~~

~~Mouth to headwaters: Closed to fishing for steelhead September 1, 1995, through October 31, 1995.))~~

Sultan River, from its mouth to a point four hundred feet downstream from the diversion dam at river mile ~~((+6))~~ 9.7: 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 limit, minimum length twenty inches. Note: North and South Forks are closed to fishing.

Sunday Creek (tributary to N.F. Snoqualmie River): Closed waters.

Swan's Mill Pond (Stossel Creek): Closed November 1 through May 31.

Swamp Creek (tributary to Sammamish River): Closed waters.

Tanwax Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Tapps Lake (Reservoir) and intake canal—Open area includes intake canal to within four hundred feet of the screen at Dingle Basin: Year around season.

Tate Creek (tributary to N.F. Snoqualmie River): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie): Catch-and-release only, and selective fishery regulations.

Tennant Lake: Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake: Fishing from any floating device prohibited from first Friday in October through January 15 except fishing from floating dock permitted. Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Thornton Creek (tributary to Lake Washington): Closed waters.

Tibbetts Creek (tributary to Lake Sammamish): Closed waters.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek, from its mouth to the posted cable boundary marker located approximately seven hundred feet upstream of the mouth: December 1 through March 31 season. Trout, minimum length fourteen inches. This area is closed to all fishing from April 1 through November 30.

From the posted cable boundary marker located approximately seven hundred feet upstream of the mouth to the railroad trestle: Closed to all fishing year around.

Tolt River, from its mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through February 28 season. Trout, minimum length fourteen inches. June 1 through November 30 season. Selective fishery regulations.

From the USGS trolley cable to the mouth of Yellow Creek on the North Fork, and to the dam on the South Fork: Closed waters.

North Fork above Yellow Creek: Trout - catch-and-release only, selective fishery regulations.

South Fork above the dam: Trout, minimum length ten inches. Selective fishery regulations.

Tradition Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Tye River: Trout, minimum length fourteen inches. Selective fishery regulations. Additional November 1 through February 28 season for whitefish only.

Voight's Creek: Closed waters from mouth to Highway 162 Bridge.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River, from its mouth to the first Burlington-Northern Railroad bridge downstream of the Highway 2 Bridge: June 1 through September 1 season. Trout, minimum length fourteen inches. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Note: Closed waters from the first Burlington-Northern Railroad bridge (below Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery.

From the mouth to mouth of Olney Creek: Additional November 1 through February 28 season. Trout, minimum length fourteen inches. Fishing from any floating device prohibited. Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Wapato Lake: Juveniles only (under fifteen years old).

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream: December 1 through last day in February season: Trout - no retention of steelhead or rainbow trout over twenty inches in length. March 1 through June 30 season: Trout - minimum length twelve inches. No retention of steelhead or rainbow trout over twenty inches in length. Closed to boat fishing one hundred yards either side

of the floating bridges. Feeding (chumming) permitted year around. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon.

Washington, Lake, Ship Canal (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): Seasons: West boundary to a north-south line 400 feet east of the eastern end of the northern wing-wall of Chittenden Locks - Closed waters; 400 feet east of the eastern end of the northern wing-wall of Chittenden Locks to the east boundary - Open year around. Species restrictions: Trout - December 1 through last day in February: Daily limit five, no minimum length. No retention of steelhead or rainbow trout over twenty inches in length. Trout - March 1 through June 30: Daily limit five. Minimum length twelve inches. No retention of steelhead or rainbow trout over twenty inches in length. Trout - July 1 through November 30: Daily limit five, no minimum length. Wild steelhead release. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon. Special provisions: West of Fremont Bridge - Unlawful to fish from boats. East of Fremont Bridge - chumming permitted.

~~((1995 Conservation Measures.~~

~~Waters east of north-south line 400 feet west of the Chittenden Locks to a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge: Closed to fishing for all game fish except bass May 1, 1995, through October 31, 1995.))~~

Whatcom Creek, mouth to stone bridge at Whatcom Falls Park: June 1 through February 28 season. Trout, minimum length fourteen inches.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Trout - no minimum length. Juveniles only (under fifteen years old).

Whatcom, Lake: Last Saturday in April through October 31 season. Trout - no more than one over fourteen inches in length. Feeding (chumming) permitted. (All tributaries are closed to fishing, and, in addition, that portion of Lake Whatcom between the Electric Avenue Bridge and the outlet dam.)

White (Stuck) River, from mouth to ~~((Highway 410)) R Street Bridge ((at Buckley)) in Auburn~~: June 1 through September 30 - Closed waters. October 1 through ~~((May 31)) February 28~~ season: Trout, minimum length fourteen inches. ~~((Note: Puget Power canal, including the screen bypass channel, is closed to fishing above the screen at Dingle Basin.~~

~~From mouth to R Street SE Bridge in Auburn: Additional November 1 through February 28 season. Trout, minimum length fourteen inches.))~~ Wild steelhead release.

From R Street Bridge to Highway 410 Bridge at Buckley. October 1 through October 31 season only. Trout 14 inch minimum size. Note: Puget Power canal, including

the screen bypass channel, is closed to fishing above the screen at Dingle Basin.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: Additional November 1 through January 31 season for whitefish only.

Whitechuck River: Dolly Varden/Bull Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Wilderness Lake (King County): Last Saturday in April through October 31 season.

Willow Lake (Whatcom County): July 1 through October 31 season. Trout - daily and possession limit - one, minimum length eighteen inches. Selective fishery regulations.

Wiser Lake: Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

#### Region V.

Description: That area of the state contained within the boundaries of Clark, Cowlitz, Klickitat, Lewis, Skamania, and Wahkiakum counties.

Exception - Region V regulations. State-wide regulations apply to all waters except where modified in special regulations below.

Abernathy Creek, from Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release. Release all steelhead June 1 through October 31.

Alder Creek: Closed waters.

Battle Ground Lake: Last Saturday in April through October 31 season. Internal combustion engines prohibited.

Beaver Creek (tributary to Elochoman River): Closed waters.

Berry Creek (tributary to Nisqually River): Selective fishery regulations.

Big White Salmon River, from mouth to powerhouse: Year around season. Trout, minimum length fourteen inches. Wild steelhead release. From powerhouse to within four hundred feet of Northwestern Dam: November 16 to June 15 season. Trout, minimum length fourteen inches. Wild steelhead release.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Trout, minimum length twelve inches. Selective fishery regulations.

Bird Creek: Trout - daily limit - five.

Blockhouse Creek: Trout - daily limit - five.

Bloodgood Creek: Trout - daily limit - five.

Blue Creek, from mouth to Spencer Road: Closed waters.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Catch-and-release only. Selective fishery regulations.

Bowman Creek: Trout - daily limit - five.

Butter Creek: Trout, minimum length ten inches. Selective fishery regulations.

Canyon Creek: Trout - daily limit - five.

Carlisle Lake: Last Saturday in April through February 28 season. Internal combustion engines prohibited. Bass - minimum length fourteen inches.

Castle Lake: Trout - daily limit - one, minimum length sixteen inches. Selective fishery regulations.

Cedar Creek (tributary of N.F. Lewis) from mouth to junction of Chelatchie Creek: June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release.

Cispus River, from mouth to North Fork: Additional season November 1 through May 31, steelhead only, wild steelhead release.

Cispus River, North Fork: Trout, no more than one over twelve inches in length.

~~((Clear Creek (tributary to Muddy River, Skamania County): Trout, minimum length twelve inches. Selective fishery regulations.~~

~~Clearwater Creek (tributary to Muddy River, Skamania County): Trout, minimum length twelve inches. Selective fishery regulations.))~~

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Coldwater Lake: All inlet streams and outlet streams closed waters. Trout - daily limit - one, minimum length sixteen inches. Selective fishery regulations. Note: Limited access available, contact National Volcanic Monument Headquarters for specific information.

Connelly Creek and tributaries, from four hundred feet below the city of Morton Dam to its source: Closed waters.

Cougar Creek (tributary to Yale Reservoir): June 1 through August 31 season.

Coweeman River, from mouth to Mulholland Creek: June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

~~((1995))~~ 1996 Conservation Measures.

Mouth to Mulholland Creek: Closed to fishing for steelhead August 16, ~~((1995))~~ 1996, through October 15, ~~((1995))~~ 1996.

Cowlitz Falls Reservoir (Lake Scanewa): June 1 through February 28 season. Trout - daily limit five, minimum length eight inches. The upstream boundary of the reservoir in the Cowlitz arm is the posted ~~((markers located approximately 500 feet upstream from the boat ramp at the~~

~~Lewis County~~) PUD (~~Cowlitz Falls Campground~~) sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms.

Cowlitz River, from mouth to Mayfield Dam: Year around season. Trout - daily limit - five, minimum length twelve inches, no more than two over twenty inches. Wild cutthroat release. Wild steelhead release (~~June 1 through May 31~~). Below Barrier Dam release all steelhead missing right ventral fin. Closed to fishing for all game fish except steelhead April 1 through May 31. Lawful to fish up to four hundred feet or the posted deadline at barrier dam. From the barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device.

From Mayfield Dam to mouth of Muddy Fork: Year around season. Wild steelhead release.

~~((1995))~~ 1996 Conservation Measures.

From Mill Creek upstream to barrier dam: Closed to fishing for steelhead from the south side of the river September 16, ~~((1995))~~ 1996, through October 15, ~~((1995))~~ 1996.

Cowlitz River, Clear Fork and Muddy Fork: Trout - daily limit - five, no more than one over twelve inches in length.

Davis Lake: Last Saturday in April through February 28 season.

Deep River: Year around season. Trout, minimum length fourteen inches.

Elochoman River, from mouth to West Fork: June 1 through March 15 season. Trout - daily limit - five, minimum length twelve inches, no more than two over twenty inches. Wild steelhead release and wild cutthroat release.

The following waters of the Elochoman River are closed at all times: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the Department of Fish and Wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; waters from the Beaver Creek Bridge to 200 feet below the weir at Beaver Creek Hatchery.

From West Fork to source: Closed waters.

Fort Borst Park Lake: Last Saturday in April through February 28 season. Juveniles only (under fifteen years old).

Franz Lake: Closed waters.

Germany Creek, from mouth to end of Germany Creek Road (approximately five miles): June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release. Release all steelhead June 1 through October 31.

Gobar Creek (tributary to Kalama River): June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Grays River, from mouth to mouth of South Fork: September 1 through March 15 season. Trout, minimum length twenty inches. Wild steelhead release. Open only to fishing for steelhead.

Grays River, East Fork: Trout, minimum length fourteen inches. Selective fishery regulations.

Grays River, West Fork, downstream from hatchery trap site: June 1 - August 31 season.

Green River, from mouth to 2800 Bridge: June 1 through November 30 season except closed from salmon hatchery rack to a point 1500 feet downstream during the period September 1 through November 30. Trout, minimum length twenty inches. Open only to fishing for steelhead.

Note: All tributaries closed.

From 2800 Bridge to source, including all tributaries: Closed waters.

~~((1995))~~ 1996 Conservation Measures.

Mouth to salmon hatchery rack: Closed to fishing for steelhead September 16, ~~((1995))~~ 1996, through October 15, ~~((1995))~~ 1996.

Grizzly Lake: Closed waters.

Hamilton Creek: June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Hemlock Lake (Trout Creek Reservoir): June 1 through October 31 season. Trout - daily limit - two, and minimum length fourteen inches. Wild steelhead release. Selective fishery regulations.

Horseshoe Lake: Last Saturday in April through October 31 season.

Horsethief Lake: Last Saturday in April through October 31 season.

Icehouse Lake: Last Saturday in April through February 28 season.

Indian Heaven Wilderness Lakes: Trout - daily limit - three.

Jewitt Creek: Trout - daily limit - five, no minimum length. Juveniles only (under fifteen years old).

Johnson Creek (tributary to Cowlitz River): Trout, minimum length ten inches. Selective fishery regulations.

Kalama River, for all sections from mouth to Kalama Falls that are open to fishing the following regulations apply: (1) Trout, minimum length (~~twelve~~) 14 inches; and (2) wild cutthroat release; and (3) wild steelhead release.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: (1) Year around season; (2) September 1 through October 31 fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery; (3) from two hundred feet above to one thousand five hundred feet below the temporary rack

is closed during the period the fish rack is installed; and (4) motors prohibited upstream of Modrow Bridge.

One thousand feet below fishway to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year around season.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fly fishing only.

From 6420 Road (about one mile above the gate at the end of the county road) to Kalama Falls: Closed waters.

~~((1995))~~ 1996 Conservation Measures.

Mouth upstream to 200 feet upstream of temporary rack: Closed to fishing for steelhead August 16, ~~((1995))~~ 1996, through October 15, ~~((1995))~~ 1996.

Kidney Lake: Last Saturday in April through February 28 season.

Klickitat River, from mouth to Fisher Hill Bridge: June 1 through November 30 season. Trout, minimum length twelve inches.

From Fisher Hill Bridge to four hundred feet above #5 fishway: Closed waters.

From four hundred feet above #5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season. Trout, minimum length twelve inches. Additional December 1 through March 31 season for whitefish only. From boundary markers above Klickitat salmon hatchery to boundary markers below hatchery: Closed waters.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds: Last Saturday in April through February 28 season.

Kress Lake: Last Saturday in April through February 28 season. Bass - only bass less than twelve inches or over eighteen inches in length may be kept. Internal combustion engines prohibited.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Lewis River, from mouth to forks: Year around season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Lewis River, North Fork~~((?))~~: From mouth to overhead powerlines below Merwin Dam: Year around season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release. Closed waters: Shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder.

From lower Cedar Creek concrete boat ramp to Colvin Creek: Night closure April 1 through October 31.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: Trout, minimum length twelve inches. Closed October 1 through December 15 to fishing.

From overhead powerlines to Merwin Dam: Closed waters.

From Yale Dam downstream one thousand three hundred feet to the cable crossing: Closed waters.

Lewis River Power Canal and old Lewis River streambed between Swift No. 1 powerhouse and Swift No. 2 powerhouse: Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

From Eagle Cliff Bridge to lower falls including all tributaries: ~~((Trout, minimum length twelve inches-))~~ Selective fishery regulations. Catch and release.

Lewis River, East Fork (south), the following are closed waters: (1) From the posted markers four hundred feet below to one hundred feet above Lucia Falls; (2) from four hundred feet below to four hundred feet above Molton Falls; and (3) from four hundred feet below Horseshoe Falls to one hundred feet above Sunset Falls.

From mouth to four hundred feet below Horseshoe Falls: June 1 through March 15 season. Trout, minimum length fourteen inches. Wild steelhead release.

From one hundred feet above Sunset Falls to source: June 1 through December 31 season. Trout, minimum length fourteen inches. Wild steelhead release.

Mouth to posted markers at top boat ramp at Lewisville Park: Additional April 16 through May 31 season. Wild steelhead release. Open only for steelhead.

Little Ash Lake: Last Saturday in April through February 28 season.

Little Klickitat River, within Goldendale city limits: Last Saturday in April through October 31 season. Trout - daily limit - five, no minimum length. Juveniles only (under fifteen years old).

Little Nisqually River: Trout, minimum length ten inches. Selective fishery regulations.

Little White Salmon River: Trout - daily limit - five. From fishway downstream to markers at federal fish hatchery a distance of one thousand five hundred feet: Closed waters.

Love Lake: Closed waters.

~~((Mayfield Lake (Reservoir): Tiger musky - daily limit - one, minimum length thirty six inches-))~~

Merrill Lake: Trout - daily limit - two, maximum length twelve inches. Fly fishing only~~((-except motors allowed))~~. Unlawful to fish from boats equipped with internal combustion engines.

~~((Merwin (Lake) Reservoir: Trout - minimum length six inches-))~~

Mill Creek (Cowlitz County), from mouth to forks (approximately one mile): June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead

release and wild cutthroat release. Release all steelhead June 1 through October 31.

Mineral Creek (tributary to Nisqually River): Trout, minimum length twelve inches. Selective fishery regulations.

Mineral Creek, North Fork: Trout, minimum length twelve inches. Selective fishery regulations.

Mineral Lake: Last Saturday in April through September 30 season.

~~((Muddy River (tributary to N.F. Lewis River): Trout, minimum length twelve inches. Selective fishery regulations.))~~

Newaukum River, main river, Middle Fork and South Fork: June 1 through March 31 season. Trout, minimum length fourteen inches. Wild steelhead release.

Newaukum River, North Fork, from mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout, minimum length fourteen inches. Wild steelhead release.

From Chehalis city water intake upstream: Closed waters.

Northwestern Reservoir: Last Saturday in April through February 28 season.

Ohanapecosh Creek (tributary to Cowlitz River): Trout, minimum length twelve inches. Selective fishery regulations.

Olequa Creek: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Outlet Creek: Trout - daily limit - five.

Packwood Lake: All inlet streams and outlet from log boom to dam: Closed waters. Last Saturday in April through October 31 season. Trout - daily limit - five, minimum length ten inches. Selective fishery regulations.

Panther Creek (tributary to Wind River): Trout, minimum length twelve inches. Selective fishery regulations.

~~((Pine Creek (tributary to N.F. Lewis River): Trout, minimum length twelve inches. Selective fishery regulations.))~~

Plummer Lake: Last Saturday in April through February 28 season.

Riffe (Lake) Reservoir: Lawful to fish up to the base of Swofford Pond Dam.

Rock Creek (Skamania County): June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Rowland Lakes: Last Saturday in April through February 28 season.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through October 31 open to trout only. Release all steelhead and wild cutthroat release. Trout minimum length twelve inches. November 1 through March

15 open to trout and steelhead. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Silver Creek (tributary to Cowlitz River), mouth to USFS Road 4778: Trout, minimum length twelve inches. Selective fishery regulations.

Silver Lake: Bass - minimum length fourteen inches. Use of water dogs or salamanders for fishing prohibited.

Skamokawa Creek, mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. Trout, minimum length twenty inches. Wild steelhead release. Open only to fishing for steelhead.

Skate Creek (tributary to Cowlitz River): Trout - daily limit - five, no more than one over twelve inches in length.

Spearfish Lake: Last Saturday in April through February 28 season.

Spirit Lake (Skamania County): Closed waters.

Spring Creek: Trout - daily limit - five.

Swift Reservoir: Last Saturday in April through October 31 season.

Swofford Pond: Bass - daily and possession limit - two. Only bass less than twelve inches or over eighteen inches in length may be kept. Channel catfish - minimum length twenty inches. Internal combustion engines prohibited.

Tilton River, from mouth to West Fork: June 1 through March 31 season. Trout - daily limit - five, no more than one over twelve inches in length.

Tilton River, South Fork and East Fork: Trout, minimum length ~~((ten))~~ 12 inches. Selective fishery regulations.

Tilton River, North Fork and West Fork: Trout, minimum length twelve inches. Selective fishery regulations.

Toutle River, mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. Trout, minimum length twenty inches. Open only to fishing for steelhead.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries: Closed waters. (Note: Castle Lake, and Coldwater Lake open waters.)

~~((1995))~~ 1996 Conservation Measures.

Toutle River - North Fork, from the mouth of the Green River downstream approximately 200 yards to the power line crossing: Closed to fishing for steelhead September 16, ~~((1995))~~ 1996, through October 15, ~~((1995))~~ 1996.

Toutle River, South Fork, mouth to source (note: All tributaries closed): June 1 through November 30 season. Trout, minimum length twenty inches. Open only to fishing for steelhead.

Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Wild steelhead release. Open only to fishing for steelhead. Selective fishery regulations.

Trout Creek (tributary to Wind River): Trout, minimum length fourteen inches. Selective fishery regulations.

Trout Lake, tributary to Big White Salmon River: June 1 through October 31 season.

Tunnel Lake: Last Saturday in April through February 28 season.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River draw-bridge near Vancouver downstream to Lewis River: Trout - daily limit - two, minimum length twelve inches.

Walupt Lake: All inlet streams closed. Last Saturday in April through October 31 season. Trout, minimum length ten inches. Selective fishery regulations except motors allowed.

Washougal River, from mouth to bridge at Salmon Falls: June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Mouth to Mt. Norway Bridge: Additional April ((45)) 16 through May 31 season. Wild steelhead release. Open only for steelhead.

From bridge at Salmon Falls to its source: Closed waters.

((4995)) 1996 Conservation Measures.

Mouth to 3rd Avenue Bridge: Closed to fishing for steelhead August 16, ((4995)) 1996, through October 15, ((4995)) 1996.

Washougal River, West (North Fork), from mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Willame Lake: Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length fifteen inches. Selective fishery regulations.

Wind River((;))

Mouth to four hundred feet below Shipherd Falls: June 1 through March 15 season. Trout, minimum length fourteen inches. Wild steelhead release.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source: June 1 through November 30 except closed from an upper boundary sign along Carson National Fish Hatchery grounds to a lower boundary marker 800 yards downstream June 1 through August 31. Wild steelhead release.

Tyee Springs: Closed waters.

From one hundred feet above Shipherd Falls fish ladder to source, including all tributaries: June 1 through November 30 season. Trout, minimum length fourteen inches.

Winston Creek (tributary to Cowlitz River): Trout, minimum length ten inches. Selective fishery regulations.

Yale Reservoir: Kokanee - daily limit - sixteen.

Yellowjacket Creek (tributary to Cispus River): Trout, minimum length twelve inches. Selective fishery regulations.

Yellowjacket Ponds: Last Saturday in April through February 28 season. Trout, no more than one over twelve inches in length.

Region VI.

Description: That area of the state contained within the boundaries of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, Pacific, and Thurston counties and that portion of Pierce County on the Kitsap Peninsula and Fox Island.

Exceptions - Region VI regulations. State-wide regulations apply to all waters except where modified in special regulations below. For regulations within Olympic National Park, call (206) 452-4501.

Aberdeen Lake: Last Saturday in April through October 31 season.

Aldrich Lake: Last Saturday in April through October 31 season.

Aldwell Lake: Last Saturday in April through October 31 season. Trout - daily limit - two, minimum length twelve inches. Selective fishery regulations, except lawful to fish from any floating device equipped with a motor.

Alexander Lake (Kitsap County): Closed waters.

Anderson Lake (Jefferson County): Internal combustion engines prohibited. Last Saturday in April through October 31 season.

From September 1 through October 31. Catch-and-release only. Selective fishery regulations.

Bay Lake: Last Saturday in April through October 31 season.

Bear River: June 1 through February 28 season. Trout, minimum length fourteen inches.

Beaver Creek (Thurston County): See Black River.

Beaver Ponds in Kitsap County, and those ponds in Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Last Saturday in April through October 31 season. Trout - no minimum length.

Benson Lake: Last Saturday in April through October 31 season.

Big Beef Creek: June 1 through October 31 season. Closed to the taking of cutthroat trout.

Big River: June 1 through February 28 season. Trout, minimum length fourteen inches.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black River, from mouth to Black Lake and all tributaries west of Interstate Highway 5 including Waddell Creek, Mima Creek, Beaver Creek, Salmon Creek, Dempsey Creek,

and Blooms Ditch: Trout, minimum length twelve inches. Selective fishery regulations.

Blooms Ditch: See Black River.

Bogachiel River (Clallam County), from mouth to National Park boundary: June 1 through April 30 season. Trout, minimum length fourteen inches. Steelhead: Mouth to Highway 101 - December 1 through April 30, not more than one wild steelhead per day. Highway 101 to National Park boundary - December 1 through April 30, wild steelhead release.

Buck Lake: Last Saturday in April through October 31 season.

Burley Creek: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Cady Lake: Last Saturday in April through October 31 season. Trout - daily limit - two. Fly fishing only. Internal combustion engines prohibited.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. Trout, minimum length fourteen inches. Steelhead: Mouth to Highway 101 - December 1 through April 30, not more than one wild steelhead per day. Highway 101 to mouth of south fork - December 1 through April 30, wild steelhead release.

Calawah River, South Fork (Clallam County) from mouth to National Park boundary: June 1 through last day in February ((28)) season. Trout, minimum length fourteen inches. Steelhead: December 1 through last day in February, wild steelhead release.

Campbell Creek (Mason County): Closed waters.

Canyon Creek (Mason County): Closed waters.

Capitol Lake, from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: June 1 through July 31 season. Trout - daily limit - five, minimum length eight inches. Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. In accordance with WAC 236-16-020, the operation of all motorboats is prohibited in the area of Capitol Lake north of the railroad trestle crossing said lake unless prior written authorization is first obtained from the director of general administration.

Additional August 1 through March 31 season. Trout - daily limit - two, minimum length fourteen inches.

Carney Lake: Last Saturday in April through June 30 and September 1 through October 31 seasons. Internal combustion engines prohibited.

Carson Lake: Last Saturday in April through October 31 season.

Cases Pond: Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Cedar Creek (Jefferson County): June 1 through February 28 season. Trout, minimum length fourteen inches.

Chehalis River, from Union Pacific Railroad Bridge in Aberdeen to high bridge on Weyerhaeuser (~~logging road~~

~~#17)) 1000 line (approximately ((seven miles south of Pe EH)) 400 yards downstream from Roger Creek): June 1 through April 15 season. Trout, minimum length fourteen inches. Wild cutthroat release. Wild steelhead release.~~

Chehalis River, south fork from mouth to Highway Bridge at Boistfort: June 1 through April 15 season. Trout, minimum length fourteen inches. Wild cutthroat release. Wild steelhead release.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chimacum Creek, from mouth to Ness's Corner Road: June 1 through August 31 season. Trout, minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout, minimum length fourteen inches.

Clallam River: June 1 through February 28 season. Trout, minimum length fourteen inches.

Clara Lake: Last Saturday in April through October 31 season.

Clear Lake: Last Saturday in April through October 31 season.

Clearwater River (Jefferson County), from mouth to Snahapish River: June 1 through April 15 season. Trout, minimum length fourteen inches. Steelhead: December 1 through April 15, not more than one wild steelhead per day.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Cloquallum Creek, from mouth to second bridge on Cloquallum Road: June 1 through February 28 season. Trout, minimum length twelve inches. Wild cutthroat release.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout, minimum length twelve inches. Wild cutthroat release.

Copalis River: June 1 through February 28 season. Trout, minimum length fourteen inches.

Coulter Creek: Trout, minimum length fourteen inches.

Cranberry Creek, mouth to Lake Limerick: Closed waters.

Curley Creek: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Cushman Reservoir: Closed to the taking of Dolly Varden/Bull Trout.

Damon Lake: June 1 through October 31 season.

Deep Creek: Closed waters.

Deep Lake: Last Saturday in April through October 31 season.

Deer Creek (Mason County): Closed waters.

Deer Lake: Last Saturday in April through October 31 season.

Dempsey Creek: See Black River.

Deschutes River, from old U.S. Highway 99 Bridge near Tumwater to Vail Road Bridge one mile southwest of Lawrence Lake: June 1 through March 31 season. Trout, minimum length fourteen inches.

From Old Highway 99 Bridge to four hundred feet below lowest Tumwater Falls fish ladder: Closed waters.

Devereaux Lake: Last Saturday in April through October 31 season.

Devil's Lake: Last Saturday in April through October 31 season.

Dewatto River: Trout, minimum length twelve inches. Wild cutthroat release.

From mouth to bridge on Bear Creek-Dewatto Road: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Dickey River (includes all forks) (Clallam County): June 1 through April 30 season. Trout, minimum length fourteen inches. Steelhead: December 1 through April 30, not more than one wild steelhead per day.

Dosewallips River, from mouth to Olympic National Park boundary about three-quarters mile downstream of falls: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Duckabush River, from mouth to the Olympic National Park Boundary: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Dungeness River, from mouth to junction of Gray Wolf and Dungeness River: ~~((June 1))~~ October 16 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release. ~~((Closed to taking of steelhead August 1 to October 15.))~~

From junction of Gray Wolf River upstream to headwaters: Trout, minimum length fourteen inches.

~~((1995 Conservation Measures.~~

~~Mouth to mouth of Gray Wolf River: Closed to fishing for steelhead, night closure and unlawful to fish with nonbuoyant lures having more than one single pointed hook July 1, 1995, through July 31, 1995.~~

~~Upstream of the mouth of the Gray Wolf River: Night closure and unlawful to fish with nonbuoyant lures having more than one single pointed hook July 1, 1995, through July 31, 1995.))~~

East Twin River: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Elk River, from the Highway 105 Bridge upstream: June 1 through February 28 season. Trout, minimum length twelve inches. Wild cutthroat release.

Elwha River, from mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: June 1 through April 15 season. Trout, minimum length fourteen inches. Fishing from any floating device prohibited. Closed waters: From south spillway on Aldwell Lake Dam downstream two hundred feet and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted.

From Lake Aldwell upstream to four hundred feet below spillway at Lake Mills Dam, including all tributaries except Indian Creek (see below): Trout, minimum length twelve inches; selective fishery regulations.

Failor Lake: Last Saturday in April through October 31 season.

Goldsborough Creek: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February ((28)) season. Trout, minimum length fourteen inches. Steelhead: December 1 through last day in February, not more than one wild steelhead per day.

Gorst Creek (Kitsap County), from lower bridge on the old Belfair Highway upstream to source (including tributaries): Closed waters.

From mouth upstream to lower bridge: Trout, minimum length fourteen inches.

Gosnell Creek and all its tributaries (tributary to Lake Isabella, Mason County): Trout, minimum length fourteen inches.

Grass Lake: Last Saturday in April through October 31 season.

Gray Wolf River: Trout, minimum length fourteen inches. Selective fishery regulations.

~~((1995 Conservation Measures.~~

~~Night closure and unlawful to fish with nonbuoyant lures having more than one single pointed hook July 1, 1995, through July 31, 1995.))~~

Hamma Hamma River, from mouth to four hundred feet below falls: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

From falls to mouth of Boulder Creek: Trout - daily limit - five - no minimum length.

Hammersley Inlet Freshwater Tributaries (except Mill Creek): Closed waters.

Hatchery Lake: Last Saturday in April through October 31 season.

Haven Lake: Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hicks Lake: Last Saturday in April through October 31 season.

Hoh River (Jefferson County), from mouth to mouth of South Fork ((and in South Fork outside National Park boundary)): June 1 through April 15 season. Trout, minimum length fourteen inches. Steelhead: From mouth to Highway 101, December 1 through April 15, not more than one wild steelhead per day. From Highway 101 to mouth of south fork, December 1 through April 15, wild steelhead release.

Hoh River South Fork (Jefferson County), outside Olympic National Park boundary: June 1 through April 15 season. Trout minimum length fourteen inches. Steelhead: December 1 through April 15, wild steelhead release.

Hoko River: Trout, minimum length fourteen inches.

From mouth to cement bridge on Lake Ozette Highway (upper Hoko Bridge): Additional November 1 through March 15 season. Trout, minimum length fourteen inches.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): Additional November 1 through March 31 season. Catch-and-release, fly fishing only and use of motors prohibited.

Hoquiam River (includes all forks): June 1 through March 31 season. Trout, minimum length twelve inches. Wild cutthroat release.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective fishery regulations. Trout - daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season.

Howell Lake: Last Saturday in April through October 31 season.

Humptulips River (mainstem), from mouth to forks: June 1 through April 30 season. Trout, minimum length fourteen inches.

East Fork, from mouth to concrete bridge on Forest Service Road between Humptulips Guard Station and Grisdale: June 1 through April 30 season. Trout, minimum length fourteen inches.

West Fork, from mouth to bridge on Forest Service Road #2204 (about one-half mile above the mouth of Chester Creek): June 1 through April 30 season. Trout, minimum length fourteen inches.

Indian Creek (tributary to Elwha River), from mouth upstream to first Highway 101 crossing: Trout, minimum length twelve inches. Selective fishery regulations.

John's Creek (Mason County): Closed waters.

Johns River (includes North, South forks): June 1 through February 28 season. Trout, minimum length twelve inches. Wild cutthroat release.

Kalaloch Creek, outside Olympic National Park: June 1 through February 28 season. Trout, minimum length fourteen inches.

Kennedy Creek, from mouth to four hundred feet below falls: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Kennedy Creek Pond: Last Saturday in April through October 31 season.

Koeneman Lake (formerly Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective fishery regulations. Catch-and-release only.

Lawrence Lake (Thurston County): Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Lincoln Pond (Clallam County): Juveniles only (under fifteen years old).

Little Quilcene River, from mouth to the Little Quilcene River Bridge on Penny Creek Road: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Long Lake (Kitsap County): Bass - only bass less than twelve inches or over fifteen inches in length may be kept.

Long Lake (Thurston County): Last Saturday in April through October 31 season.

Loomis Lake: Last Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

~~((Lost Lake (Jefferson County): Last Saturday in April through October 31 season. Trout daily limit two, minimum length fourteen inches.))~~

Lower Lena Lake, inlet stream from mouth upstream to footbridge (about one hundred feet): Closed waters.

Ludlow Lake: Last Saturday in April to October 31 season.

Lyre River, from mouth to falls near river mile 3: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Remainder of river: Trout, minimum length twelve inches.

Maggie Lake: Last Saturday in April through October 31 season.

McAllister Creek: Trout, minimum length fourteen inches.

McDonald Creek (Clallam County): Trout, minimum length fourteen inches.

McIntosh Lake: Last Saturday in April through October 31 season.

McLane Creek, from the south bridge on Highway 101 upstream: Trout, minimum length fourteen inches.

McLane Creek Pond: Last Saturday in April through October 31 season.

Melaney Creek: Closed waters.

Melbourne Lake: Last Saturday in April through October 31 season.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

~~((Mill Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only (under fifteen years old). Trout no minimum length.))~~

Mill Creek (Mason County): June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Mill Creek Pond (Grays Harbor County): Juveniles only (under fifteen years old).

Mills Lake: Check Olympic National Park regulations, call (206) 452-4501.

Mima Creek: See Black River.

Minter Creek: Trout, minimum length fourteen inches. Area from department intake dam downstream to mouth: Closed waters.

Mission Lake: Last Saturday in April through October 31 season.

Moclips River, from mouth to outside the Quinault Indian Reservation: June 1 through February 28 season. Trout, minimum length fourteen inches.

Mooses Pond (Pacific County): June 1 through October 31 season.

Morse Creek, from mouth to Port Angeles Dam: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Mosquito Creek (Jefferson County) outside Olympic National Park: June 1 through February 28 season. Trout, minimum length fourteen inches.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Munn Lake: Last Saturday in April through October 31 season.

Naselle River, from Highway 101 Bridge upstream (includes all forks): Trout, minimum length fourteen inches. ~~((Note:))~~ Waters within four hundred feet both upstream and downstream of the entrance to the Naselle Salmon Hatchery are closed during the period September 1 through January 31.

That area from falls in Sec. 6, T10N, R8W, (Wahkiakum County) downstream four hundred feet: Closed waters.

From Highway 101 Bridge to mouth of North Fork: Additional November 1 through March 31 season. Trout, minimum length fourteen inches.

South Fork, from mouth to Bean Creek: Additional November 1 through February 28 season. Trout, minimum length fourteen inches.

Nemah River (North, Middle, South): June 1 through February 28 season. Trout, minimum length fourteen inches.

Nisqually River, from mouth to four hundred feet below LaGrande Powerhouse: June 1 through ~~((February 28))~~ November 30 season. Trout, minimum length fourteen inches.

~~((From mouth to highway bridge at McKenna: Additional March 1 through March 31 season. Trout, minimum length fourteen inches.))~~

North River, from Highway 105 Bridge upstream: Trout, minimum length fourteen inches.

From Highway 105 Bridge to Falls River: Additional November 1 through February 28 season. Trout, minimum length fourteen inches.

Oakland Bay freshwater tributaries (except Goldsborough Creek) (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerick): Closed waters.

~~((Offutt Lake: Last Saturday in April through October 31 season.))~~

Osborne Lake: Last Saturday in April through October 31 season.

Owens Pond (Pacific County): June 1 through October 31 season.

Ozette Lake: Check Olympic National Park regulations (206) 452-4501.

Ozette River, outside Olympic National Park: June 1 through February 28 season. Trout, minimum length fourteen inches.

Palix River (includes all forks): June 1 through February 28 season. Trout, minimum length fourteen inches.

Panhandle Lake: Last Saturday in April through October 31 season.

Panther Lake: Last Saturday in April through October 31 season.

Pattison Lake: Last Saturday in April through October 31 season.

Peabody Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Percival Creek: Trout, minimum length fourteen inches.

Pheasant Lake: Last Saturday in April to October 31 season.

Pine Lake: Last Saturday in April through October 31 season.

Pleasant Lake: Kokanee - minimum length eight inches, maximum length twenty inches.

Prices Lake: Last Saturday in April through October 31 season. Selective fishery regulations, catch-and-release only.

Promised Land Pond: June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Trout, minimum length fourteen inches.

Pysht River: June 1 through February 28 season. Trout, minimum length fourteen inches.

Queets River: Check Olympic National Park regulations, (206) 452-4501.

Quilcene River, from mouth to upper boundary of Falls View Campground: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

From the upper boundary of Falls View Campground to the water diversion at the mouth of Tunnel Creek: Trout - daily limit - five, no minimum length.

~~((1995 Conservation Measures-~~

~~Mouth to upper boundary of Falls View Campground: Closed to fishing for steelhead August 16, 1995, through October 31, 1995.))~~

Quillayute River (Clallam County): June 1 through April 30 season. Trout, minimum length fourteen inches. Steelhead: December 1 through April 30, not more than one wild steelhead per day.

Quinault Lake and Lower Quinault River: When fishing within the boundaries of the Quinault Indian Reservation, contact the Quinault Indian Tribe to find out what tribal permits and regulations apply (206) 276-8211.

Quinault River, Upper, from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through March 31 season. Trout, minimum length fourteen inches.

Raft River: When fishing within the boundaries of the Quinault Indian Reservation, contact the Quinault Indian Tribe to find out what tribal permits and regulations apply (206) 276-8211.

Robbins Lake: Last Saturday in April through October 31 season.

Rose Lake: Last Saturday in April through October 31 season.

Salmon Creek (Jefferson County, includes all forks): Closed waters.

Salmon Creek Naselle River: June 1 through February 28 season. Trout, minimum length fourteen inches.

Salmon Creek (Thurston County): See Black River.

Salmon River (Jefferson County): June 1 through February 28 season. Trout, minimum length fourteen inches.

Salt Creek: Trout, minimum length fourteen inches. Wild steelhead release.

From mouth to bridge on Highway 112: Additional November 1 through February 28 season. Trout, minimum length fourteen inches.

Sandyshore Lake: Last Saturday in April to October 31 season.

Satsop Lakes: Last Saturday in April through October 31 season.

Satsop River (includes all forks): Trout, minimum length twelve inches. Wild cutthroat release except on east fork above Bingham Creek. Selective fishery regulations on East Fork upstream from mouth of Bingham Creek.

From mouth to bridge at Schafer Park: Additional November 1 through March 15 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Turnow Branch, from mouth to posted deadline at bridge on Matlock Grisdale Road: Additional November 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

West Fork, from mouth to bridge on Matlock Grisdale Road: Additional November 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Sekiu River: Trout, minimum length fourteen inches.

From mouth to forks: Additional November 1 through February 28 season. Trout, minimum length fourteen inches.

Shelton Creek: Closed waters.

Sherwood Creek: Trout, minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout - minimum length 14 inches, daily limit 2 fish.

Shoe Lake: Last Saturday in April through October 31 season.

Shye Lake: June 1 through October 31 season.

Siebert Creek: Trout, minimum length fourteen inches.

Silent Lake: Last Saturday in April through October 31 season.

Skokomish River, mouth to forks: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

~~((1995 Conservation Measures-~~

~~Mouth to Forks: Closed to fishing for steelhead September 1, 1995, through October 31, 1995.))~~

Skokomish River, South Fork, mouth to mouth of Church Creek: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Mouth of Church Creek to headwaters: Trout, minimum length twelve inches. Selective fishery regulations.

Skokomish River, North Fork, mouth to lower dam: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

North Fork above Lake Cushman mouth to Olympic National Park boundary: June 1 through August 31 season. Trout catch-and-release only. Selective fishery regulations.

Skookum Creek (Mason County): June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Skookumchuck Reservoir: June 1 through October 31 season. Trout - daily limit - two, minimum length twelve inches.

Skookumchuck River, from Skookumchuck Reservoir upstream and all tributaries: Trout, minimum length twelve inches. Selective fishery regulations.

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: June 1 through April 30 season. Trout, minimum length twelve inches. Wild steelhead release and wild cutthroat release.

Smith Creek (Pacific County near North River): June 1 through February 28 season. Trout, minimum length fourteen inches.

Snow Creek (includes all tributaries except Crocker Lake): Closed waters.

~~((Soleduck)) Sol Duc River~~ ~~((from mouth to National Park boundary))~~ (Clallam County): June 1 through April 30 season. Trout, minimum length fourteen inches.

Steelhead: From mouth to the concrete pump station at the Soleduck Hatchery: ~~((Additional November))~~ December 1 through April 30 ~~((season. Trout, minimum length fourteen inches))~~ not more than one wild steelhead per day.

From the concrete pump station at the Soleduck Hatchery to the Highway 101 Bridge downstream from Snider Creek: ~~((Additional))~~ November 1 through April 30 ~~((season. Trout, minimum length fourteen inches))~~. Wild steelhead release, selective fishery regulations.

South Bend Mill Pond (Pacific County): Juveniles only (under fifteen years old).

Stevens Creek, mouth to Highway 101 Bridge: June 1 through February 28 season. Trout, minimum length fourteen inches.

Steves Lake: Last Saturday in April through October 31 season.

Stump Lake: Last Saturday in April through October 31 season. Fishing from vessels with internal combustion engines prohibited.

Suez River (Sooes River): June 1 through February 28 season. Trout, minimum length fourteen inches.

Summit Lake: Last Saturday in April through October 31 season.

Sutherland Lake: Feeding (chumming) permitted.

~~((Sylvia Lake: Last Saturday in April through October 31 season.))~~

Tahuya River: Trout, minimum length twelve inches. Wild cutthroat release.

From mouth to the Bear Creek-Dewatto Road crossing: June 1 through February 28 season. Trout, minimum length twelve inches. Wild steelhead and wild cutthroat release.

Tarboo Lake: Last Saturday in April through October 31 season.

Teal Lake: Last Saturday in April to October 31 season.

Tenas Lake: Last Saturday in April through October 31 season.

Tiger Lake: Last Saturday in April through October 31 season.

Twin Lake: Last Saturday in April through October 31 season.

U Lake: Last Saturday in April through October 31 season.

Uncle John Creek: Closed waters.

Union River (main river and tributaries upstream from watershed boundary to source): Closed waters.

From mouth to watershed boundary: Trout, minimum length fourteen inches.

From mouth to lower bridge on the Old Belfair Highway: Additional November 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Valley Creek (Clallam County): Last Saturday in April through October 31 season. Juveniles only (under fifteen years old).

Vance Creek (Mason County): Trout, minimum length fourteen inches.

Vance Creek/Elma Ponds: Last Saturday in April through October 31 season.

Waddell Creek: See Black River.

Ward Lake: Last Saturday in April through October 31 season.

West Twin River: June 1 through February 28 season. Trout, minimum length fourteen inches. Wild steelhead release.

Wildberry Lake: Last Saturday in April through October 31 season.

Wildcat Lake: Last Saturday in April through October 31 season.

Willapa River (includes all forks) upstream from department boat launch in South Bend: Trout, minimum length fourteen inches.

From department boat launch in South Bend to Forks Creek: Additional November 1 through March 31 season. Trout, minimum length fourteen inches. Fishing from any floating device prohibited from the bridge on Willapa Road (Camp One Bridge) to Forks Creek.

South Fork: Additional November 1 through last day of February season. Trout, minimum length fourteen inches.

Falls on South Fork downstream four hundred feet: Closed waters.

Williams Creek (Pacific County): June 1 through February 28 season. Trout, minimum length fourteen inches.

Wishkah River (includes all forks): Trout, minimum length twelve inches. Wild cutthroat release.

Mainstem from dam at Wishkah Rearing Ponds (formerly Mayr Bros.) downstream to four hundred feet below the outlet: Closed waters.

From the mouth to Cedar Creek: Additional November 1 through March 31 season. Trout, minimum length twelve inches. Wild cutthroat release. East and West forks: Closed waters.

Wood Lake: Last Saturday in April through October 31 season.

Woodland Creek: Trout, minimum length fourteen inches.

Wooten Lake: Last Saturday in April through October 31 season.

Wynoochee River, areas four hundred feet downstream from the bases of Wynoochee Dam and the barrier dam near Gridale: Closed waters.

Remainder of river: Trout, minimum length twelve inches. Wild cutthroat release.

From mouth to 7400 line bridge above mouth of Schafer Creek: Additional November 1 through March 31 season. Trout, minimum length twelve inches. Wild cutthroat release.

Wynoochee Reservoir: June 1 through October 31 season. Trout - daily limit - two, minimum length twelve inches.

**Marine waters regulations.**

These regulations apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below).

Fishing hours: Twenty-four hours per day year around.

License requirements: A valid current Washington state department of fish and wildlife game fishing license is required to fish for game fish in marine waters.

Permit requirements: A valid current steelhead license is required of persons fishing for steelhead in marine waters. All steelhead taken from the above described marine areas shall be entered on the steelhead catch record card using the words Marine Area and followed by the appropriate marine area code number.

Underwater spearfishing: Game fish may be taken by means of legal angling gear only. Spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

**MARINE WATERS RULES  
CATCH AND MINIMUM SIZE LIMITS:**

GAME FISH SPECIES	DAILY CATCH LIMITS	MINIMUM SIZE LIMITS
Trout (Including steelhead)	Two, wild cutthroat release in	Fourteen inches

Marine Areas 12- (Hood Canal) and 13- (South Puget Sound). Wild steelhead release in Marine Areas 1 through 13.

Dolly Varden

Closed year around to fishing for or retaining Dolly Varden/Bull Trout.

Marine waters: Gear restrictions.

Area 10: Those waters downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island - Nonbuoyant lure restriction July 1 through November 30.

Marine waters: Closed waters.

Area 10 - Those waters west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed to fishing at all times.

Marine waters: Area codes and boundaries.

(1) Area 1 (Ilwaco): West of the Megler-Astoria Bridge - north to Leadbetter Point. Effective January 1, 1989, Area 1 includes only waters west of the Buoy 10 Line and north to Leadbetter Point.

(2)(a) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River. Area 2 excludes waters of Willapa Bay and Grays Harbor.

(b) Area 2-1: Willapa Bay east of a line from Leadbetter Point to Willapa Channel Marker 8 (Buoy 8) then to the westerly most landfall on Cape Shoalwater.

(c) Area 2-2: Grays Harbor east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Navigation Buoy BW "R" - Smith Island - the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the line described under Area 6 to the United States-Canadian boundary.

(8)(a) Area 8 (Deception Pass, Hope and Camano Islands): Line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to the Possession Point - Shipwreck Line.

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(b) Area 8-1 (Deception Pass and Hope Island): East of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough, north of the Highway 532 Bridge between Camano Island and the mainland, and westerly of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (F1 red 4 sec.).

(c) Area 8-2 (Port Susan and Port Gardner): East of a line from the East Point Light on Whidbey Island to the Saratoga Pass Light #2 on Camano Island (F1 red 4 sec.) and north of a line from the south tip of Possession Point 110 degrees true to a shipwreck on the opposite shore.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and a line projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the northern tip of Vashon Island.

(11) Area 11 (Tacoma-Vashon Island): From the northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the Hood Canal Bridge and adjacent waters north of the Hood Canal Bridge when fishing from the pontoon beneath the bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

COLUMBIA RIVER REGULATIONS

Daily, size, and possession limits: Unless specified otherwise by special regulations, for waters or categories of waters listed individually, the daily limits and minimum size limits for game fish are as follows:

GAME FISH SPECIES	DAILY LIMITS	MINIMUM SIZE LIMITS
Bass	Five—not more than three over fifteen inches	None
Dolly Varden/ Bull Trout	Closed year around to fishing for or retaining Dolly Varden/Bull Trout.	
Grass Carp	It is unlawful to fish for or retain grass carp	
Trout (Including kokanee and steelhead)	Two	Twelve inches

Walleye	Five, not more than one over twenty-four inches.	Eighteen inches
Whitefish	Fifteen	None
All other game fish	No limit	None
Bullfrogs	Ten	None

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

Including the Columbia River and impoundments and all connecting sloughs, except Wells Ponds in Region II.

Columbia River from a true north-south line through Buoy 10 to the Megler-Astoria Bridge: August 1 through March 31 season for steelhead. Wild steelhead release. Fishing from the north jetty is allowed during salmon season openings.

~~((1995))~~ 1996 Conservation Measures.

From a true north and south line (magnetic 338°N) projected through Buoy 10 upstream to Megler-Astoria Bridge: Unlawful to fish for steelhead with barbed hooks August 1, ~~((1995))~~ 1996, through September 4, ~~((1995))~~ 1996.

From the Megler-Astoria Bridge to the I-5 Bridge: May 16 to March 31 season for steelhead and trout, except closed September 1 through September 30 at mouth of Abernathy Creek from the Washington shore to a line between Abernathy Point light and a boundary marker east of the mouth of Abernathy Creek. Wild steelhead release and wild cutthroat release. Closed to fishing for steelhead April 1 through May 15.

From the I-5 Bridge to the Highway 395 Bridge at Pasco; including Drano Lake: Wild steelhead release. Closed to fishing for ~~((steelhead))~~ trout March 16 through June 15.

Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wingwall of the boat lock near the Washington shore.

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From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E: Year around season. Wild steelhead release.

Closed waters: Ringold Springs Creek (Hatchery Creek).

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24), 46: June 16 through October 22 season. Wild steelhead release.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: June 1 through March 31 season. Wild steelhead release.

Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to midstream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth.

From Priest Rapids Dam to Chief Joseph Dam: Year around season. Lawful to fish to base of Washburn Pond outlet structure. Wild steelhead release.

Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - waters between the west end of the tailrace deck downstream four hundred feet to boundary marker in Okanogan County. Closed to boat fishing from the boundary marker to the Corps of Engineers safety zone marker.

Above Chief Joseph Dam: See Region I, Lake Roosevelt and Region II, Rufus Woods Lake.

#### WSR 96-11-085

#### PERMANENT RULES

#### DEPARTMENT OF LICENSING

(Board of Engineers and Land Surveyors)

[Filed May 14, 1996, 4:05 p.m., effective July 1, 1996]

Date of Adoption: May 3, 1996.

Purpose: To adopt and implement provisions of section 5, chapter 356, Laws of 1995.

Statutory Authority for Adoption: RCW 18.43.035, 18.43.075.

Adopted under notice filed as WSR 96-07-037 on March 15, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1996.

May 13, 1996

Alan E. Rathbun

Executive Director

#### NEW SECTION

**WAC 196-24-058 Retired status certificate of registration.** In accordance with RCW 18.43.075, any individual who has been issued a certificate of registration, in accordance with chapter 18.43 RCW, as a professional engineer or professional land surveyor, having reached at least the age of sixty-five and having discontinued active practice as an engineer and/or land surveyor, may be eligible to obtain a "retired certificate of registration." If granted, further certificate of registration renewal fees are waived. For the purpose of this provision, "active practice" is defined as exercising direct supervision and control over the development and production of an engineering or land surveying document as provided in WAC 196-24-097 and/or any related activities pertaining to the offer of and/or the providing of professional engineering or land surveying services as defined in RCW 18.43.020.

(1) Applications. Those persons wishing to obtain the status of a retired registration shall complete an application on a form as provided by the board. Applications shall be sent to the executive director at the address of the board. Upon receipt of said application and, if deemed eligible by the board, the retired status would become effective on the first scheduled renewal date of the certificate of registration that occurs on or after the applicant reaches the age of sixty-five. It shall not be necessary that an expired certificate of registration be renewed to be eligible for this status. The board will not provide refund of renewal fees if the application for "retired" status is made and granted before the date of expiration of the certificate of registration.

(2) Privileges. In addition to the waiver of the renewal fee, a retired registrant is permitted to:

(a) Retain the board issued wall certificate of registration;

(b) Use the title professional engineer (PE) or professional land surveyor (PLS), provided that it is supplemented by the term retired, or the abbreviation "Ret";

(c) Work as an engineer or land surveyor in a volunteer capacity, provided that the retired registrant does not create

an engineering or land surveying document, and does not use their seal, except as provided for in (d) of this subsection;

(d) Provide experience verifications and references for persons seeking registration under chapter 18.43 RCW. If using their professional seal the retired registrant may place the word "retired" in the space designated for the date of expiration;

(e) Serve in an instructional capacity on engineering and/or land surveying topics;

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering or land surveying work performed by the registrant before they were granted a retired registration;

(g) Serve in a function that supports the principles of registration and/or promotes the professions of engineering and land surveying, such as members of commissions, boards or committees;

(h) Serve in an engineering or land surveying capacity as a "good samaritan," as set forth in RCW 38.52.195 and 38.52.1951, provided said work is otherwise performed in accordance with chapter 18.43 RCW.

(3) Restrictions. A retired registrant is not permitted to:

(a) Perform any engineering or land surveying activity, as provided for in RCW 18.43.020, unless said activity is under the direct supervision of a Washington state professional engineer or professional land surveyor who has a valid/active registration in the records of the board;

(b) Act as the designated engineer or the engineer in responsible charge for a Washington engineering corporation or Washington engineering partnership;

(c) Apply their professional engineers or land surveyors seal, as provided for in chapter 196-24 WAC, to any plan, specification, plat or report, except as provided for in subsection (2)(d) of this section.

(4) Certificate of registration reinstatement. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active engineering or land surveying practice. At that time the retired registrant shall be removed from retired status and placed on valid/active status in the records of the board. All rights and responsibilities of a valid/active registration will be in effect. At the date of expiration of the reinstated certificate of registration, the registrant may elect to either continue active registration or may again apply for retired registration in accordance with the provisions of this chapter.

(5) Exemptions. Under no circumstances shall a registrant be eligible for a retired registration if their certificate of registration has been revoked, surrendered or in any way permanently terminated by the board under RCW 18.43.110. Registrants who are suspended from practice and/or who are subject to terms of a board order at the time they reach age sixty-five shall not be eligible for a retired registration until such time that the board has removed the restricting conditions.

(6) Penalties for noncompliance. Any violations of this section shall be considered "misconduct and/or malpractice" as defined in RCW 18.43.105. Such violations are subject to penalties as provided for in RCW 18.43.110 and 18.43.120.

## WSR 96-11-086

### PERMANENT RULES

#### DEPARTMENT OF LICENSING

(Board of Engineers and Land Surveyors)

[Filed May 14, 1996, 4:09 p.m., effective July 1, 1996]

Date of Adoption: May 3, 1996.

Purpose: Implement changes to chapter 18.43 RCW by the 1995 legislature (chapter 356, Laws of 1995).

Citation of Existing Rules Affected by this Order: Amending chapter 196-16 WAC, Registered professional land surveyors and chapter 196-20 WAC, Engineers-in-training.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 96-07-052 on March 18, 1996.

Changes Other than Editing from Proposed to Adopted Version: Edited WAC 196-20-010.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 3, amended 7, repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, amended 7, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1996.

May 13, 1996

Alan E. Rathbun

Executive Director

AMENDATORY SECTION (Amending Order PM 820, filed 2/10/89)

**WAC 196-16-007 Applications.** All applications must be completed on forms provided by the board and filed with the ~~((registrar))~~ executive director at the board's ~~((official))~~ address. The deadline for ~~((receipt of a))~~ properly completed applications accompanied by the ~~((required application fee))~~ appropriate fee and charge as listed in WAC 196-26-020 is four months prior to the date of the examination. ~~((Response from applicant's references must be in hand three months before the date of the examination.))~~ Late applications ~~((received after the deadline will be held for consideration))~~ will be considered for a later examination. ~~((Late responses from references will also cause the application to be held for consideration for a later examination. Those who have previously taken the))~~

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or ((those)) who qualified ((and did not appear for the examination are required to notify the board office in writing three months before the examination which they intend to take. A new application is not required where an applicant has taken the previous examination and

~~failed or has filed and failed to appear for the previous)) for an examination but did not take it shall request to take or retake the examination at least three months prior to the examination date. A written request accompanied by the applicable fee and charge as listed in WAC 196-26-020 is required to reschedule for an examination.~~

AMENDATORY SECTION (Amending Order PM 606, filed 6/4/87)

~~WAC 196-16-010 Experience records. ((The first requirement of the law for registration as a professional land surveyor is a minimum of six years of approved professional experience in land surveying. One year of the required experience must be in responsible charge of boundary surveying in the field and one year must be in a supervisory capacity in the office, which includes but is not limited to preparation of legal descriptions and record documents, survey and description research, computations and client/public contact.~~

~~(1)) The law requires eight years of experience in land surveying work of a character satisfactory to the board and passing the fundamentals-of-land surveying examination to be eligible for the professional land surveyor examination. The eight years of experience must be completed sixty days prior to the date of the examination.~~

~~The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experience as appropriate. The board will use the following criteria in evaluating an applicant's experience record.~~

~~(1) Education experience will be based on transcripts. Therefore, any transcripts not previously sent to the board's office should be submitted for maximum experience credit. Education may be approved as experience based on the following:~~

~~(a) Graduation with a baccalaureate degree in ((a)) land surveying from an approved curriculum ((of four years or more approved by the accreditation board for engineering and technology or approved by the board is)) shall be equivalent to four years of ((the)) required experience.~~

~~((2) Satisfactory completion of each year of such approved curriculum is equivalent to one year of experience.~~

~~(3) Satisfactory completion of each year of a nonapproved land surveying curriculum may be granted up to a maximum of one-half of one year of experience. Course work in such a curriculum must be equivalent to that of an approved curriculum to grant maximum experience credit.~~

~~(4) The normal educational sequence experience gained between semesters or quarters will not be considered as professional experience.~~

~~(5) In situations where the experience/educational track is intermixed with a degree attained late in the sequence, educational achievement will not be counted in addition to work experience in determining total experience. However, professional work experience will not necessarily be considered as starting subsequent to graduation but will be evaluated in total with consideration given to progression in level of technical complexity and responsibility.~~

~~(6) Land surveying teaching of a character satisfactory to the board may be recognized as surveying experience up to a maximum of one year.~~

~~(7) Construction staking shall not be applicable toward the required six years of experience.~~

~~(8)) (b) Graduation with an associate degree in land surveying from an approved curriculum shall be equivalent to two years of required experience.~~

~~(c) Each year completed of an approved curriculum without graduation shall be granted up to a year of required experience.~~

~~(d) A maximum of one year may be granted for postgraduate college courses approved by the board. Postgraduate education will count toward the eight years of required experience as described in subsection (2) of this section.~~

~~(e) Any other education will be taken into account and evaluated on its merits.~~

~~(f) Experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved education including any associated work experience within that year.~~

~~(2) In evaluating work experience, the board will be looking for eight years of broad based, progressive field and office experience in surveying work under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice land surveying, a minimum of four years of which shall be in a position of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional except as provided for in subsections (1)(d) and (3) of this section. This latter experience shall not be limited to, but must include the following:~~

~~(a) Applying state, federal and case law;~~

~~(b) Exercising sound judgment when making independent decisions regarding complex boundary, topographic, horizontal and vertical control, and mapping issues;~~

~~(c) Field identification and evaluation of boundary evidence, including monumentation, and the ability to use that evidence for boundary determination;~~

~~(d) Conducting research;~~

~~(e) Preparing and analyzing complex property descriptions; and~~

~~(f) Interacting with clients and the public in conformance with chapter 196-27 WAC.~~

~~The board may grant partial credit for experience that does not fully meet the requirements in (a) through (f) of this subsection.~~

~~(3) Teaching of a character satisfactory to the board may be recognized as surveying experience up to a maximum of two years.~~

~~(4) In evaluating combined education and experience the board will be looking at transcripts and work experience to determine knowledge in subsection (2)(a) through (f) of this section.~~

~~(5) Any work experience gained in a situation which violates the provisions of chapter 18.43 RCW or Title 196 WAC will not be credited towards the ((statutory)) experience requirement.~~

~~((9) The statutory experience requirement to qualify for examination must be completed sixty days prior to the date of examination. Furthermore, the applicant is to provide the~~

necessary verification of said experience up to the sixty-day limit.

~~(10))~~ (6) A registered professional engineer who applies ~~((to be examined))~~ to become registered as a professional land surveyor must meet the requirements stated within this section.

(7) An applicant meeting the requirements for six years of experience before the effective date of the law change on July 1, 1996, may be approved by the board to take the examination based on the rules in effect on January 1, 1996. This subsection expires on July 1, 1999.

AMENDATORY SECTION (Amending WSR 93-01-081, filed 12/15/92, effective 1/15/93)

**WAC 196-16-020 Examinations.** (1) ~~((The licensing examination is given in three parts: fundamentals))~~ To become licensed as a professional land surveyor the candidate must pass the fundamentals-of-land surveying examination, principles and practice examination, and law and ethics examination. A candidate must pass the fundamentals-of-land surveying examination before taking the principles and practice examination except a candidate approved under the six-year requirement in accordance with WAC 196-16-010(7) may elect to take the principles and practice and fundamentals examinations on two consecutive days. The fundamentals and principles and practice ~~((exams are each one day in length))~~ examinations are given at times and places designated by the board. The schedule of future examinations and an examination syllabus may be obtained from the board office. The law and ethics exam is a take-home examination ~~((-~~

~~(a) The fundamentals of land surveying examination shall test knowledge areas including, but not limited to, the following: Mathematics, measurement techniques, field techniques, computation techniques, and record sources. The principles and practice examination shall test knowledge areas including, but not limited to, the following: Washington state law and judicial decisions, public land system, property descriptions, surveying principles procedures and standards, geometries, error analysis together with ethics and professional conduct. Copies of the examination matrices are available from the board office upon request.~~

~~(b) A candidate may elect to sit for the fundamentals and principles and practice examinations on two consecutive days or they may sit for the fundamentals only, and take the principles and practice at a subsequent examination. The law exam shall be taken after the principles and practice exam.~~

~~(c) A candidate failing any one of the three parts of this examination must only repeat the part(s) failed.~~

~~(d) A candidate must pass all three parts of the examination to become licensed as a professional land surveyor.~~

(2) Applicants for a professional land surveyor (PLS) license, either by examination or comity, must take and pass the law portion of the examination effective as follows:

#### Examination

Starting with the April 16, 1993, examination, and continuing with future licensing examinations, PLS applicants being examined for initial licensure shall also take the law exam. Initial licensure, in the context of this section, means

licensure for an applicant who has not previously obtained a professional license under chapter 18.43 RCW in the state of Washington.

#### Comity

Any applicant for licensure by comity whose application is postmarked on or after April 1, 1993, shall take the law examination.

~~(a) The law examination will cover the following sections of statute and administrative code:~~

~~Chapter 18.43 RCW;  
Chapter 196.04 WAC;  
Chapter 196.08 WAC;  
Chapter 196.12 WAC;  
Chapter 196.16 WAC;  
Chapter 196.20 WAC;  
Chapter 196.24 WAC;  
Chapter 196.26 WAC;  
Chapter 196.27 WAC.~~

~~(b) The law examination is multiple choice format and will be administered as a "take-home" exam.~~

~~(c) Candidates failing the law examination may retake the examination upon notice that they did not pass)) covering chapter 18.43 RCW and Title 196 WAC. If one of these examinations is failed, only that examination must be retaken.~~

AMENDATORY SECTION (Amending WSR 93-01-081, filed 12/15/92, effective 1/15/93)

**WAC 196-16-031 Comity—Registration of applicants qualified in other jurisdictions.** (1) Applicants for registration as a land surveyor by comity ~~((will be exempt from the full sixteen-hour fundamentals and principles and practice examinations administered by this board provided))~~ must meet the following criteria:

~~((1) That))~~ (a) The applicant's qualifications meet the requirements of chapter 18.43 RCW and ~~((the rules established by the board))~~ this chapter;

~~((2) That the applicant has been qualified by a written sixteen-hour examination determined by the board to be equivalent to the exam administered in Washington; and~~

~~(3) That))~~ (b) The applicant is in good standing with the licensing agency in ~~((said))~~ a state, territory, possession, district, or foreign country. Good standing shall be defined as a currently valid license in the jurisdiction of original registration or the jurisdiction of most recent practice, if different from the jurisdiction of original registration.

~~((All candidates will be required to pass written examinations as prescribed by the board. The examinations shall test knowledge areas as described in WAC 196-16-020.))~~ (c) The applicant has been qualified by a written examination determined by the board to adequately test the fundamentals and principles and practice of land surveying and whose experience includes WAC 196-16-010 (2)(a) through (f).

(2) The applicant will be required to pass examinations to demonstrate competency in land surveying issues important to Washington, and law and ethics. Comity applicants will not be required to take the fundamentals-of-land surveying and full principles and practice examinations administered by the board.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 196-16-005 Definitions.

**AMENDATORY SECTION** (Amending Order PM 738, filed 5/27/88)

**WAC 196-20-010 Applications.** All applications must be completed on forms provided by the board and filed with the ~~((registrar))~~ executive director at the board's ~~((official))~~ address. The deadline for properly completed applications accompanied by the ~~((statutory fee))~~ appropriate fee and charge as listed in WAC 196-26-020 is four months prior to the date of the examination. Late applications ~~((received after the deadline))~~ will be ~~((held for consideration))~~ considered for a later examination.

~~((Official transcripts of college record, if not attached to the application, shall be forwarded to the board office as soon as they are available.))~~ All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college having achieved senior standing in a baccalaureate curriculum in engineering approved by the board will be eligible to take the fundamentals-of-engineering examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall request to take or retake the examination at least three months prior to the examination date. A written request accompanied by the applicable fee and charge as listed in WAC 196-26-020 shall be submitted to the board's office.

**AMENDATORY SECTION** (Amending Order PM 606, filed 6/4/87)

**WAC 196-20-020 Experience.** The law requires the completion of four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the ((engineer-in-training)) fundamentals-of-engineering examination. If the applicant has achieved senior standing, that standing must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-engineering examination must be completed sixty days prior to the date of the examination.

The board shall evaluate all experience on a case-by-case basis and approve such experience as appropriate. Partial credit may be granted for experience and/or education that does not fully meet the requirements. The board will use the following criteria ~~((will be used))~~ in evaluating an applicant's education and ~~((for work))~~ experience ~~((:))~~:

(1) Graduation in an approved engineering curriculum of four years or more from a school or college recognized by the board, is equivalent to the four-year experience requirement.

(2) Four years or more of ~~((professional level))~~ broad based progressive experience in the fundamental knowledge of engineering ~~((work))~~ theory and practice, of a character acceptable to the board, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering is equivalent to the four-year experience requirement.

(3) The criteria established in WAC 196-12-020 will be used to evaluate the applicant's education and/or work experience.

**AMENDATORY SECTION** (Amending Order PM 606, filed 6/4/87)

**WAC 196-20-030 Examinations.** (1) The ~~((engineer-in-training))~~ fundamentals-of-engineering examination is given ~~((twice each year))~~ at times and places ~~((as will from time to time be))~~ designated by the board. The schedule of future examinations and an examination syllabus may be obtained from the board office. ~~((The examination is of one day's duration and consists of two sessions, one in the morning and one in the afternoon. It covers mathematics, physical sciences, and other general engineering related subjects.~~

~~((2) Persons who may normally expect to graduate prior to the next regularly scheduled E.I.T. examination may sit for that examination. In cases where college graduation is elaimed an applicant who passes the examination will not be enrolled as an E.I.T. until an official college transcript showing completion of the four year requirement is filed with the board office.~~

~~((3) Those who pass this))~~ (2) An applicant passing the fundamentals-of-engineering examination will be enrolled as an engineer ~~((s))-in-training pursuant to RCW 18.43.020(3). ((An applicant must be enrolled as an E.I.T. before applying for the second stage or branch examination.))~~

## Chapter 196-21 WAC LAND SURVEYORS-IN-TRAINING

### NEW SECTION

**WAC 196-21-010 Applications.** All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee and charge as listed in WAC 196-26-020 is four months prior to the date of examination. Late applications will be considered for a later examination.

All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college that have achieved senior standing in a baccalaureate curriculum in land surveying approved by the board will be eligible to take the fundamentals-of-land surveying examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall request to take or retake the examination at least three months prior to the examination date. A written request accompanied by the applicable fee and

charge as listed in WAC 196-26-020 shall be submitted to the board's office.

### NEW SECTION

**WAC 196-21-020 Experience.** The law requires completing four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-land surveying examination. If the applicant has achieved senior standing, that status must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals-of-land surveying examination must be completed sixty days prior to the date of the examination.

The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experience as appropriate. The board will use the following criteria in evaluating an applicant's experience record.

(1) Education may be approved as experience based on the following:

(a) Graduation with a baccalaureate degree in land surveying from an approved curriculum shall be equivalent to four years of required experience.

(b) Graduation with an associate degree in land surveying from an approved curriculum shall be equivalent to two years of required experience.

(c) Each year completed of an approved curriculum without graduation shall be granted up to a year of required experience.

(d) A maximum of one year may be granted for post-graduate college courses approved by the board.

(e) Any other education will be taken into account and evaluated on its merits.

(f) Experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved education including any associated work experience within that year.

(2) In evaluating four years of work experience, the board will be looking for broad based, progressive experience in the fundamental knowledge of surveying theory and practice under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice land surveying. This experience shall not be limited to, but must include the following:

- (a) Performing complex survey calculations;
- (b) Conducting boundary and corner research;
- (c) Preparing and using property descriptions;
- (d) Understanding and applying fundamental boundary and topographic principles;
- (e) Making and/or analyzing horizontal and vertical control measurements; and
- (f) Being skilled in survey equipment care and usage.

The board may grant partial credit for experience that does not fully meet the requirements in (a) through (f) of this subsection.

(3) In evaluating the four years of combined education and experience the board will be looking at transcripts and

work experience to determine knowledge in subsection (2)(a) through (f) of this section.

(4) In the judgment of the board, the applicant must have demonstrated increased levels of responsibility and a continuous gain in experience and knowledge such that at the time of being approved for the fundamentals-of-land surveying examination, the applicant is capable of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional.

### NEW SECTION

**WAC 196-21-030 Examinations.** (1) The fundamentals-of-land surveying examination is given at times and places designated by the board. The schedule of future examinations and an examination syllabus may be obtained from the board office.

(2) An applicant passing the fundamentals-of-land surveying examination will be enrolled as a land surveyor-in-training pursuant to RCW 18.43.020(8).

**WSR 96-11-091  
PERMANENT RULES  
NORTHWEST AIR  
POLLUTION AUTHORITY**

[Filed May 15, 1996, 9:35 a.m.]

Date of Adoption: May 9, 1996.

Purpose: To amend sections of the Northwest Air Pollution Authority regulation to be consistent with current state and local statutes.

Citation of Existing Rules Affected by this Order: Amending Sections 200, 501, 520.

Statutory Authority for Adoption: May 9, 1996 [chapter 70.94 RCW].

Adopted under notice filed as WSR 96-06-017 on February 27, 1996.

Changes Other than Editing from Proposed to Adopted Version: Did not enact Section 132.6.

Summary of Northwest Air Pollution Authority regulation changes, May 9, 1996.

Subsection 200, delete definition of outdoor fire and add a definition of outdoor burning.

Subsection 501.3, delete definition of open burning and modify definition of outdoor burning to be consistent with Section 200. Add a definition of commercial open burning.

Subsection 501, all references to open burning will be changed to outdoor burning to be consistent with the definition.

Subsection 520, add a subsection, 520.2, that exempts ocean going vessels, small waste oil heaters, and waste oil collection programs from sulfur limits in fuel oil.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

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

May 14, 1996

James Randles

Assistant Control Officer

## AMENDATORY SECTION

### SECTION 200 - DEFINITIONS

**OPACITY** - Opacity means the degree to which an emission reduces the transmission of light and obscures the view of any object in the background.

**ORDER OF APPROVAL OR APPROVAL ORDER** - A regulatory order issued by the authority to approve the notice of construction application for a proposed new source or modification.

~~**(OUTDOOR FIRE** - A fire where any material is burned in the open, in receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.)~~

**OUTDOOR BURNING** - means the burning of any material in an open fire or in a receptacle other than an incinerator, furnace, or other combustion device approved in advance by the NWAPA.

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

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

**PARTICULATE MATTER** - Small discrete masses of liquid or solid, exclusive of uncombined water.

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

**PERSON** - Means and includes an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

**PETROLEUM LIQUIDS** - Petroleum condensate, and any finished intermediate product manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in A.S.T.M. D396-69, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in A.S.T.M. D2880-71, or diesel fuel oils Number 2-D and 4-D as specified in A.S.T.M. D975-68.

**PORTABLE EQUIPMENT** - Equipment designated to be transported from place to place for temporary operation.

**PORTLAND CEMENT PLANT** - Any facility manufacturing Portland cement by either the wet or dry process.

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

an equivalent method designated in accordance with 40 CFR Part 53.

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

**REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)** - The lowest emission limit 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. RACT 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. RACT requirements for any source or source category shall be adopted only after notice and opportunity for comment are afforded.

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

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

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

**RESIDENTIAL BURNING** - Means small outdoor fires, at a one or two family residence, consisting of leaves, clippings, pruning and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling resulting from activities connected with said dwelling and burned on such lands by the property owner or his designee.

**SMALL OUTDOOR FIRE** - Means a fire in a pile no more than four (4) feet in diameter and three (3) feet in height.

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

**SOURCE** - All of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial*

Classification Manual, 1972, as amended by the 1977 Supplement.

STACK - Duct, chimney, flue, conduit, or opening arranged for the emission into the outdoor atmosphere of air contaminants.

STANDARD CONDITIONS - Standard Conditions (A) is a temperature of 60 degrees F and a pressure of 29.92 inches of mercury. Standard Conditions (B) is a temperature of 0 degrees C and 760 mm of mercury. Standard Conditions (C) is a temperature of 25 degrees C and 760 mm of mercury.

STANDARD CUBIC FOOT OF GAS - That amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor at a pressure of 14.7 psia and a temperature of 60 degrees F.

STATE ACT - Washington Clean Air Act (RCW 70.94) and RCW 43.21A and 43.21B.

STRAW - All vegetative material of agricultural origin other than seed removed by swathing, combining or cutting.

TON - Short ton or 2000 pounds.

TOTAL SUSPENDED PARTICULATE - Particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1988.

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

TURF GRASSES - All blue grasses, fescues, and bentgrass planted for seed production.

UNAVOIDABLE EXCESS EMISSIONS - Air contaminants emitted in excess of a standard that are excused and not subject to penalty by reason that the event(s) meet the criteria in WAC 173-400-107 (4), (5), or (6).

U.S. ENVIRONMENTAL PROTECTION AGENCY - Shall be known as EPA in this Regulation.

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

AMENDED: October 13, 1982, November 14, 1984, April 14, 1993, October 13, 1994, April 11, 1996

## AMENDATORY SECTION

### SECTION 501 - OUTDOOR BURNING

#### 501.1 PURPOSE

The purpose of this section is to minimize the air pollution impacts caused by outdoor ((open)) burning as mandated by the Washington Clean Air Act of 1991. This rule establishes controls for open burning in order to:

- 501.11 Reduce outdoor ((open)) burning to the greatest extent practical by eliminating it in PM-10 and/or carbon monoxide nonattainment areas; and urban growth areas or cities with a popu-

lation of 10,000 or more by December 31, 2000;

- 501.12 For areas where outdoor ((open)) burning is allowed, established a limited burning program, including procedures by which outdoor ((open)) burning may be conducted;

- 501.13 Encourage the development and use of alternate methods for the disposal of woody debris.

#### 501.2 APPLICABILITY

- 501.21 This section applies to all forms of outdoor burning except:

501.211 Silvicultural Burning

501.212 Agricultural Burning

501.213 Recreational Fires - that are not used for debris disposal purposes and do not cause a nuisance to neighbors.

501.214 Ceremonial Fires

501.215 Burning to improve and maintain fire dependent ecosystems - pursuant to Chapter 332.24 WAC.

- 501.22 No outdoor burning shall occur during a declared period of impaired air quality.

- 501.23 A fire protection agency, county, or conservation district may enforce its own controls that are stricter than those set forth in this section.

#### 501.3 DEFINITIONS

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

AGRICULTURAL BURNING - means burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

CEREMONIAL FIRE - means a fire associated with an Indian ceremony or ritual.

COMMERCIAL OPEN BURNING - means open burning conducted as part of any commercial or business operation.

ECOLOGY - means the Washington State Department of Ecology.

EPISODE - means a period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in Chapter 173-435 WAC.

IMPAIRED AIR QUALITY - means a condition declared by Ecology or the Authority in accordance with the following criteria:

- (a) Meteorological conditions are conducive to an accumulation of air contamination concurrent with:

- (i) Particulate that is ten micron and smaller in diameter (PM-10) at or above an ambient level of

seventy-five micrograms per cubic meter measured on a twenty four hour average; or

(ii) Carbon monoxide at an ambient level of eight parts of contaminant per million parts of air by volume (ppm) measured on an eight hour average.

(b) Air quality that threatens to exceed other limits established by the authority.

**LAND CLEARING BURNING** - means the burning of outdoor fires over ten (10) feet in diameter consisting of residue such as trees, stumps, shrubbery or other natural vegetation in preparation of a land improvement or construction project as distinguished from a forest harvest operation.

**NONATTAINMENT AREA** - means a clearly delineated geographic area which has been designated by the Environmental Protection Agency and promulgated as exceeding a national ambient air quality standard or standards for one or more of the criteria pollutants.

**NUISANCE** - means an emission of smoke from any outdoor burning (~~open fire~~) to be deposited beyond the property line, if it interferes with the use and enjoyment of the property deposited on.

~~((OPEN BURNING means all forms of outdoor burning except those listed as exempt in section 502 of this regulation.))~~

**OUTDOOR BURNING** - means the burning of any material in an open fire or in a receptacle other than an incinerator, furnace, or other combustion device approved in advance by the NWAPA (~~combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion~~)).

**REASONABLE ALTERNATIVES** - means alternatives to outdoor burning that cost less than eight dollars and fifty cents (\$8.50) per cubic yard are considered reasonable. This amount shall be adjusted periodically to reflect changing economic conditions. Adjustments will be based on Authority policy and guidelines provided by Ecology.

**RECREATIONAL FIRE** - means barbecues and campfires, not for debris disposal purposes, in public areas or on private property. Fuels used may not contain prohibited materials.

**SILVICULTURAL BURNING** - means burning on any land the department of natural resources protects per RCW 70.94.030(13), RCW 70.94.660, RCW 70.94.690 and pursuant to Chapter 76.04 RCW.

**URBAN GROWTH AREA** - means an area defined by RCW 36.70A.030.

#### 501.4 PROHIBITED MATERIALS

501.41 It shall be unlawful for any person to cause or allow any outdoor fire containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper, cardboard, treated wood, construction debris, metal or any substance other than natural vegetation, which when burned releases toxic emissions, dense smoke, or odors.

501.42 Prohibited materials may be burned in the following circumstances:

501.421 Diseased animals and infested material. When ordered by a duly authorized health officer and authorized by the Authority, diseased animals and other infested material may be burned, as required, to keep the infestation from spreading.

501.422 Dangerous material. When ordered by a fire protection agency and when authorized by the Authority, fires to dispose of materials presenting danger to life, property, or public welfare may be burned, if no approved practical alternate method of disposal is available.

#### 501.5 CURTAILMENT DURING EPISODES OR IMPAIRED AIR QUALITY

501.51 No outdoor fire shall be ignited:

501.511 Whenever Ecology declares an air pollution episode for the geographical area pursuant to Chapter 173-435 WAC; or

501.512 Whenever Ecology or the Authority declares impaired air quality for the geographical area.

501.513 Within any county in which the Authority declares impaired air quality.

501.514 Within Skagit, Whatcom, and Island counties if impaired air quality is declared in both Skagit and Whatcom counties.

501.52 A person responsible for an outdoor fire at the time an episode or impaired air quality is declared shall extinguish that fire. Outdoor burning conducted under the auspices of the department of natural resources for the purpose of burning forest slash pursuant to RCW 70.94.660 through 70.94.670 shall be extinguished by withholding new fuel and allowing the fire to burn down.

501.53 Smoke visible from outdoor burning after a time period of three hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful outdoor burning.

501.54 For Department of Natural Resource silvicultural burning, smoke visible from outdoor burning after a time period of ten hours has elapsed from the time of declaration of the episode or impaired air quality shall constitute prima facie evidence of unlawful outdoor burning.

#### 501.6 ((OPEN)) OUTDOOR BURNING PROGRAM

501.61 General Requirements.

501.611 All outdoor burning requires a permit as covered in section 501.7.

- 501.612 Permits shall not be issued, and thus outdoor (~~open~~) burning is not allowed, in areas where reasonable alternatives are available.
- 501.613 No outdoor (~~open~~) burning shall be allowed in areas that exceed federal or state ambient air quality standards for fine particulate matter (PM-10) or carbon monoxide. Such areas shall be defined as the entire PM-10 and/or carbon monoxide nonattainment area, unless otherwise determined pursuant to section 506.21 of the regulation.
- 501.614 A fire protection authority may declare a fire hazard in areas where outdoor burning is banned and in areas where outdoor burning is allowed. If outdoor (~~open~~) burning is determined to be the most appropriate manner to abate a fire hazard, the fire protection authority must request from the Authority permission to burn. Permits issued under section 501.614 shall provide that:
- 501.6141 Prohibited material shall not be burned.
- 501.6142 Outdoor (~~B~~) burning shall not be conducted during a period of impaired air quality.
- 501.6143 No reasonable alternative is available.
- 501.6144 No outdoor (~~open~~) burning shall be conducted in areas that exceed federal or state ambient air quality standards for Carbon monoxide and/or PM-10. Such areas shall be defined as nonattainment areas for these pollutants.
- 501.62 Additional Requirements for Nonattainment Areas
- 501.621 Phase-out Approach. The Authority may petition Ecology to allow a phase-out approach in nonattainment areas. The phase-out approach will focus on how to achieve the Clean Air Washington goals and eliminate outdoor burning in areas that exceed the standards. Ecology will review and determine if the petition should be approved. The Ecology may partially approve petitions or approve petitions with conditions based on the following criteria:
- 501.6211 Population and population density considerations.
- 501.6212 Air quality in the region can support outdoor (~~open~~) burning based upon geographical and meteorological conditions.
- 501.6213 The presence of a permitting program.
- 501.6214 The extent to which reasonable alternatives to outdoor (~~open~~) burning are being developed through solid waste management plans and the schedule for the availability of such reasonable alternatives.
- 501.622 The petition to allow for a outdoor burning phase-out approach is due to the Ecology no later thirty (30) days after an area is designated as a nonattainment area. A ban is not effective in areas identified in the petition until after Ecology makes a ruling on the petition.
- 501.623 The phase-out plan identified in the petition shall be rendered void: 1) when alternatives are available or 2) when Ecology demonstrates to the Environmental Protection Agency that air quality standards are achieved.
- 501.624 Fires may be permitted in areas where outdoor burning is otherwise banned under the following conditions.
- 501.6241 Fire training. The Authority may issue permits for fire training fires, pursuant to Ecology guidelines and rules.
- 501.6242 The Authority may permit fires that are part of a defined research project, weed abatement, and smoke training as part of a military training exercise.
- 501.6243 Responding to outdoor (~~open~~) burning calls. Each affected County shall identify a fire marshal or other appropriate county official for field response and to document outdoor (~~open~~) burning complaints or violations using appropriate field notices. In areas where the county has no jurisdiction, the Authority will negotiate with the appropriate local agency on field response.
- 501.63 Additional Requirements for Urban Growth Areas and Cities with a Population of Ten Thousand (10,000) or More.
- 501.631 Outdoor (~~Open~~) burning will be banned when reasonable alternatives are available. Regardless of alternative availability, outdoor (~~open~~) burning will be banned after December 31, 2000.

501.632 Until outdoor (~~(open)~~) burning is banned, it is allowed subject to the permitting provisions of this section.

1992-1995	twenty-one days/year
1995-1998	fourteen days/year
After 1998	seven days/year

501.633 When outdoor (~~(open)~~) burning is banned, the provisions in section 501.62 shall apply.

A person burning under a general rule burn permit must follow the requirements listed in section 501.751 through 501.759 below and any additional restrictions in affect while burning, including those established by cities, counties, fire protection agencies, and the Authority.

501.7 OPEN BURNING PERMIT REQUIREMENTS

501.71 All outdoor burning requires a permit. For areas where burning is allowed, the Authority, fire districts or departments, conservation districts, or counties may issue permits. Those issuing permits are responsible for field response to outdoor (~~(open)~~) burning complaints. Ecology will provide guidance for field response programs which addresses funding, training, and staffing.

501.751 The fire must not include prohibited materials except what paper is necessary to start the fire.

501.72 In selecting a permit program, the options range from the minimum - a general rule burn, as described below, to a written permit. A permit program must be in place eight months after Ecology provides guidance for the program. If at that time, no agreement has been reached, the area becomes a no-burn area and falls under the restrictions set forth in section 501.62 above. A no-burn area will be established only after a public hearing has been conducted to address the matter.

501.752 A person capable of extinguishing the fire must attend it at all times and the fire must be extinguished before leaving it.

501.753 No fires are to be within fifty (50) feet of structures.

501.73 Fees. The Authority may charge a fee to cover the administrative cost of a permit program. Fire districts, counties, and conservation districts issuing fire permits may collect fees to cover administrative costs.

501.754 The pile must not be larger than four feet in diameter.

501.755 Only one pile at a time may be burned, and each pile must be extinguished before lighting another.

501.74 The Authority may apply additional restrictions on outdoor (~~(open)~~) burning as necessary to reduce the impacts from outdoor (~~(open)~~) burning. These restrictions include, but are not limited to, restricting burning in sensitive areas per 173-400 WAC, restricting the time periods for which burning is allowed, limiting permissible hours of burning, restricting burning to specific weather conditions, and imposing requirement for good combustion.

501.756 No outdoor fire is permitted in or within five hundred (500) feet of forest slash without a written burning permit.

501.757 The designated permitting authority must be called to confirm burning conditions for each day or current information on burning conditions must be obtained.

501.758 If the fire creates a nuisance, it must be extinguished.

501.75 General Rule Burn Permits. For areas where outdoor burning is allowed, fire permitting agencies may elect to use a general permit by rule. A person burning under a general permit by rule system must meet, at minimum, the following requirements and any additional restrictions including those established by cities, counties, or fire protection authorities. Persons not able to meet all of the requirements of this sections must apply for and receive a written permit.

501.759 Permission from a landowner or designated representative must be obtained before building an outdoor fire.

501.76 Additional requirements for land clearing burning. The following "best available burning practices" shall be used when land clearing burns are conducted.

501.761 No land clearing fire shall be larger than fifty (50) feet in diameter and be located less than five times the fire diameter size from any structure.

501.762 No land clearing fire shall be ignited and no material shall be added to any fire after 6:00 pm; and no land clearing fire shall commence before 6:00 am each day unless prior approval is granted by the Authority.

501.763 At least one fan rated and operated at 6,000 cubic feet per minute must be on site for each twenty-five (25) feet of fire diameter and must be used to facilitate ignition and burning unless comparable winds make a fan unnecessary.

General rule burn permits under section 501.75 may be used for the following number of days per year:

PERMANENT

501.764 Material for a fire must be free of excess dirt and machine stacked by an excavator or equivalent machine which must be on site and employed until all visible emissions cease. The ratio of stack height to burn pile diameter shall be as high as possible but no less than 1:2.

501.765 The number of fires per parcel, defined as a single, integrated, land area that is being cleared by a party, shall be:

501.7651 No more than one fire per acre: and

501.7652 No more than three fires per parcel, which must be set in sequence, with each fire fully engaged prior to setting another.

501.766 Stumps and tree trunks must be split so that no material exceeding three (3) feet in diameter is burned.

501.767 A person qualified to operate stacking or equivalent machinery shall be present at the immediate fire site during burning.

501.768 Burning shall be conducted in such a manner as to prevent any smoke and/or particulate matter from being emitted that is or is likely to restrict visibility on a public road or airport landing strip.

501.769 Outdoor fires for the purpose of land clearing burning must have a written permit from the appropriate fire permitting agency. Notwithstanding the restrictions listed in sections 501.761 through 501.768 above, all land clearing fires must meet any additional conditions listed on the permit and all other applicable air pollution regulations.

501.770 No fires shall be permitted for the burning of material generated from land clearing projects located in areas where a burn ban exists.

501.771 It shall be unlawful for any person to cause or allow the burning of material generated from land clearing projects located in areas where a burn ban exists.

501.8 Additional requirements for commercial establishments.

501.81 No outdoor (~~open~~) burning is allowed at permanently located commercial establishments excluding land clearing operations. The Northwest Air Pollution Authority may issue fire permits on a case-by-case basis for extenuating circumstances e.g., mitigating an immediate threat to human health or safety.

## SECTION 504 - OUTDOOR BURNING ((FIRES)) - GRASS SEED FIELDS

504.1 It is the policy of the NWAPA in carrying out its responsibilities under Chapter 70.94 RCW to:

504.11 Reduce and ultimately eliminate unnecessary agricultural burning through the earliest possible application of practical alternate methods.

504.12 Encourage and assist grass seed producers and processors to conduct or participate in a research and technological program designed to progressively reduce adverse effects on the environment through application of best practicable agricultural practices.

504.13 Discourage any increase in the number of acres being burned during the time period alternate methods are being developed to eliminate agricultural burning by the grass seed industry; and to seek an equitable and effective method of preventing an increase in burning.

504.2 No outdoor (~~open~~) burning of field grasses or turf grasses shall be undertaken unless a permit has been obtained from the Authority. The issuance of permits hereunder shall be governed by consideration of air quality conditions in the area where proposed burning is to occur, the time of year, the size and duration of the proposed burning activity, and the applicant's need to carry out such burning as weighed against the public interest in clean air. Permits will be conditioned to minimize air pollution insofar as practical. The Authority may limit the number of acres for which permits to burn will be issued in order to effectively control emissions from this source and to implement the policy expressed in 504.13.

504.3 The NWAPA hereby adopts by reference Chapter 18-16 WAC "Burning of Field and Turf Grasses Grown for Seed".

504.4 Practical alternative production methods and disease controls which would reduce or eliminate outdoor (~~open~~) burning shall be utilized as soon as they become available regardless of specific provisions of the compliance program included within this section.

504.5 Mobile field burners and other methods of incineration, not classified as outdoor (~~open~~) burning, shall not be prohibited by the above restrictions, providing emissions do not exceed the following standards:

504.51 Visible emissions shall not exceed an opacity of 20% for more than three (3) minutes in any one hour;

504.52 Particulate emissions shall not exceed 0.1 grains per standard cubic foot of exhaust gas corrected to 7% oxygen at standard conditions, dry.

Amended: April 14, 1993, October 13, 1994, April 11, 1996

504.6 Nothing herein shall relieve any applicant for a permit hereunder from obtaining permits, licenses or approvals required by any other laws, regulations, or ordinances.

PASSED: February 14, 1973  
AMENDED: By Adoption of WAC 18-16 January 24, 1972, August 9, 1978, June 7, 1990, April 11, 1996

AMENDATORY SECTION

SECTION 520 - SULFUR COMPOUNDS IN FUEL

520.1 It shall be unlawful for any person to burn, sell, or make available for sale for burning in fuel burning equipment, or refuse burning equipment, within the jurisdiction of this Authority, any fuel containing a weight of sulfur in excess of that allowed by Subsection 520.11, 520.12, 520.13, 520.14 and 520.15.

520.11 Distillate fuel oil classified as Grade No. 1 (ASTM designation: D396-69) shall contain three tenths percent (0.3%) or less sulfur by weight.

520.12 Distillate fuel oil classified as Grade No. 2 (ASTM Designation: D396-69) shall contain five-tenths percent (0.5%) or less sulfur by weight.

520.13 All other grades or kinds of fuel oil intended for use in fuel oil burning equipment including ASTM Designation: D396-69 Grades No. 4, 5, and 6 shall contain two percent (2.0%) or less sulfur by weight.

520.14 Gaseous fuel shall contain 50 grains (412 ppm @ standard conditions) or less sulfur per 100 standard cubic feet except that this subsection shall not apply to those sources subject to Section 460.

520.15 Solid fuel (such as, but not limited to, coal, coke, and refuse) shall contain two percent (2.0%) or less sulfur by weight.

520.2 This section does not apply to:

- a. Ocean going vessels;
- b. Used oil burned in space heaters that have a maximum heat input of less than 0.4 million BTU/hr; and
- c. Persons in the business of collecting used oil from residences authorized by a city, county, or the Utilities and Transportation Commission.

Amended: April 14, 1993, May 11, 1995, April 11, 1996

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

**WSR 96-11-096  
PERMANENT RULES  
DEPARTMENT OF  
SERVICES FOR THE BLIND**

[Filed May 16, 1996, 10:45 a.m.]

Date of Adoption: May 16, 1996.

Purpose: To remove facility operation from the WAC and place it in department policy. The WAC is amended to refer to the policy agreement.

Citation of Existing Rules Affected by this Order: Amending WAC 67-35-910 Facility operation agreement.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Adopted under notice filed as WSR 96-08-026 on March 26, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
May 16, 1996

Bonnie Jindra  
Assistant Director

AMENDATORY SECTION (Amending WSR 95-01-066, filed 12/15/94, effective 1/15/95)

**WAC 67-35-910 ((Vendor)) Facility operation agreement.**

~~((This VENDOR AGREEMENT entered in this . . . . day of . . . . ., 19. . . by and between the Department of Services for the Blind, hereinafter referred to as the department, and . . . . ., hereinafter referred to as the vendor.~~

~~Name and Address of Facility . . . . .  
City: . . . . ., Washington~~

~~IT IS HEREBY AGREED:~~

- ~~1. The provisions of the permit and/or contract between the department and the property management as now exists and chapter 67-35 WAC (the business enterprise program rules), which described the rights and responsibilities of the department and the rights and responsibilities of the vendor, as presently exist are both by reference incorporated into and made part of this agreement.~~
- ~~2. The vendor is entitled to all profits of the vending facility, and vending machine revenue from site, except as provided for in WAC 67-35-140.~~

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- ~~3. The vendor is responsible to submit reports to the department as required.~~
- ~~4. The vendor must maintain the business hours agreed upon or as stated in the permit and/or contract.~~
- ~~5. The vendor shall receive a copy of the permit and/or contract and all applicable department rules.~~
- ~~6. The vendor shall obtain and maintain continuously public liability insurance with limits of liability not less than:  
\$1,000,000.00 each person personal injury,  
\$1,000,000.00 each occurrence personal injury, and  
\$1,000,000.00 each occurrence property damage or insurance coverage specified in the permit and/or contract, whichever is greater.~~
- ~~7. Vendors are accountable to the department for equipment assigned to their location. The vendor is responsible for maintaining the equipment in a clean and sanitary condition.~~
- ~~8. The vendor shall not discriminate in the employment of persons on the grounds of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.~~
- ~~9. The vendor or the vendor's employees shall not subject customers to discrimination or deny them participation in, or the benefits of the vending facility on the grounds of race, color, sex, national origin, creed or religion, physical or mental impairment, age, marital status or political affiliation.~~
- ~~10. The department staff shall provide management services as defined in WAC 67-35-030 on a systematic basis. Consultation shall occur at least on a semiannual basis.~~
- ~~11. The department may upon forty five days notice terminate the license and/or terminate the agreement with the vendor for failure to operate the facility in accordance with the permit and/or contract or the vending facility rules and shall provide an opportunity for a full evidentiary hearing as provided for in WAC 67-35-420, except in those instances where aggravated emergency conditions require immediate termination of license and/or termination of agreement and removal of the vendor due to gross neglect or misconduct, as provided for in WAC 67-35-430.~~
- ~~12. The vendor may terminate this agreement upon giving forty five days written notice to the department.~~
- ~~13. This agreement is automatically terminated when the permit or contract with the contracting agency is terminated.~~
- ~~14. The vendor will sign a facility equipment and stock agreement.~~

~~HAVE RECEIVED COPIES OF THE FACILITIES OPERATING PERMIT AND/OR CONTRACT AND THE BUSINESS ENTERPRISE PROGRAM RULES:~~

Signed: \_\_\_\_\_ Date: \_\_\_\_\_, 19\_\_\_\_  
(Vendor)

Name of vendor: \_\_\_\_\_  
(please type)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_, 19\_\_\_\_  
(Department of Services for the Blind)

Name of staff: \_\_\_\_\_  
Title: \_\_\_\_\_))

Upon selection of a vendor to operate a business enterprise program facility, the department of services for the blind and the chosen vendor shall enter into a facility operation agreement. The text of this agreement is located in departmental policy and addresses the mutually agreed responsibilities of the vendor/operator and of the department. This agreement includes, but is not limited to, terms and conditions of facility operation such as vendor rent and insurance responsibilities, hours of operation, and conditions of termination of the agreement. Other terms or conditions of operation which are particular to a given facility shall be included as an addendum and shall be incorporated into the facility operation agreement.

**WSR 96-11-107**  
**PERMANENT RULES**  
**LOTTERY COMMISSION**  
[Filed May 20, 1996, 10:15 a.m.]

Date of Adoption: May 3, 1996.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 168 ("\$2 Instant Casino"), 169 ("Aces High"), 170 ("Lucky Charms"), 171 ("\$5 Holiday Surprise"), 172 ("Winner Wonderland"), and 173 ("Lucky Streak"); and to repeal WAC 315-10-050.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 315-10-050.

Statutory Authority for Adoption: RCW 67.70.040.

Adopted under notice filed as WSR 96-07-104 on March 20, 1996.

Changes Other than Editing from Proposed to Adopted Version: The title of Game 172 was changed from "Mistle Dough" to "Winner Wonderland."

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 6, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

~~I HEREBY CERTIFY THAT I FULLY UNDERSTAND THE ARTICLES AND TERMS SET FORTH IN THE ABOVE AGREEMENT AND~~

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Effective Date of Rule: Thirty-one days after filing.  
 May 10, 1996  
 Roger Wilson  
 Deputy Director

**NEW SECTION**

**WAC 315-11A-168 Instant Game Number 168 ("Instant Casino"). (1) Definitions for Instant Game Number 168.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. Two playfields shall appear on the front of each ticket labeled "Roll 7 or 11" and "Lucky Wheel." Each playfield shall be covered by latex. The "Roll 7 or 11" playfield shall have three sets of two play spots. Each play spot shall have a play symbol beneath the latex covering, and each pair of play spots shall be followed by a prize symbol under the latex. The "Lucky Wheel" playfield shall have seven play spots with a play symbol in each of the seven play spots. One of the seven play spots shall be labeled "prize."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 168, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL
\$ 15.00	FTN DOL
\$ 25.00	TWF DOL
\$ 75.00	\$SVNTY5
\$ 100	ONEHUND
\$ 1,000	ONETHOU
\$ 3,000	THRTHOU

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$10.00," "\$15.00," "\$25.00," "\$75.00," "\$100," "\$1,000," and "\$3,000."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 168, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL
\$ 15.00	FTN DOL
\$ 25.00	TWF DOL
\$ 75.00	\$SVNTY5
\$ 100	ONEHUND
\$ 1,000	ONETHOU
\$ 3,000	THRTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 168000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 168 constitute the "pack number" which starts at 168000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 168, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$ 2.00 (\$1 AND \$1)
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
SIX	\$ 6.00 (\$1, \$1, \$1, \$1, \$1 AND \$1; \$2, \$2 AND \$2)
NIN	\$ 9.00 (\$3, \$3 AND \$3; \$2, \$2, \$2, \$1, \$1 AND \$1)
EGN	\$ 18.00 (\$6, \$6 AND \$6; \$4, \$4, \$4, \$2, \$2 AND \$2)
FRF	\$ 45.00 (\$15, \$15 AND \$15; \$10, \$10, \$10, \$5, \$5 AND \$5)
TRN	\$ 300.00 (\$100, \$100 AND \$100; \$75, \$75, \$75, \$25, \$25 AND \$25)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 168.**

(a) The price of each instant game ticket shall be \$2.00.

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(b) An instant prize winner is determined in the "Roll 7 or 11" playfield in the following manner:

(i) When the two play symbols in any single pair total 7 or 11, the pair shall be a winning pair, and the bearer of the ticket shall be entitled to the prize next to the winning pair.

(ii) The bearer of a ticket which has more than one winning pair shall win the total of the prizes next to the winning pairs.

(c) An instant prize winner is determined in the "Lucky Wheel" playfield in the following manner:

(i) When any of the six play symbols within the "Lucky Wheel" playfield matches exactly the play symbol within that same playfield labeled "prize," the bearer of the ticket shall win the amount of the matching play symbol.

(ii) The bearer of a ticket which has more than one play symbol which matches the prize shall win the total of the matching play symbols.

(d) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(e) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 168 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(f) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 168; and/or

(ii) Vary the number of tickets sold in Instant Game Number 168 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 168.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 168 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the thirteen play spots on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vi) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

**WAC 315-11A-169 Instant Game Number 169 ("Aces High"). (1) Definitions for Instant Game Number 169.**

(a) Play symbols. The play symbols are listed below in (b) of this subsection. One of the play symbols appears in each of the four play spots in the "your card" column and in each of the four play spots in the "dealer's card" column in the playfield on the front of the ticket.

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The number 1, 2, 3, or 4 precedes each play symbol caption to indicate the location of the play symbol in Game (row) 1, Game 2, Game 3, or Game 4. For Instant Game Number 169, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
J	JCK
Q	QUE
K	KNG
A	ACE

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$8.00," "\$10.00," "\$12.00," "\$60.00," "\$500," "\$1,000," and "\$2,000." One of these prize symbols appears for each game in the prize column on the front of the ticket.

(d) Prize symbol captions: The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under each prize symbol. The number 1, 2, 3, or 4 precedes each prize symbol caption to indicate the location of the prize symbol in Game (row) 1, Game 2, Game 3, or Game 4. For Instant Game Number 169, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL

\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 12.00	TLV DOL
\$ 60.00	\$\$SIXTY\$
\$ 500	FIVHUND
\$ 1,000	ONETHOU
\$ 2,000	TWOTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered with latex.

(f) Pack-ticket number: The thirteen-digit number of the form 169000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 169 constitute the "pack number" which starts at 169000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 and less. For Instant Game Number 169, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
ONE	\$ 1.00	
TWO	\$ 2.00	(\$1 AND \$1)
FOR	\$ 4.00	(\$1, \$1, \$1 AND \$1; \$2, \$1 AND \$1)
EGT	\$ 8.00	(\$4, \$3 AND \$1; \$4, \$2, \$1 AND \$1)
SXT	\$ 16.00	(\$8, \$4, \$2 AND \$2; \$4, \$4, \$4 AND \$4)
TTF	\$ 24.00	(\$8, \$8 AND \$8; \$10, \$10, \$2 AND \$2)
FTE	\$ 48.00	(\$12, \$12, \$12 AND \$12)
TFR	\$ 240.00	(\$60, \$60, \$60 AND \$60)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 169.**

- (a) The price of each instant game ticket shall be \$1.00.
- (b) Determination of prize winning tickets: An instant prize winner is determined in the following manner: The bearer of a ticket having a play symbol in the "your card" column that is superior to the play symbol in the "dealer's card" column in the same game shall win the prize shown in the prize column for that game. The bearer of a ticket which wins a prize in more than one game shall win the sum of the prizes in each winning game. Play symbols in different games may not be combined to win a prize.
- (c) For purposes of this game, the "A" shall be the play symbol with the highest superiority followed by "K," "Q," "J," "10," "9," "8," "7," "6," "5," and "4" in that order.

(d) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(e) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 169 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(f) Notwithstanding any other provisions of these rules, the director may:

- (i) Vary the length of Instant Game Number 169; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 169 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 169.**

(a) In addition to meeting all other requirements in these rules and regulations, a valid instant game ticket for Instant Game Number 169 shall comply with all of the following validation requirements.

(i) Exactly one play symbol must appear in each of the four play spots in the "your card" column and in each of the four play spots in the "dealer's card" column under the latex covering on the front of the ticket.

(ii) Each of the eight play symbols must have a caption below and each must agree with its caption.

(iii) Exactly one prize symbol for each of the four games must appear under the latex covering in the prize column on the front of the ticket.

(iv) Each of the four prize symbols must have a caption below it and each must agree with its caption.

(v) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(vi) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(vii) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section; each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section; and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and (a) of this subsection is invalid and ineligible for any prize.

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**NEW SECTION**

**WAC 315-11A-170 Instant Game Number 170 ("Lucky Charms"). (1) Definitions for Instant Game Number 170.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the six play spots shall be labeled "winning symbol."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 170, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	LPRCN
	DIMND
	STARR
	BALLL
	RABBT
	HSHOE
	CLOVR
	PENNY
	RNBOW
	WBONE
	DOGGG
	SEVEN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$7.00," "\$10.00," "\$11.00," "\$20.00," "\$100," "\$200," "\$777," "\$1,000," and "\$2,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning symbol."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 170, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 7.00	SVN DOL
\$ 10.00	TEN DOL

\$ 11.00	ELV DOL
\$ 20.00	TWY DOL
\$ 100	ONEHUND
\$ 200	TWOHUND
\$ 777	SVNSVY7
\$ 1,000	ONETHOU
\$ 2,000	TWOTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 170000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 170 constitute the "pack number" which starts at 170000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 170, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1)
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
SVN	\$ 7.00 (\$3, \$1, \$1, \$1 AND \$1; \$4, \$1, \$1 AND \$1)
ELV	\$ 11.00 (\$5, \$3, \$1, \$1 AND \$1; \$6, \$2, \$2 AND \$1)
TTN	\$ 21.00 (\$11, \$7, \$1, \$1 AND \$1; \$10, \$6, \$2, \$2 AND \$1)
SVS	\$ 77.00 (\$20, \$20, \$20, \$10 AND \$7)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 170.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning symbol," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as

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set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 170 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

- (i) Vary the length of Instant Game Number 170; and/or
- (ii) Vary the number of tickets sold in Instant Game Number 170 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 170.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 170 all of the following validation requirements apply:

- (i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.
- (ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.
- (iii) Each of the play symbol captions, except for the "winning symbol" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

**WAC 315-11A-171 Instant Game Number 171 ("Holiday Surprise"). (1) Definitions for Instant Game Number 171.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. Three playfields shall appear on the front of each ticket. Each playfield shall be covered by latex. One playfield shall contain six play spots, another playfield shall contain five play spots, and the third playfield shall consist of one play spot. One play symbol shall appear

in each of the play spots. In the playfield which contains six play spots, one of them shall be labeled "winning number." In the playfield which contains five play spots, one them shall be labeled "winning symbol."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 171, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
	MITEN
	SCARF
	CCAPP
	BOOTS
	SLEIH
	TREEE
	CCANE
	SNOMN
	CANDL
	FLAKE
	BELLL
	SOLDR
	GIFTT
	MSLTO
	CHMNE

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$8.00," "\$9.00," "\$10.00," "\$25.00," "\$100," "\$200," and "\$10,000."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 171, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL

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\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 8.00	EGT DOL
\$ 9.00	NIN DOL
\$ 10.00	TEN DOL
\$ 25.00	TWF DOL
\$ 100	ONEHUND
\$ 200	TWOHUND
\$ 10,000	TENTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 171000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 171 constitute the "pack number" which starts at 171000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 171, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
FIV	\$ 5.00	(\$1, \$1, \$1, \$1 AND \$1)
TEN	\$ 10.00	(\$2, \$1, \$1, \$1, \$1, \$1, \$1, \$1 AND \$1; \$2, \$2, \$2, \$2 AND \$2)
FTN	\$ 15.00	(\$3, \$2, \$2, \$2, \$2, \$1, \$1, \$1 AND \$1; \$3, \$3, \$3, \$3 AND \$3)
TWF	\$ 25.00	
FTY	\$ 50.00	(\$25, \$4, \$3, \$3, \$3, \$3, \$3, \$3, \$2 AND \$1; \$10, \$10, \$5, \$5, \$5, \$5, \$5 AND \$5)
OHN	\$ 100.00	(\$25, \$9, \$9, \$9, \$8, \$8, \$8, \$8 AND \$8)
FVH	\$ 500.00	(\$100, \$100, \$100, \$100 AND \$100)

(h) Pack: A set of fifty fanfolded instant game tickets separated by perforations and packaged in plastic shrink-wrapping.

**(2) Criteria for Instant Game Number 171.**

(a) The price of each instant game ticket shall be \$5.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) In the playfield with six play spots, when any of the five play symbols within that playfield matches exactly the

play symbol within that same playfield labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In the playfield with five play spots, when any of the four play symbols within that playfield matches exactly the play symbol within that same playfield labeled "winning symbol," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(iii) A "A" play symbol with the caption "TREEE" in the playfield with one play spot shall be a winning play symbol, and the bearer of a ticket with this winning play symbol shall be entitled to a prize of \$25.00.

(iv) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes entitled to thereon.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 171 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 171; and/or

(ii) Vary the number of tickets sold in Instant Game Number 171 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 171.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 171 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the twelve play spots on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

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(vi) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-172 Instant Game Number 172 ("Winner Wonderland"). (1) Definitions for Instant Game Number 172.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 172, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$6.00," "\$10.00," "\$12.00," "\$16.00," and "\$250." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 172, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL

\$ 12.00	TLV DOL
\$ 16.00	SXT DOL
\$ 250	TWOHFIF

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 172000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 172 constitute the "pack number" which starts at 172000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 172, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2, \$1 AND \$1)
EGT	\$ 8.00 (\$5, \$1, \$1 AND \$1; \$3, \$2, \$2 AND \$1)
FRN	\$ 14.00 (\$5, \$5, \$2 AND \$2; \$4, \$4, \$4 AND \$2)
TTF	\$ 24.00 (\$6, \$6, \$6 AND \$6; \$10, \$10, \$2 AND \$2)
FTE	\$ 48.00 (\$16, \$16 AND \$16; \$12, \$12, \$12 AND \$12)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 172.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 172 set forth in subsection (3) of this section, to the confidential

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validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 172; and/or

(ii) Vary the number of tickets sold in Instant Game Number 172 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 172.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 172 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**NEW SECTION**

**WAC 315-11A-173 Instant Game Number 173 ("Lucky Streak"). (1) Definitions for Instant Game Number 173.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the six play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out,

in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 173, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
14	FRN
15	FTN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$5.00," "\$10.00," "\$20.00," "\$30.00," "\$50.00," "\$100," "\$500," "\$1,000," and "\$2,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 173, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 5.00	FIV DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 30.00	\$THIRTY
\$ 50.00	\$FIFTY\$
\$ 100	ONEHUND
\$ 500	FIVHUND
\$ 1,000	ONETHOU
\$ 2,000	TWOTHOU

(e) Validation number: The unique twenty-five-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The thirteen-digit number of the form 173000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first nine digits of the pack-ticket number for Instant Game Number 173 constitute the "pack number" which starts at 173000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

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(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 173, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>	
ONE	\$ 1.00	
TWO	\$ 2.00	(\$1 AND \$1; \$2)
THR	\$ 3.00	(\$1, \$1 AND \$1; \$2 AND \$1)
SIX	\$ 6.00	(\$2, \$1, \$1, \$1 AND \$1; \$3, \$1, \$1 AND \$1)
TEN	\$ 10.00	(\$2, \$2, \$2, \$2 AND \$2; \$4, \$3, \$1, \$1 AND \$1)
TWY	\$ 20.00	(\$4, \$4, \$4, \$4 AND \$4; \$10, \$5, \$3, \$1 AND \$1)
FTY	\$ 50.00	(\$30, \$10, \$5, \$3 AND \$2)
TWH	\$ 200.00	(\$100, \$50, \$20, \$20 AND \$10)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

**(2) Criteria for Instant Game Number 173.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 173 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 173; and/or

(ii) Vary the number of tickets sold in Instant Game Number 173 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

**(3) Ticket validation requirements for Instant Game Number 173.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 173 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 315-10-050 Notification to commission.

**WSR 96-11-111  
PERMANENT RULES  
STATE BOARD OF EDUCATION**

[Filed May 20, 1996, 3:45 p.m.]

Date of Adoption: May 17, 1996.

Purpose: To establish teacher competencies in the instruction of braille to legally blind and visually impaired students.

Statutory Authority for Adoption: RCW 28A.410.010.

Other Authority: Section 501 (2)(j), chapter 18, E2 PV, Laws of 1995.

Adopted under notice filed as WSR 96-07-046 on March 18, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 1, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

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

May 20, 1996

Larry Davis

Executive Director

### NEW SECTION

**WAC 180-16-238 Assignment of persons providing instruction of braille to students.** (1) No certificated school district employee shall be assigned to provide instruction of braille to students who has not demonstrated competency with the grade two standard literary braille code by:

- (a) Successful completion of the National Literary Braille Competency Test; or
- (b) Successful completion of the braille competency test developed at Portland State University; or
- (c) Successful completion of any other test approved for use by the state board of education.

(2) No classified school district employee working under the supervision of a certificated school district employee, which certificated employee meets the requirement of subsection (1) of this section, may produce braille material or provide instruction in the braille code unless the employee has demonstrated competency with the grade two standard literary braille code as provided under subsection (1) of this section.

(3) The state board shall establish a test review committee which shall be responsible for developing criteria to evaluate a test under subsection (1)(c) of this section. No test shall be considered for approval by the state board under subsection (1)(c) of this section unless it has been evaluated by the test review committee and a recommendation for approval or disapproval has been submitted to the board. At a minimum, the membership of the committee shall include persons representing:

- (a) National Federation of the Blind of Washington;
- (b) Washington council of the blind;
- (c) Association of education and rehabilitation of the blind and visually impaired of Washington;
- (d) Washington instructional resource center for the visually impaired;
- (e) Washington state school for the blind; and
- (f) Office of the superintendent of public instruction.

(4) A person who has met the requirement of subsection (1) of this section shall maintain their facility with the grade two standard literary braille code by:

- (a) Completing ten hours every five years of continuing education; or

(b) Successful completion every five years of one of the tests under subsection (1) of this section.

(5) This section shall take effect September 1, 1997.

### **WSR 96-11-126 PERMANENT RULES GAMBLING COMMISSION**

[Filed May 21, 1996, 3:38 p.m., effective July 1, 1996]

Date of Adoption: April 12, 1996.

Purpose: Amendments authorize licensed distributors to conduct recreational gaming activities on behalf of persons and to clarify that a distributor's license is required to provide such service. This rule is intended to also streamline the recreational gaming activity permit process.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-120.

Statutory Authority for Adoption: RCW 9.46.070 (4), (11), (14), (17), (20).

Adopted under notice filed as WSR 96-05-042 on February 15, 1996.

Changes Other than Editing from Proposed to Adopted Version: Proposed version inadvertently deleted language from subsection (1)(d) regarding the necessity of obtaining a distributor's license to provide gambling equipment or related paraphernalia for Class III gaming facilities.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1996.

May 21, 1996

Michael R. Aoki-Kramer  
Rules and Policy Coordinator

**AMENDATORY SECTION** (Amending WSR 94-01-033 [95-19-071], filed 12/6/93 [9/18/95])

**WAC 230-04-120 Licensing of distributors.** Prior to selling, renting, or otherwise supplying gambling equipment, supplies, or related paraphernalia, including service of such, to any person within the state of Washington or for use within the state of Washington, a distributor shall first obtain a license from the commission. The following definitions and requirements apply to certification and licensing of distributors:

(1) For purposes of this title, a license is required to sell, rent, or otherwise provide to any person the following items and/or services:

- (a) Punchboards and pull tabs;
  - (b) Devices for the dispensing of pull tabs;
  - (c) Bingo equipment, as defined by WAC 230-02-250;
- ((and))

(d) Any gambling equipment or paraphernalia for use in connection with licensed fund raising events, recreational gaming activities, or Class III gaming activities; and

(e) Organizing and conducting recreational gaming activities on behalf of persons as defined by WAC 230-02-505.

(2) The applicant shall include upon the application form supplied by the commission, the following information, as well as all other information and materials required elsewhere in these rules:

(a) The full name and address of the applicant;

(b) The business name and address of each location operated by the distributor or where records or inventory will be located;

(c) The name, home address, and share of ownership of all owners of the business if the business is not a corporation. If the business is a corporation, the name, address, and share of ownership of the officers, the directors, and substantial interest holders;

(d) A full description of each separate type of gambling equipment or related supplies that the distributor intends to market in this state or for use in this state;

(e) The brand name under which each type of gambling equipment will be sold;

(f) If the applicant does not maintain a business office within the state or is incorporated in another state or county, then the full name and business and home address of the resident agent designated by the applicant pursuant to WAC 230-12-300; and

(g) A list of all manufacturers of gambling equipment and all businesses or organizations located in the state of Washington in which the applicant has any financial interest and the details of that financial interest. For the purposes of this subsection, the term financial interest shall include all arrangements through which a person directly or indirectly receives any portion of the profits of the licensed distributor and indebtedness between any other person and the applicant, other than a regulated financial institution, in excess of five thousand dollars.

(3) The following information shall be included as an attachment to the application form:

(a) A list of all affiliated businesses or corporations in which the applicant, officers, directors, or substantial interest holders of the applicant, either directly or indirectly, own or control:

- (i) As a sole proprietor; or
- (ii) As a partner; or
- (iii) More than fifty percent of the voting stock of a privately held or closed corporation; or
- (iv) At least five percent of the voting stock of a publicly traded corporation.

(b) A list of all businesses or corporations licensed to conduct business related to gambling activities in which the applicant, officers, directors, or substantial interest holders of the applicant have any interest;

(c) A list of all jurisdictions in which the applicant or any of the officers, directors, or substantial interest holders

of the applicant have been licensed for gambling-related activities at any level during the preceding ten years;

(d) A statement regarding whether the applicant or officers, directors, or substantial interest holders of the applicant have ever had a license for gambling-related activities denied, revoked, or suspended by any jurisdiction for a period longer than thirty days. All details of such must be provided as a part of the application; and

(e) A statement acknowledging that all records related to the ownership or operation of the business shall be made available for review at the time and place requested by commission staff. In addition to other records requested, the following shall be available:

(i) Personal financial records of all substantial interest holders;

(ii) All records related to the scope of activity, including suppliers, customers, and any contracts related to sales or purchases; and

(iii) Records related to any financial or management control of or by customers and suppliers.

(4) The applicant shall notify the commission within thirty days of any change in the information submitted on or with the application form; and

(5) The applicant shall comply with all applicable laws of the United States and the state of Washington and all applicable rules of this commission.

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

**WSR 96-11-132**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed May 22, 1996, 9:50 a.m.]

Date of Adoption: May 9, 1996.

Purpose: The vendor has increased the examination price. This rule is needed to increase the examination charges that candidates pay for the examination to a sufficient level to meet the cost of purchasing the examinations for candidates.

Citation of Existing Rules Affected by this Order: Amending WAC 308-13-150 Landscape architect fees.

Statutory Authority for Adoption: RCW 18.96.080 and 43.24.086.

Adopted under notice filed as WSR 96-08-005 on March 22, 1996.

Changes Other than Editing from Proposed to Adopted Version: The amendment would increase the charges that are collected from candidates for the examinations ordered from the test vendor. The charges recovered by the department shall be refunded to the vendor for the costs of tests and shipping charges for the examinations.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 May 9, 1996  
 Linda Bremer  
 Assistant Director

**AMENDATORY SECTION** (Amending WSR 95-20-026, filed 9/27/95, effective 10/28/95)

**WAC 308-13-150 Landscape architect fees.** The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Application fee	\$150.00
Reexamination administration fee	50.00
Exam proctor	100.00
Renewal (3 years)	450.00
Late renewal penalty	150.00
Duplicate license	25.00
Initial registration (3 years)	450.00
Reciprocity application fee	200.00
Certification	45.00
Replacement certificate	20.00

The following charges shall be collected from examination candidates for examinations ordered from CLARB on their behalf. The charges recovered by the department shall be refunded to CLARB for the costs of tests and shipping charges for examinations.

Examination and Sections	Charges
Entire examination	\$ <del>((515.00))</del> <u>550.00</u>
Examination sections:	
Section 1: Legal and administrative aspects of practice	<del>((30.00))</del> <u>40.00</u>
Section 2: <del>((Programming and environmental analysis))</del> <u>Analytical and technical aspects of practice</u>	<del>((35.00))</del> <u>70.00</u>
Section 3: Conceptualization and communication	<del>((100.00))</del> <u>110.00</u>
Section 4: Design synthesis	<del>((100.00))</del> <u>110.00</u>
Section 5: Integration of technical and design requirements	<del>((100.00))</del> <u>110.00</u>
Section 6: Grading and drainage	<del>((100.00))</del> <u>110.00</u>
<del>((Section 7: Implementation of design through construction process</del>	<del>50.00))</del>

**WSR 96-11-133**  
**PERMANENT RULES**  
**HEALTH CARE POLICY BOARD**  
 [Filed May 22, 1996, 10:05 a.m.]

Date of Adoption: May 14, 1996.

Purpose: To substitute the Health Care Policy Board in place of current references to the Health Services Commission and to resolve ambiguity resulting from the legislature's elimination of references to certified health plans in some 1995 amendments and its continued use of the term in RCW 43.72.310 as amended.

Citation of Existing Rules Affected by this Order: Amending WAC 245-02-040 Collective negotiations—Policy statement.

Statutory Authority for Adoption: RCW 43.72.310.  
 Adopted under notice filed as WSR 96-08-090 on April 3, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 May 21, 1996  
 Bernie Dochnahl  
 Board Chair

**AMENDATORY SECTION** (Amending WSR 95-04-115, filed 2/1/95)

**WAC 245-02-040 Collective negotiations—Policy statement—Permitted negotiations—Petitions.** (1) The ~~Board Commission~~ finds that collective negotiation by competing health care providers of certain non-fee terms and conditions of contracts with health carriers certified health plans may result in procompetitive effects in the absence of any express or implied threat of retaliatory collective action by health care providers. However, the ~~Board Commission~~ finds few or no procompetitive effects in permitting competing health care providers to collectively negotiate contract terms and conditions that include fees or prices for provider services. The potential anticompetitive harms arising from collective exchanges of fee or price information by competing providers and collective negotiation by competing providers of the fees to be paid providers by health carriers plans far outweigh any potential gains in simplifying provider and health carrier plan negotiations, any reduction in transaction costs, and any potential gains in cost-effective health care delivery systems. To the contrary, the ~~Board Commission~~ finds that collective negotiation of fees or other prices for services by competing health care providers creates the potential to thwart the cost containment goals of health care reform by enabling health care providers to resist health carrier plan and purchaser pressure to reduce or limit the increase in prices for health care services. Except as herein provided, nothing contained in this section shall

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authorize any person or entity to engage in activities that would constitute violations of state or federal antitrust laws.

(2) Competing health care providers within the service area of a health carrier certified health plan may meet and communicate for the purposes of collectively negotiating the following terms and conditions of contracts with health carriers certified health plans:

(a) respective provider and health carrier plan liability for the treatment or lack of treatment of health carrier plan enrollees;

(b) administrative procedures including methods and timing of provider payment for services;

(c) dispute resolution procedures relating to disputes between health carriers plans and providers including disputes between providers and health carriers plans that originate from enrollees;

(d) patient referral procedures;

(e) formulation and application of reimbursement methodology, e.g., risk pools, capitation, and capitation between providers and hospitals, except as provided in section 3;

(f) quality assurance programs;

(g) health service utilization review procedures; and

(h) carrier provider selection and termination criteria, or whether to engage in selective contracting.

Nothing herein shall be construed to allow a boycott.

(3) Competing health care providers shall not meet and communicate for the purposes of collectively negotiating the following terms and conditions of contracts with health carriers certified health plans:

(a) the fees or prices for services, including those arrived at by applying any reimbursement methodology procedures;

(b) the conversion factor in a resource based relative value scale reimbursement methodology or similar methodologies;

(c) the amount of any discount on the price of services to be rendered by providers;

(d) the dollar amount of capitation or fixed payment for health services rendered by providers to health carrier plan enrollees; or

(e) the inclusion or alteration of terms and conditions to the extent they are the subject of government regulation prohibiting or requiring the particular term or condition in question; however, such restriction does not limit provider rights to collectively petition government for a change in such regulation.

(4) Competing health care providers' exercise of collective negotiation rights granted by this section shall conform to the following criteria:

(a) providers shall communicate or negotiate with health carriers certified health plans through a third party who is authorized by the providers;

(b) each competing provider involved in the communication and negotiation with health carriers certified health plans shall make an independent decision to accept or reject a specific offer from a health carrier certified health plan;

(c) health carriers certified health plans communicating or negotiating with the providers' representative shall remain free to contract with or offer different contract terms and conditions to individual competing providers;

(d) the providers' representative shall not recommend to providers that providers accept or reject the health carrier certified health plan offer; the representative may only deliver the offer to providers and communicate to providers an evaluation of the positive or negative aspects of the offer;

(e) the providers' representative shall not represent more than 30% of the market of practicing providers for the provision of services of a particular provider type or specialty in the service area or proposed service area of a health carrier certified health plan with less than 5% of the market, as measured by 1) the number of covered lives as reported by the Insurance Commissioner, or 2) the actual number of consumers of prepaid comprehensive health services; and

(f) the providers' representative shall comply with the provisions of subsection (5) of this section.

(5) Any person or organization proposing to act or acting as a representative of providers for the purpose of exercising the authority granted under this section shall comply with the following requirements:

(a) before engaging in any collective negotiation with health carriers certified health plans on behalf of competing health care providers, the representative shall file with the Board Commission information identifying the representative, the representative's plan of operation, and the representative's procedures to ensure compliance with this section;

(b) Before engaging in any collective negotiations with health carriers certified health plans on behalf of providers, the representative shall furnish for the Board's Commission's approval, a brief report identifying the proposed subject matter of the negotiations or discussions with health carriers certified health plans and the efficiencies expected to be achieved thereby.

Approval shall be withheld by the Board Commission if the proposed negotiations would exceed the authority granted under this section. The representative shall supplement the report to the Board Commission as new information becomes available that indicates that the subject matter of the negotiations with the health carrier plan has or will change;

(c) within fourteen days of a health carrier certified health plan decision declining negotiation, terminating negotiation, or failing to respond to a request for negotiation the representative shall report to the Board Commission the end of negotiations;

(d) before reporting the results of negotiations with a health carrier certified health plan and before giving providers an evaluation of any offer made by a health carrier certified health plan, the representative shall furnish for the Board's Commission's approval prior to dissemination to providers, a copy of all communications to be made to providers related to negotiations, discussions, and health carrier certified health plan offers.

(6) With the advice of the attorney general, the Board Commission shall either approve or disapprove the activity as identified in the report within thirty days of filing. If disapproved, the Board Commission shall furnish a written explanation of any deficiencies along with a statement of specific remedial measures as to how such deficiencies could be corrected. A representative who fails to obtain the Board's Commission's approval is deemed to act outside the authority granted under this section.

(7) Nothing contained in this section is intended to authorize competing providers to act in concert in response to a report issued by the providers' representative related to the representative's discussions or negotiations with health carriers certified health plans. The representative of the providers shall advise providers of the provisions of this section and shall warn providers of the potential for legal action against providers who violate state or federal antitrust laws by exceeding the authority granted under this section.

**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 96-11-141**  
**PERMANENT RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**  
 [Filed May 22, 1996, 11:05 a.m.]

Date of Adoption: May 22, 1996.

Purpose: The regulations will provide consistency in the interpretation and application of program requirements. They replace internal policy guidelines which have been used to administer the shared work program. With implementation of a new computerized benefit payment system, the payment of benefits will be administered through local job service centers rather than centrally.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, and 50.60.901.

Adopted under notice filed as WSR 96-08-062 on April 2, 1996.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 4, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 4, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 May 22, 1996  
 Wendy Holden  
 Deputy Commissioner

**Chapter 192-36**  
**SHARED WORK**

**NEW SECTION**

**WAC 192-36-010 Information for employees participating in an approved shared work plan.** (1) **How do I file a claim for benefits?** Follow the instructions contained in WAC 192-12-141 when filing an initial application or a continued claim for unemployment benefits, except that:

(a) In addition to the information required by WAC 192-12-141 (5)(a) to be included in your claim, you must also report the number of hours for which you received holiday, vacation, or sick pay; and

(b) Your initial application must be filed at the job service center designated by the department. Continued claims can be filed in person, by mail, or by telephone. The job service center at which your initial application was filed will remain the office of record for your claim as long as you participate in the shared work plan.

**(2) How will my shared work benefits be calculated if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the number down to the next whole number. This rounded number will be calculated against your usual hours of work to determine your shared work weekly benefit amount. Example: You work 28.5 hours of a normal 40-hour work week; 28 hours divided by 40 means you worked 70% of the available hours. Your shared work weekly benefit amount would be 30% of your regular weekly unemployment compensation benefit amount.

**(3) What if I don't accept all hours of work offered by the shared work employer?** (a) You must work all hours for which you have been scheduled or you are not eligible for the shared work program for that week.

(b) You must be available for additional hours of work, up to full-time, with the shared work employer. If your employer provides you at least 24 hours notice that additional work is available and you do not work those additional hours, you are not eligible for benefits under the shared work program for that week.

(c) Your eligibility for other unemployment compensation benefits for any week in which you are not eligible for shared work benefits will be determined according to the provisions of Title 50 RCW.

**NEW SECTION**

**WAC 192-36-015 Criteria for approving a shared work plan.** In addition to meeting the criteria listed in RCW 50.60.030, an employer who wishes to participate in the shared work program must:

(1) Be current in the payment of all unemployment insurance taxes required under Title 50 RCW; or

(2) Have an approved deferred payment contract on file with the department.

**NEW SECTION**

**WAC 192-36-020 Information for employers with an approved shared work plan.** (1) **What information am I responsible for providing to my employees?** Once your shared work plan is approved, you are responsible for advising your employees:

(a) That they are approved for participation in the shared work program; and

(b) The location of the job service center where they must file their claim for benefits.

**(2) What if I want to modify an approved plan?** (a) If you want to make a change to an approved plan, such as modifying the work unit(s) affected or the percentage of employees included in the plan, you must submit a written

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modification in advance to the department's shared work unit.

(b) If the names of individual employees participating in the plan change, you must notify the department's shared work unit in advance in writing.

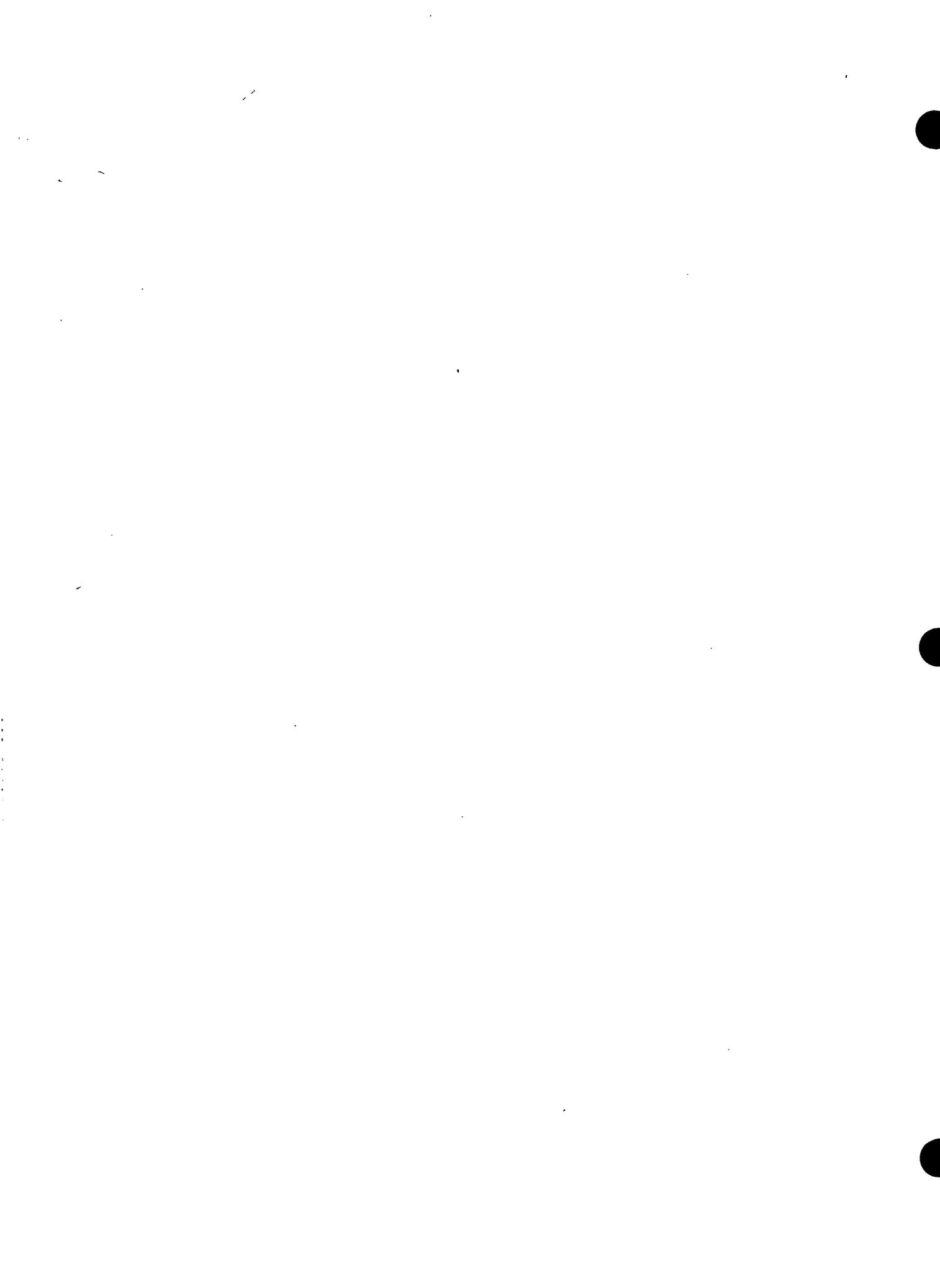
(c) If the hours worked by an employee change from week to week, you are not required to submit the information to the department in writing if you have a signed authorization to modify the plan on file with the department.

(3) **What information am I responsible for providing to the department?** In addition to the plan modification information required under subsection (2), you are responsible for verifying the information contained on the shared work payments report provided by the department, and reporting any discrepancies in writing to the job service center that is processing your employees' unemployment claims.

(4) **How many times can I have a shared work plan approved?** An approved plan may last for up to twelve months after its effective date. Upon expiration, you may submit a new plan to the department for approval. Effective January 1, 1997, a new plan will not be approved for your company if your employees have been participating in the shared work program for three consecutive twelve-month periods. You will not be eligible for a new plan until at least twelve consecutive months have elapsed since the expiration date of your most recent approved plan.

#### NEW SECTION

**WAC 192-36-025 Are corporate officers eligible for participation in the shared work program?** Corporate officers who elect coverage under RCW 50.04.165 may participate in an approved shared work plan. However, as part of the request for plan approval, the corporation must submit to the department documents verifying that the corporate officers participating in the plan worked full-time for the corporation. Documentation may include federal or state tax records, corporate officer individual earnings records, or other acceptable evidence verifying the number of hours worked.



**WSR 96-10-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Public Assistance)

[Order 3976—Filed April 29, 1996, 4:51 p.m.]

Date of Adoption: April 29, 1996.

Purpose: To provide an appeal process for persons disqualified from employment in child care because of findings or allegations of child abuse or neglect. New WAC 388-330-035 Appeal of disqualification.

Citation of Existing Rules Affected by this Order: Amending WAC 388-150-090, 388-155-090, 388-160-090, 388-330-010, 388-73-030, 388-151-090, 388-73-036, and 388-160-120.

Statutory Authority for Adoption: RCW 74.15.030.

Under 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: The Attorney General's Office has determined that such persons have a constitutional right to a hearing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 1, amended 8, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 8, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 8, repealed 0.

Effective Date of Rule: Immediately.

April 29, 1996

Merry Kogut, Supervisor  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-030 General qualifications of licensee, adoptive applicant, and persons on the premises.** (1) The adoptive applicant, licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee or adoptive applicant shall demonstrate that the licensee or adoptive applicant, child care staff, volunteer, and other person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) ~~((The licensee, adoptive applicant, staff, and other person on the premises shall not have been:~~

~~(a) Convicted of, found to be a perpetrator of, or have a charge pending of child abuse and/or any crime involving physical harm to another person; nor~~

~~(b) Found to:~~

~~(i) Be a perpetrator of substantiated or founded child abuse; nor~~

~~(ii) Have been an alleged perpetrator of an incident of child abuse where the department found the evidence supports the allegation))~~ A person shall be disqualified from providing care if the department determines that the person is ineligible to provide care under chapter 388-330 WAC or that person has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, adoptive applicant, child care staff, volunteer, and other person having access to children in care meet the qualifications in subsections (1), (2), and (3) of this section. This information may include, but is not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance and alcohol abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; and
- (e) Medical evaluations.

**AMENDATORY SECTION** (Amending WSR 92-08-056, filed 3/26/92, effective 4/26/92)

**WAC 388-73-036 Licensure—Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license:

(a) The department shall disqualify any individual engaging in illegal use of drugs or excessive use of alcohol;

(b) ~~The department shall disqualify any individual who has ((been convicted of an offense listed in))~~ abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such person on the premises;

(c) The department shall disqualify any individual convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, if:

(i) The conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(d) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of children, expectant mothers, or developmentally disabled adults; or

(ii) Had a license to operate such an agency suspended or revoked.

(e) An applicant may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision in subdivision (1)(d) of this section and license the applicant.

(2) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for or be in contact with the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department or state fire marshal to inspect the premises;

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for the operation of the agency or to permit the department representatives to interview agency staff and clients;

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(3) The department may deny, suspend, revoke, or not renew or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(4) The department's notice of a denial, revocation, suspension, or modification of a license is governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A.-205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(5) The department may deny, suspend, revoke, or not renew a license when the agency fails to comply with the federal Indian Child Welfare Act, P.L. 95-608, chapters 13.04 and 13.34 RCW, WAC 388-73-044, Special Requirements Regarding American Indians, or WAC 388-70-600 through 388-70-640, relating to local Indian child welfare advisory committees.

**AMENDATORY SECTION** (Amending Order 3745, filed 6/22/94, effective 7/23/94)

**WAC 388-150-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider the persons' qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) ~~((Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person))~~ Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, state auditor's office, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department, the department of health, or state auditor's office access to records related to operation of the center or to interview staff or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing is governed under RCW 43.20A.205.

**AMENDATORY SECTION** (Amending Order 3493, filed 12/30/92, effective 1/30/93)

**WAC 388-151-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider their qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) ~~((Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm~~

~~to another person))~~ Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal's office, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department or the department of health access to records related to operation of the center or to interview staff or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has been denied, suspended, revoked, or not renewed a license to operate a facility for the care of the children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's

or licensee's right to a hearing, shall be governed under RCW 43.20.205.

**AMENDATORY SECTION** (Amending Order 3745, filed 6/22/94, effective 7/23/94)

**WAC 388-155-090 License denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department:

(a) Shall consider the persons' qualifications separately and jointly; and

(b) May deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) ~~((Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person))~~ Has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, department of health, or state auditor's office to inspect the premises; or

(g) Refuses to permit an authorized representative of the department, the department of health, or the state auditor's office access to records related to operation of the home or to interview an assistant or a child in care.

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience, or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to:

(i) Permitting more children on the premises than the number for which the home is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the home is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the home;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the home in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing shall be governed under RCW 43.20A.205.

**AMENDATORY SECTION** (Amending Order 3541, filed 7/21/93, effective 8/21/93)

**WAC 388-160-090 General qualifications of licensee, applicant, and persons on the premises.** (1) The applicant, licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee or applicant shall demonstrate that the licensee or applicant, child care staff, volunteer, and other person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) ~~((The licensee, applicant, staff, and other person on the premises shall not have been:~~

~~(a) Convicted of, found a perpetrator of, or have a charge pending of child abuse and/or any crime involving physical harm to another person; or~~

~~(b) Found to:~~

~~(i) Be a perpetrator of substantiated or founded child abuse; or~~

~~(ii) Have been an alleged perpetrator of an incident of child abuse where the department found the evidence supports the allegation))~~ A person shall be disqualified from providing care if the department determines that the person is ineligible to provide care under chapter 388-330 WAC or that person has abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, adoptive applicant, child care staff, volunteer, and other person having access to a child in care meet the qualifications under subsections (1), (2), and (3) of this section. The department may require the licensee or person on the premises to provide additional information including, but not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance and alcohol abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; and
- (e) Medical evaluations.

**AMENDATORY SECTION** (Amending Order 3541, filed 7/21/93, effective 8/21/93)

**WAC 388-160-120 Licensure—Denial, suspension, or revocation.** (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. The department shall consider such persons separately and jointly as applicants or licensees and if any one be deemed disqualified by the department under chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) The department shall disqualify any person engaging in illegal use of drugs or excessive use of alcohol;

(b) The department shall disqualify any person who has ~~((been convicted of an offense listed))~~ abused, neglected, or sexually exploited a child as those acts or omissions are defined in RCW 26.44.020 and WAC 388-15-130, is ineligible to provide care because of a criminal history under chapter 388-330 WAC, or allows such person on the premises;

(c) The department shall disqualify any person convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, when:

(i) The person's conviction is reasonably related to the person's competency to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(d) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of a child, an expectant mother, or a developmentally disabled adult; or

(ii) Had a license to operate such an agency suspended or revoked.

(2) An applicant of an overnight youth shelter may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision and license the applicant as described under subdivision (1)(d) of this section.

(3) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation, including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's or provider's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for, or be in contact with, the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department, department of health, or state fire marshal to inspect the premises;

(i) Refusal to permit:

(A) Authorized representatives of the department and the department of health to have access to the records necessary for the operation of the agency; or

(B) The department representatives to interview agency staff and clients.

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(4) The department may deny, suspend, revoke, or not renew or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(5) The department shall deny, suspend, or revoke a licensee's license when the applicant, licensee, or person on the premises is a perpetrator of child abuse or has been convicted of a crime as listed under WAC 388-330-030(1). The department may grant a licensee or provider a waiver if it is demonstrated by clear, cogent, and convincing evidence that such person is rehabilitated and is able to comply with licensing requirements. In making this determination, the department shall consider:

(a) The seriousness and circumstances of the person's illegal act;

(b) The number of crimes of which the person was convicted;

(c) The amount of time passed since the person committed the illegal act;

(d) The age of the person at the time of convictions;

(e) Whether the person has entered and successfully completed all appropriate rehabilitative services, including those services ordered by a court;

(f) The behavior of the person since the illegal act was committed;

(g) Recommendations of persons closely associated with the person;

(h) The duties the person would perform at the agency, and the vulnerability of the persons under care; and

(i) Other evidence of rehabilitation.

If the department licenses or approves a person under this section, the department may place limitations or conditions on the person in the performance of the person's duties at the agency.

(6) The department's notice of a denial, revocation, suspension, or modification of a license shall be governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issues and law involved;

(B) The grounds for contesting the department decision;

and

(C) A copy of the department decision.

(b) The proceeding shall be governed by the Administrative Procedure Act chapter 34.05 RCW, RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

**AMENDATORY SECTION** (Amending Order 3534, filed 7/13/93, effective 8/13/93)

**WAC 388-330-010 Purpose and authority.** This chapter establishes policy within the department of social and health services for conducting ~~((criminal history portions of))~~ background inquiries and checks of Washington state ~~((patrol's))~~ child abuse information files on those licensed or authorized by the department to care for children or developmentally disabled persons and those employed by or associated with a licensed agency. Such inquiries are required under RCW 74.15.030.

#### **NEW SECTION**

**WAC 388-330-035 Appeal of disqualification.** (1) Whenever a person in good faith desires employment in an agency licensed under chapter 74.15 RCW, the person, prior to applying for employment, upon request, shall promptly receive from the department an informal meeting on whether the person is disqualified from employment for not meeting the minimum requirements pursuant to chapter 74.15 RCW or rules promulgated thereunder.

(a) Prior to receiving an informal meeting under this subsection, it shall be the responsibility of a person requesting the meeting to demonstrate a good faith desire for employment in an agency licensed under chapter 74.15 RCW. Such demonstration of good faith shall include, but not be limited to, a showing of educational qualifications, employment history information, current employment, and plans for obtaining employment in a licensed agency in the

near future. The department's determination regarding whether the person requesting the meeting has demonstrated a good faith desire for employment is final and not subject to a proceeding under chapter 34.05 RCW. The department shall notify such person promptly following the meeting of its determination in writing.

(b) If the department determines, subsequent to an informal meeting under this subsection, that a person is disqualified, the department shall give written notice of the disqualification to the person. The notice shall state what the person is disqualified from doing, the reasons for the disqualification, the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(2) If the department during employment or at the time of employment, determines that a person is disqualified from employment with a child care agency for not meeting minimum requirements under chapter 74.15 RCW or rules promulgated thereunder, the department shall give written notice of disqualification to the person. The notice shall state what the person is disqualified from doing, reasons for the disqualification, and the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(3) The procedures in RCW 43.20A.205 shall apply whenever the department issues a notice of disqualification to a person under this section. If the disqualified person requests an adjudicative proceeding, the department shall have the burden of proving disqualification by a preponderance of the evidence.

(4) A licensee under chapter 74.15 RCW may not allow a person disqualified under this section to be employed by or associate with the licensee's agency. Disqualification of a person may not be contested by a licensee.

(5) The provisions of this section do not preclude the department from taking any action against a licensee in accordance with chapter 74.15 RCW or rules promulgated thereunder.

(6) If a notice of disqualification is based on a prior department finding of abuse or neglect, and after a hearing under chapter 34.05 RCW it is determined that the allegations are not supported by a preponderance of the evidence, the department's records shall be supplemented to so state.

(7) The department in accordance with WAC 388-330-030 may remove a disqualification based on conviction of a crime.

The department may remove a disqualification based on a reason other than conviction of a crime if the disqualified person demonstrates by clear, cogent, and convincing evidence that the person is sufficiently rehabilitated to warrant public trust and to comply with the requirements of chapter 74.15 RCW, and the rules promulgated thereunder.

**WSR 96-11-001**

**EMERGENCY RULES**

**DEPARTMENT OF AGRICULTURE**

{Order 5096—Filed May 2, 1996, 8:23 a.m.}

Date of Adoption: May 2, 1996.

**Purpose:** The department will place into rule the criteria used for determining dairy producer degrade periods as provided for in RCW 15.35.111.

**Statutory Authority for Adoption:** RCW 15.36.021.

**Other Authority:** RCW 15.36.111.

Under 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:** HB 2134 as passed in the 1996 session amended RCW 15.36.111 and eliminated the requirement that a dairy degrade be effective immediately when a farm has any repeats to violations on a consecutive inspection. The bill contained an emergency clause. The department intends to provide an opportunity for hearing under chapter 34.05 RCW, the Administrative Procedure Act, prior to taking a degrade action. This emergency will place into rule a criteria for determining the degrade period until rules can be proposed and adopted on a permanent basis.

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

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, amended 0, repealed 0.

**Number of Sections Adopted on the Agency's own Initiative:** New 0, amended 0, repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, amended 0, repealed 0.

**Number of Sections Adopted using Negotiated Rule Making:** New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; or **Other Alternative Rule Making:** New 0, amended 0, repealed 0.

**Effective Date of Rule:** Immediately.

May 2, 1996  
James M. Jesernig  
Director

**CHAPTER 16-138 DAIRY AND FOOD PENALTY ASSIGNMENT SCHEDULES**

NEW SECTION

**WAC 16-138-010 Under what circumstances will the director degrade a dairy farm operation?** The director shall call for a degrade of a dairy farm operation of a producer for one or more repeat violations of Chapter 15.36 RCW, or rules adopted thereunder, which are noted on consecutive inspections as provided in RCW 15.36.111.

NEW SECTION

**WAC 16-138-020 How is the length of a degrade of a producer determined?** The length of a degrade of a producer shall be based on the total number of debit points awarded for repeat violations as provided in WAC 16-138-030 or until the director determines the violations that caused

the degrade are corrected, which ever is longer. The schedule for determining a degrade period is as follows.

TOTAL DEBIT POINTS	DEGRADE PERIOD
1-4	2 Days
5-10	4 Days
11-20	6 Days
21-20	10 Days
31-40	16 Days
41-50	22 Days
51 or more	28 Days

**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 16-138-030 How is the debit point value of each violation determined?** The debit point for each violation, as shown in the table below, is the same as the debit points awarded to farms during state surveys and federal check ratings as determined in the current "Methods of Making Sanitation Ratings of Milk Supplies" published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration.

EMERGENCY

**DAIRY FARM SANITATION VIOLATIONS DEBIT POINT VALUES**

ITEM NO	DESCRIPTION	DEBIT POINT VALUE
1a	Cows secreting abnormal milk milked last or in SEPARATE equipment	10
1b	Abnormal milk properly handled and disposed of	5
1c	Proper care of abnormal milk handling equipment	5
<b>MILKING PARLOR</b>		
2a	Floors, gutters and feed troughs of concrete or of equally impervious materials; in good repair	2
2b	Walls and ceilings smooth, painted or finished adequately; in good repair; ceiling dust tight	1
2c	Separate stalls or pens for horses, calves and bulls	1
2d	Adequate natural and/or artificial light; well distributed	1
2e	Proper feed storage facilities	1
2f	Properly ventilated; no overcrowding	2
3a	Clean and free of litter	2
3b	No swine or fowl	2
4a	Cowyard graded to drain; no pooled water or wastes	2
4b	Cowyard clean; cattle housing areas properly maintained	2
4c	No swine in cowyard	2
4d	Manure stored inaccessible to cows	2
<b>MILKHOUSE</b>		
<b>Floors</b>		
5a	Smooth; concrete or other impervious material; in good repair	1
5b	Graded to drain	1
5c	Drains trapped if connected to sanitary system	1
<b>Walls and Ceilings</b>		
5a	Approved material and finish	1
5b	Good repair	1
<b>Lighting and Ventilation</b>		
5a	Adequate natural and/or artificial light; properly distributed	2
5b	Adequate ventilation	2
5c	Doors and windows closed during dusty weather	2
5d	Vents and lighting fixtures properly installed	2
<b>Miscellaneous Requirements</b>		
5a	Used for milkhouse operations only; sufficient size	2
5b	No direct opening into living quarters or barn; except as permitted by Ordinance	2
5c	Liquid wastes properly disposed of	2
5d	Proper hoseport where required	2

EMERGENCY

5e	Acceptable surface under hoseport	2
5f	Suitable shelter for transport truck as required by this Ordinance	2
	<b>Cleaning Facilities</b>	
5a	Two-compartment wash and rinse vat of adequate size	2
5b	Suitable water heating facilities	2
5c	Water under pressure piped to milkhouse	2
6a.	Floors, walls, windows, tables and similar non-product surfaces clean	3
6b	No trash, unnecessary articles, animals or fowl	3
	<b>Toilet</b>	
7a	Provided; conveniently located	5
7b	Constructed and operated according to Ordinance	5
7c	No evidence of human wastes about premises	5
7d	Toilet room in compliance with Ordinance	5
	<b>Water Supply</b>	
8a	Constructed and operated according to Ordinance	5
8b	Complies with bacteriological standards	5
8c	No connection between safe and unsafe supplies; no improper submerged inlets	5
	<b>UTENSILS AND EQUIPMENT</b>	
9a	Smooth, impervious, nonabsorbent, safe materials; easily cleanable;	3
9b	In good repair; accessible for inspection;	3
9c	Approved single service articles; not re-used	3
9d	Of proper design	3
9e	Approved CIP milk line system	3
10a	Clean	5
11a	All multi-use containers and equipment subjected to approved sanitization process	5
12a	All multi-use containers and equipment properly stored	2
12b	Stored to assure complete drainage where applicable	2
12c	Single-service articles properly stored	2
13a	Sanitized milk surfaces not exposed to contamination	2
	<b>MILKING</b>	
14a	Done in barn, stable or parlor	3
14b	Brushing completed before milking begun	3
14c	Flanks, bellies, udders, and tails of cows clean at time of milking; clipped when required	3
14d	Teats treated with sanitizing solution and dried just prior to milking	3
14e	No wet hand milking	3
	<b>Surcingles, milk stools and anti-kickers</b>	
15a	Clean and stored above floor in clean place	1
15b	Stools, easily cleanable construction and not padded	1

<b>TRANSFER AND PROTECTION OF MILK</b>		
<b>Protection from Contamination:</b>		
16a	No overcrowding	2
16b	Product and CIP circuits separated	2
16c	Improperly handled milk discarded	2
16d	Immediate removal of milk	2
16e	Milk and equipment properly protected	2
16f	Air under pressure of proper quality	2
16g	Cleaners and sanitizers properly identified	2
16h	Drug administration equipment properly handled and stored	2 or 7*
16i	Antibiotics and medicinals properly used and stored	2 or 7*
<b>PERSONNEL</b>		
<b>Hand-washing Facilities:</b>		
17a	Proper hand-washing facilities convenient to milking operations	3
17b	Wash and rinse vats not used as hand-washing facilities	3
<b>Personnel Cleanliness:</b>		
18a	Hands washed clean and dried before milking, or performing milkhouse functions; rewashed when contaminated	2
18b	Clean outer garments worn	2
<b>COOLING</b>		
19a	Milk cooled to 40 F or less within 2 hours after milking	5
19b	Recirculated cooling water from safe source and properly protected; complies with bacteriological standards	5
19c	Temperature recorder with 7 day chart	5
<b>VEHICLES</b>		
20a	Vehicles clean	1
20b	Constructed so as to protect milk	1
20c	No contaminating substances transported	1
<b>INSECTS AND RODENTS</b>		
21a	Fly breeding minimized by approved manure disposal methods	3
21b	Manure packs properly maintained	3
21c	All milkhouse openings effectively screened or otherwise protected; doors tight and self-closing	2
21d	Milkhouse free of insects and rodents	2
21e	Approved pesticides; used properly	2
21f	Equipment and utensils not exposed to pesticide contamination	2
21g	Surrounding neat and clean; free of harborage and breeding areas	1

\* Selection of debit point value of item 16h or 16l is determined in accordance with the current "Methods of Making Sanitation Ratings of Milk Supplies".

NEW SECTION

**WAC 16-138-035 Where can a copy of the standards by which the director determine the debit point value of each violation be obtained?** A copy of the current "Methods of Making Sanitation Ratings of Milk Supplies" may be obtained by request from the Washington State Department of Agriculture, Food Safety Program, P.O. Box 42560, Olympia, Washington 98504-2560, or phone (360) 902-1875.

NEW SECTION

**WAC 16-138-040 How can a degraded dairy farm operation be regraded?** A producer subject to degrade may apply to have his or her dairy farm regraded. The application, provided by the department, must be in writing, be signed by the producer, and must state that all violations have been corrected. Within one week after receiving a satisfactory application for regrade, the department will reinspect the producer's dairy farm and if the department determines that all violations have been corrected, the department will regrade the producer's dairy farm.

**WSR 96-11-007  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-39—Filed May 3, 1996, 4:44 p.m.]

Date of Adoption: May 3, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-52-071 and 220-69-240.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 amounts of sea cucumbers are available for harvest in all districts and areas listed. Due to harvest negotiations with the tribes, limitations on daily harvest and reporting requirements will facilitate management within the harvest guidelines. Titlow Beach Marine Preserve is closed to preserve the character of the marine preserve. Eagle Harbor and Sinclair Inlet are closed due to contamination and for the economic well-being of the industry. Tatoosh Island closure is consistent with tribal agreements.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 3, 1996

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

**WAC 220-52-07100Y Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective May 6, 1996 until further notice, it is unlawful for non-treaty sea cucumber harvesters to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 1 (Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B and 23B), Sea Cucumber District 2 (Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29) and Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C and 28D and all Washington waters of the Pacific Ocean Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) The maximum daily possession or daily landing limit for a vessel is 600 pounds of sea cucumbers.

(3) The following waters are closed to the harvest of sea cucumbers at all times:

(a) Those waters closed under WAC 220-52-071.

(b) Titlow Beach Marine Preserve - All waters due west from the southern end of the Tacoma Outboard Association building near the boat launch ramp to the outer harbor line, then south following the outer harbor line to a line due west from the old ferry landing dock at the 6th Ave. extension then following the line to the high water line then to the point of origin.

(c) Tatoosh Island - Those waters within one-quarter mile of Tatoosh Island.

NEW SECTION

**WAC 220-69-24000D Duties of commercial purchasers and receivers.** Notwithstanding the provisions of WAC 220-69-240, effective immediately until further notice:

(1) It is unlawful for any wholesale dealer purchasing sea cucumbers from non-treaty sea cucumber fishers to fail to report to the Department each day's purchase by 10:00 a.m. the following day. The report must specify the number of pounds taken by Marine Fish-Shellfish Management and Catch Reporting Area. Either of the following two methods of reporting is acceptable.

(a) By facsimile (FAX) transmission to (360) 796-4997,

or

- (b) By telephone call to (360) 796-4601, extension 500.  
 (2) All fish receiving ticket reporting requirements of WAC 220-69-240 remain in effect.

**WSR 96-11-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

(Fisheries)

[Order 96-32—Filed May 3, 1996, 4:46 p.m.]

Date of Adoption: May 3, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-56-35000K and 220-56-38000E; and  
 amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to conserve the resource and to provide maximum recreational harvest opportunity. These regulations implement proposed permanent regulations until permanent regulations become effective.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 3, 1996  
 Rich Lincoln  
 for Robert Turner  
 Director

**NEW SECTION**

**WAC 220-56-35000L Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to harvest or possess clams, cockles or mussels taken for personal use from the following tidelands during the closed periods herein, and lawful to harvest during the open periods herein:

(1) Ben Ure Spit (Ala Spit) - Closed May 16, 1996 until further notice.

(2) Brown Point (DNR 57B) - Closed June 16, 1996 until further notice.

(3) Camano Island State Park - Closed June 16, 1996 until further notice

(4) Cutts Island State Park - Closed June 16, 1996 until further notice.

(5) DNR 48 - Closed May 16, 1996 until further notice.

(6) Eagle Creek - Closed until further notice.

(7) Kayak Point County Park - Closed until further notice.

(8) Kitsap Memorial State Park - Closed through May 31, 1996.

(9) Kopachuck State Park - Open through May 15, 1996.

(10) Long Point (on the south side of Whidbey Island starting at the west end at Lovejoy Point at the city limit of Coupeville and extending east to Reeder Road on Rodena Beach) - Closed until further notice.

(11) Mystery Bay State Park - Closed until further notice.

(12) NE Cultus Bay - Closed June 16, 1996 until further notice.

(13) Penrose State Park - Closed June 16, 1996 until further notice.

(14) Picnic Point County Park - Closed until further notice.

(15) Point Whitney Lagoon - Open June 1, 1996 until further notice

(16) Point Whitney Tidelands (excluding the lagoon). Closed until further notice.

(17) Potlatch DNR - Closed June 16, 1996 until further notice.

(18) Potlatch State Park - Closed June 16, 1996 until further notice.

(19) Purdy Spit County Park (the southern shore of the spit, from the boat ramp to the bridge). Closed until further notice.

(20) Quilcene Bay - The tidelands on the west side of the bay described by a sign at the access site and identified by boundary markers - Open until further notice daily from official sunrise to official sunset only.

(21) Rendsland Creek - Closed May 16, 1996 until further notice

(22) Saltwater State Park - Closed until further notice.

(23) South Indian Island County Park - Closed June 16, 1996 until further notice.

(24) Shine Tidelands State Park - Closed June 16, 1996 until further notice.

(25) Stalleum (Snakelum) Point - Closed June 16, 1996 until further notice.

(26) Winas Maylor Point East - Closed June 16, 1996 until further notice.

**NEW SECTION**

**WAC 220-56-38000F Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to harvest or possess oysters taken for personal use from the following tidelands during the closed periods herein, and lawful to harvest during the open periods herein:

- (1) Brown Point (DNR 57B) - **Open** through May 15, 1996.
- (2) Illahee State Park - **Open** until further notice.
- (3) Kitsap Memorial State Park - **Closed** through May 31, 1996.
- (4) Penrose Point State Park - **Closed** June 16 until further notice.
- (5) Point Whitney Lagoon - **Open** June 1, 1996 until further notice.
- (6) Quilcene Bay - The tidelands on the west side of the bay described by a sign at the access site and identified by boundary markers - **Open** until further notice daily from official sunrise to official sunset only.
- (7) Scenic Beach State Park - **Open** until further notice.
- (8) West Dewatto (DNR 44A) - **Open** June 16, 1996 until further notice.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 220-56-35000K Clams other than razor clams—Areas and seasons. (96-24)
- WAC 220-56-38000E Oysters—Areas and seasons. (96-24)

**WSR 96-11-032  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-36—Filed May 6, 1996, 4:15 p.m., effective May 28, 1996, 3:00 p.m.]

Date of Adoption: May 6, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-03000J; and amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of shad are available in the Columbia River. This rule is consistent with the actions of the Columbia River Compact.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 28, 1996, 3:00 p.m.

May 6, 1996

Judith Freeman

Deputy

for Robert Turner

Director

**NEW SECTION**

**WAC 220-33-03000J Commercial shad—Columbia River.** Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for, or possess shad for commercial purposes except as provided for in this section:

**FISHING PERIODS**

(1) Shad Area 2S is open daily, 3:00 p.m. to 10:00 p.m. from:

- May 28 - May 31, 1996;
- June 3 - June 7, 1996;
- June 10 - June 14, 1996;
- June 17 - June 21, 1996;
- June 24 - June 28, 1996;

(2) The Camas-Washougal Reef Area is open weekly, 4:00 a.m. Monday to midnight Friday from:

- May 20 - May 24, 1996;
- May 28 - May 31, 1996;
- June 3 - June 7, 1996;
- June 10 - June 14, 1996;
- June 17 - June 21, 1996;
- June 24 - June 28, 1996;

**GEAR**

(3) Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that in Area 2S the net may not exceed 150 fathoms in length nor 40 meshes in depth and that in the Camas-Washougal Reef Area the webbing of the gear may be constructed of mesh having a breaking strength of less than 30 pounds.

**GENERAL**

(4) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids, walleye and sturgeon must be immediately returned to the water and those alive must be released unharmed.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 29, 1996:

WAC 220-33-03000J Commercial shad—Columbia River. (96-36)

EMERGENCY

**WSR 96-11-033**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-37—Filed May 6, 1996, 4:16 p.m., effective May 16, 1996,  
12:01 a.m.]

Date of Adoption: May 6, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-57-16000E; and amending WAC 220-57-160.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 are available for a recreational fishery.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 16, 1996, 12:01 a.m.

May 6, 1996  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-57-16000E Columbia River.** Notwithstanding the provisions of WAC 220-57-160(5), in those waters of the Columbia River from the marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a boundary marker approximately 1/4 mile downstream of Ringold waterway outlet is open to salmon angling with a daily limit of one salmon May 16 through July 31, 1996. Bank fishing only on the hatchery side of the river.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 31, 1996:

WAC 220-57-16000E Columbia River. (96-37)

**WSR 96-11-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-38—Filed May 6, 1996, 4:18 p.m., effective May 18, 1996,  
9:00 a.m.]

Date of Adoption: May 6, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-56-32500F; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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: A harvestable shrimp population exists. This rule will provide recreational opportunity and ensure an orderly fishery.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 18, 1996, 9:00 a.m.

May 6, 1996  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-32500F Shrimp and crab—Hood Canal.** Notwithstanding the provisions of WAC 220-56-310, 220-56-315, 220-56-320, 220-56-325 and 220-56-330, effective May 18, 1996, until further notice it is unlawful to fish for or possess shrimp from those waters of Hood Canal south of the Hood Canal floating bridge except as provided for in this section:

(1) Fishing for shrimp is allowed between 9:00 a.m. and 1:00 p.m. on the following dates: May 18, 22, 25, 29, and June 1.

(2) No shrimp fisher may use more than one shrimp pot on any one day. All shrimp pots must conform to the Hood Canal shrimp pot requirements set forth in WAC 220-56-320(4). It shall be unlawful for the owner/operator of any boat to have on board more than four shrimp pots at any

time or to allow more than four pots to be fished from one boat. A boat is defined as a vessel in the water from which shrimp pots are set and pulled. No shrimp fishers may leave shrimp fishing gear in the water between:

- 1:00 p.m. May 18 and 9:00 a.m. May 22;
- 1:00 p.m. May 22 and 9:00 a.m. May 25;
- 1:00 p.m. May 25 and 9:00 a.m. May 29;
- 1:00 p.m. May 29 and 9:00 a.m. June 1;
- or after 1:00 p.m. June 1.

(3) All unattended shrimp gear must be buoyed, and the buoy must conform with the requirements and be marked as provided for in WAC 220-56-320(1). It is unlawful to have more than one shrimp pot attached to one line.

(4) It is unlawful for any one person to take in any one day more than eighty shrimp. The first eighty shrimp taken must be retained. After the eightieth shrimp has been retained by a fisher, the fisher must stop fishing and release all additional shrimp immediately to the water unharmed. It is unlawful for more than four limits to be on board a boat at any one time.

(5) The use of all crab pot gear is prohibited. No crab fisher may use more than two ring nets or two star traps, or more than one ring net and one star trap. No crab fisher may set or pull ring nets or star traps between one hour after official sunset to one hour before official sunrise.

(6) All unattended crab gear must be buoyed, and the buoy must conform with the requirements and be marked as provided for in WAC 220-56-320(1).

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 1:00 p.m. June 1, 1996:

WAC 220-56-32500F Shrimp and crab—Hood Canal. (96-38)

**WSR 96-11-037  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-33—Filed May 7, 1996, 3:10 p.m., effective May 8, 1996, 11:59 p.m.]

Date of Adoption: May 7, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The commercial non-Indian quota for these areas will be reached by this date.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 8, 1996, 11:59 p.m.

May 7, 1996

Judith Freeman

Deputy

for Robert Turner

Director

**NEW SECTION**

**WAC 220-88A-07000D Emerging commercial fishery - Puget Sound shrimp fishery - Seasons and gear - Spot prawn restriction.** Notwithstanding the provisions of WAC 220-88A-070, effective 11:59 p.m. May 8, 1996, until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes from Marine Fish/Shellfish Management and Catch Reporting Areas 26B, 26C and 26D.

**WSR 96-11-038  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-40—Filed May 7, 1996, 3:11 p.m.]

Date of Adoption: May 7, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000Q and 220-56-36000R; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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: Non-Indian harvestable surplus has been taken.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 2.

EMERGENCY

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 7, 1996  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-36000R Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, 3, or except as provided for in this section:

(1) Effective 12:01 a.m. May 3 through 11:59 a.m. May 9, 1996, on odd numbered days, between 12:01 a.m. and 11:59 a.m. only, razor clam digging is allowed in Razor Clam Area 2.

(2) Effective 12:01 a.m. May 3 through 11:59 a.m. May 9, 1996, on odd numbered days, between 12:01 a.m. and 11:59 a.m. only, razor clam digging is allowed in the following area: that portion of Razor Clam Area 3 between Olympic National Park South Beach Campground access road (Kalaloch area, Jefferson County) and Olympic National Park Beach Trail 3 (Kalaloch area, Jefferson County).

(3) Effective 12:01 a.m. May 3 through 11:59 a.m. May 9, 1996, on odd numbered days, between 12:01 a.m. and 11:59 a.m. only, razor clam digging is allowed in Razor Clam Area 1 and that portion of Razor Clam Area 3 located south of the Copalis River.

(4) It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-56-36000Q Razor clams—Areas and seasons. (96-10)

The following section of the Washington Administrative Code is repealed effective 11:59 a.m. May 9, 1996:

WAC 220-56-36000R Razor clams—Areas and seasons. (96-40)

**WSR 96-11-039**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-41—Filed May 7, 1996, 3:14 p.m.]

Date of Adoption: May 7, 1996.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-105 and 220-56-205.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules implement permanent rules [that] have been adopted but are not yet in effect because of the delay between filing and effectiveness. These rules provide recreational opportunity and conserve the fish resource.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 2, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 7, 1996  
Judith Freeman  
Deputy  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-56-10500A River mouth definitions.** Notwithstanding the provisions of WAC 220-56-105, effective immediately until further notice the following are the defined river mouths for the waters shown:

- (1) Deschutes River - A line projected across the river 400 feet below the lower Tumwater Fall fish ladder
- (2) Kettle River - Napoleon Bridge
- (3) Spokane River - State Route 25 Bridge

**NEW SECTION**

**WAC 220-56-20500A Hook rules—Nonbuoyant lures.** Notwithstanding the provisions of WAC 220-56-205, effective June 1 until further notice a nonbuoyant lure restriction applies to the South Fork Nooksack River upstream from Skookum Creek.

EMERGENCY

**WSR 96-11-054  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-42—Filed May 9, 1996, 3:59 p.m., effective May 10, 1996, 11:59 p.m.]

Date of Adoption: May 9, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-88A-07000C and 220-88A-07000D, and amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvest management plan for joint management of Puget Sound (excluding Hood Canal) Pandalid shrimp under subproceeding 89-3 of *United States v. Washington* provides for regional harvest shares. These rules are necessary to ensure that the harvest shares are not exceeded.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 10, 1996 11:59 p.m.

May 9, 1996

Edward P. Manary  
for Robert Turner  
Director

NEW SECTION

**WAC 220-88A-07000E Emerging commercial fishery - Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restriction.** Notwithstanding the provisions of WAC 220-88A-070, effective immediately until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) Seasons - All waters of Puget Sound are open to shellfish pot gear until further notice, except:

(a) Open in Shrimp District 2 (Griffin Bay) from May 16, 1996 until further notice.

(b) Closed in Shrimp Districts 1, 3, 4, 5, and 6 unless opened by emergency regulation.

(c) Open in the waters of Lopez Sound south of a line projected east and west from the northern tip of Trump Island, from July 10, 1996 until further notice.

(d) Closed in Marine Fish/Shellfish Management and Catch Reporting Areas 26B, 26C and 26D.

(e) Effective 11:59 p.m. May 10, 1996 until further notice closed in Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C and 26A.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-88A-07000C Emerging commercial fishery-Puget Sound shrimp pot experimental fishery-Seasons and gear-Spot prawn restriction. (96-27)
- WAC 220-88A-07000D Emerging commercial fishery-Puget Sound shrimp pot experimental fishery-Seasons and gear-Spot prawn restriction. (96-33)

**WSR 96-11-068  
EMERGENCY RULES  
WASHINGTON STATE PATROL**

[Filed May 10, 1996, 11:31 a.m.]

Date of Adoption: May 10, 1996.

Purpose: Repeal WAC 212-17-185, 212-17-190, 212-17-195, 212-17-200, 212-17-203, 212-17-205, and 212-17-210. Amend WAC 212-17-215 and create new sections prescribing uniform standards for fireworks retail stands mandated by recent legislative changes.

Citation of Existing Rules Affected by this Order: Amending WAC 212-17-215; and repealing WAC 212-17-185, 212-17-190, 212-17-195, 212-17-200, 212-17-203, 212-17-205, and 212-17-210.

Statutory Authority for Adoption: Chapters 70.77, 43.43 RCW.

Under 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; and 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: To protect children and vulnerable adults from individuals that have a criminal history record who may have regularly scheduled access to them and who have not undergone a criminal history background check at the state and federal levels.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or

EMERGENCY

Recently Enacted State Statutes: New 9, amended 1, repealed 7.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 9, amended 1, repealed 7.

Effective Date of Rule: Immediately.

May 10, 1996  
Annette M. Sandberg  
Chief

**AMENDATORY SECTION** (Amending Order FM 82-10, filed 11/2/82)

**WAC 212-17-215 Retailers of fireworks—Disposition of unsold stock.** All retail fireworks licensees shall return unsold fireworks stocks either to the wholesaler, from whom they were purchased, for safe storage, or store them in a place and in a manner approved by the fire authority having jurisdiction not later than the thirty-first of July of each year for the fourth of July selling season, or no later than January thirty-first of each year for the New Year's Eve selling season.

**NEW SECTION**

**WAC 212-17-21501 General provisions.** (1) The state of Washington hereby fully occupies the entire field of regulation of all matters relating to the operation of retail fireworks structures and associated temporary fireworks storage structures including, but not limited to licensing and permitting procedures, transportation to and from these facilities, location, areas within twenty feet around these structures, the structures themselves, operation of these structures, temporary storage associated with retail fireworks sales and operation of these temporary storage structures, clean-up after the end of legal selling periods and all other related matters.

(2) The state of Washington hereby preempts all city and county ordinances, rules, regulations, procedures or policies with respect to all such matters. These rules constitute the entire and exclusive authority for regulations of all matters relating to operation of retail fireworks structures and associated temporary fireworks structures. No city or county may enact or enforce any other requirements. These rules do not limit nor preempt the authority of a city or county to prohibit or restrict to a degree greater than state standards, the sale, purchase, possession and use of common fireworks, UN 0336 1.4G. Subject to the limitations imposed by chapter 70.77 RCW, a city or county may ban fireworks; or a city or county may restrict the days of sale, purchase, possession and use of fireworks; or a city or county may restrict the types of fireworks that may be sold and purchased. But, if a city or county allows the sale of fireworks classified as common fireworks, UN 0336 1.4G, these rules preempt that city's or that county's authority to

enact or enforce standards of operation for the retail fireworks structures and the temporary fireworks storage structure which are different from the standards established by these rules.

(3) Retail fireworks structures, temporary fireworks storage structures and the related matters covered by these rules are exempt from the Uniform Building Code, the Uniform Fire Code and other codes which would, if in effect, conflict with the standards and regulations specified herein except when these rules specifically require compliance with specific and thereby limited provisions of those codes. However, if a city or county ordinance which regulates the sale, purchase, possession and use of fireworks is a part of that city's or that county's building code or fire code, those portions of that city's or that county's building code or fire code which are not in conflict with these rules are not preempted or affected by these rules.

(4) Each retail fireworks structure is required to have a license issued by the state fire marshal and a permit issued by the city or county which has jurisdiction. Each license and each permit is valid for a period of one year.

(5) If all requirements of these rules are met, a license or a permit once issued is transferable between agreeing parties. If all requirements of these rules are met, the location of the retail fireworks structure or the location of the associated temporary fireworks storage structure or other conditions or information associated with the license or permit can be changed after the issuance of the license or the issuance of the permit at any time prior to the beginning of the legal sales period. The state fire marshal shall, at no additional cost, make note of the changes. The city or county which has jurisdiction shall, at no additional cost, within five business days confirm compliance with these rules and make note of the change.

(6) The license and the permit shall be posted in the retail fireworks structure.

(7) Only Class C common fireworks, UN 0336 1.4G, obtained from state-licensed wholesalers, not otherwise prohibited by chapter 70.77 RCW or local ordinance, and holiday related products incidental but related to these products, may be sold in retail fireworks structures.

(8) A list of fireworks that may be sold to the public, as furnished by the state fire marshal, must be posted at each retail fireworks structure.

(9) Except as limited by an ordinance of a city or a county, fireworks can be sold from 12:00 noon on June the 28th through 12:00 noon on July the 6th. Fireworks may not be sold between the hours of 11:00 p.m. and 9:00 a.m. from June the 28th through July the 3rd. Fireworks may not be sold from 12:00 midnight on July the 4th through 9:00 a.m. on July the 5th. Fireworks may not be sold from 11:00 p.m. on July the 5th through 9:00 a.m. on July the 6th.

(10) Except as limited by an ordinance of a city or a county, fireworks can be sold from 6:00 p.m. on December the 31st through 1:00 a.m. on January the 1st of the subsequent year.

(11) Licensees shall familiarize all persons working in the retail fireworks structure with all of these requirements.

(12) If a licensee or permittee is operating the retail fireworks structure or the temporary fireworks storage structure in a manner not in conformance with these rules, applicable local ordinances or portions of ordinances not

preempted by these rules or state laws, or the state fireworks law, the state fire marshal or the city or county having jurisdiction shall assist the licensee or permittee, as required by chapter 403, Laws of 1995, and other provisions of state law, to get the operation into compliance. If a licensee or permittee refuses to comply with these valid requirements, such refusal may constitute a violation of chapter 70.77 RCW and may cause the immediate closure of the retail fireworks structure, the seizure of some or all of the fireworks in the retail fireworks structure, revocation of the license or revocation of the permit and other criminal penalties as specified in law.

#### NEW SECTION

**WAC 212-17-21503 Application for the license and permit.** (1) Application for a license and permit shall be made on a form provided by the state fire marshal.

(2) The license, which shall be obtained from the state fire marshal, shall be applied for first. The fee as required by chapter 70.77 RCW shall accompany application. The application shall include:

(a) The name, address and telephone number of the applicant;

(b) The name, address and telephone number of the person who will have control of the retail fireworks structure if different from the applicant;

(c) The address or, if there is no address, a description of the location of the retail fireworks structure; and

(d) The location of the temporary fireworks storage structure if the fireworks are not stored in the retail fireworks structure and if the location of the temporary fireworks storage structure is different from the location of the retail fireworks structure.

If all of these requirements are met, the state fire marshal shall issue the license within fifteen days.

(3) When the license is obtained, the permit shall be applied for from the city or county in which the retail fireworks structure is to be located. Along with the permit application, the applicant shall submit:

(a) The fee for the permit;

(b) Proof of liability insurance as required by chapter 70.77 RCW; and

(c) A general site plan of the permit location on which is noted the placement of the retail fireworks structure showing that the retail fireworks structure meets all set-back requirements as specified in these rules.

No permit may be applied for later than May the 26th of any year. If all the requirements of these rules are met, the permit shall be issued by the city or county no later than June the 10th of the current year or within thirty days of receipt of the application whichever is earlier.

(4) A city or county may require a clean-up bond or deposit in an amount not to exceed one hundred dollars.

(5) A temporary storage facility shall be authorized as a part of the license and permit if requested by the applicant and if the temporary storage facility meets the requirements specified in this chapter.

(6) A copy of a document authorizing the use of the property shall be obtained prior to the first legal day of sales if there is a disagreement between two or more parties

claiming to control use of the property or if requested by the city or county having jurisdiction.

#### NEW SECTION

**WAC 212-17-21506 Transportation.** When transporting fireworks, all federal and state transportation requirements shall be met provided that nothing in these rules shall restrict the right of any person to transport, in private vehicles, fireworks which have been legally purchased from retail fireworks structures.

#### NEW SECTION

**WAC 212-17-21509 Location.** (1) Retail fireworks structures shall not be subject to city or county zoning limitations except that no retail fireworks structure shall be permitted in residentially zoned areas.

(2) The property where a retail fireworks structure is located shall be accessible from a private driveway or public road, street or highway.

(3) A retail fireworks structure must be at least one hundred feet from any other retail fireworks structure or separated from any other retail fireworks structure by a road, street or highway at least thirty feet in width.

(4) A retail fireworks structure shall be located in such a way that its back and sides are at least twenty feet from a building, other structure or other combustible unless permitted by the city or county granting the permit, provided that for the purposes of these rules poles, signs, sign posts, telephone booths and similar objects are not structures. A retail fireworks structure must be at least five feet from a street curb (as distinct from curbing around a private parking area) or parking strip on a roadway. No such five-foot set-back shall be required if a car lane of a private parking lot is next to the retail fireworks structure. The front or customer side of the retail fireworks structure shall be at least twenty feet from a building or other structure, street curb (as distinct from curbing around a private parking area), road, street or highway. The minimum required area in the front of the structures as specified here shall be marked or flagged.

(5) A retail fireworks structure shall not be located closer than one hundred feet from any flammable or combustible liquid or gas dispensing device, nor less than three hundred feet from any bulk storage or dispensing facility.

(6) Upon request from an applicant for a license or permit, the state fire marshal may, upon reasonable grounds and with the concurrence of the affected city or county, grant a waiver from any of the rules in this section.

#### NEW SECTION

**WAC 212-17-21512 Area around the retail fireworks structure.** (1) The minimum areas around the retail fireworks structure specified in the previous section shall be kept free of accumulations of dry grass, dry brush and combustible debris. No parking shall be permitted within this minimum area.

(2) No motor vehicle or trailer may be parked within twenty feet of a retail fireworks structure except when delivering, loading or unloading fireworks.

(3) Operators shall not authorize and shall discourage the discharge of fireworks within fifty feet of a retail fireworks structure. Signs reading "No discharge of fireworks within 50 feet" in letters at least two inches high on contrasting background, shall be conspicuously posted on all four sides of the structure.

(4) No smoking shall be allowed within the retail fireworks structure or within the minimum flagged off area. Signs reading "No smoking within 20 feet" in letters at least two inches high on a contrasting background, shall be conspicuously posted on all four sides of the structure.

(5) Upon request from an applicant for a license and permit, the state fire marshal may, upon reasonable grounds and with the concurrence of the affected city or county, grant a waiver from any of the rules in this section.

#### NEW SECTION

**WAC 212-17-21515 Structure.** (1) Retail fireworks structures and associated temporary fireworks storage structures are temporary use structures. Retail fireworks structures and their associated temporary fireworks storage structures are not subject to the Uniform Fire Code or the Uniform Building Code or other codes except as provided for in these rules.

(2) Battery powered equipment, electrical equipment and electrical cords which are used in conjunction with a retail fireworks structure or a temporary fireworks storage structure must be UL or FM listed. If electrical power is supplied by an extension cord, the size of the cord, the length of the cord and the amperage and the voltage supplied shall be in compliance with the requirements of the National Electrical Code, current edition. The cord shall be protected as necessary from "drive-over" and other physical damage. No additional permits from a city or county or state official having jurisdiction shall be required for these uses.

(3) All heating units shall be UL or FM listed. Heating sources shall have "knock-over" and temperature overheat protection. Open flame heating devices are prohibited.

(4) No additional permits from the city, county or state official having jurisdiction shall be required for use of a generator which burns a combustible fuel and which is at least twenty feet from the retail fireworks structure or the temporary fireworks storage structure.

(5) Compliance with the National Electrical Code, current edition, shall be required for all new, permanent electrical installation, subject to a possible appropriate permit fee.

(6) Retail sales of fireworks and other products which are holiday related shall be from:

- (a) Buildings used for no other purpose;
- (b) Temporary, stable structures made from wood, metal, fiberglass or other material; or
- (c) Tents, canopies or other temporary membrane material.

All tents, canopies or temporary membrane material structures shall be made from fire retarding material as identified in Article 32 of the current edition of the Uniform Fire Code. Any tent, canopy or temporary membrane material structure falling within the scope of the current edition of the Uniform Fire Code shall comply fully with that Article. When this requirement is in conflict with other

provisions of these rules, the more restrictive provisions shall apply.

(7) Fireworks may be sold inside a permanent structure used as a retail fireworks structure and customers may be allowed inside the permanent retail fireworks structure if the state fire marshal and the affected city or county concur.

(8) Upon request from an applicant for a license or permit, the state fire marshal may, upon reasonable grounds and with the concurrence of the affected city or county, grant a waiver from any of the rules in this section.

#### NEW SECTION

**WAC 212-17-21518 Operation of retail fireworks structures.** (1) A clear aisle or walkway must be maintained inside the full length of the structure.

(2) Each temporary retail fireworks structure must have at least two exits, at least twenty-eight inches in width located at opposite ends. Exits must remain unlocked and unobstructed during the hours of operation or when the structure is occupied.

(3) Sleeping inside a retail fireworks structure or an associated temporary fireworks storage facility is prohibited.

(4) The location of the nearest telephone must be posted inside the retail fireworks structure and persons inside the structure should be informed of that location.

(5) The local emergency telephone number shall be conspicuously posted inside the retail fireworks structure.

(6) Each retail fireworks structure shall be equipped with two approved, pressurized two and one-half gallon water-type fire extinguishers.

(7) No open flames or equipment of any kind with an open flame shall be allowed in any retail fireworks structure or temporary fireworks storage structure.

(8) The retail fireworks structure shall be locked during hours when the retail fireworks structure is not open for business if fireworks are kept in the structure during these hours and if unoccupied.

(9) At least one adult person, eighteen years of age or older shall be present at all times in every retail fireworks structure during the hours of sale to the public and shall be responsible for supervision of the retail fireworks structure and its operation. No person, not a customer, under the age of fourteen shall be allowed within a retail fireworks structure when it is open to the public.

(10) Customers shall not be permitted inside a retail fireworks structure that is less than three hundred square feet. If customers are inside a temporary retail fireworks structure, minimum exit standards as required by the Uniform Building Code, current edition, shall be met.

(11) Retail fireworks structures may be inspected prior to opening for business and other inspections may occur on other days as warranted but there shall be no additional charge for all such inspections.

(12) In order to obtain return of a clean-up bond if required by a city or county as a condition of a permit, the clean up of debris associated with the retail fireworks activity and the removal of all structures authorized by the license and permit shall occur on or before the last day of the storage period specified in these rules.

(13) Fireworks may be sold inside a permanent structure meeting all provisions of the state building code and local

building ordinances and customers may be allowed inside the permanent retail fireworks structure if the state fire marshal and the affected city or county concur.

(14) Upon request from an applicant for a license and permit, the state fire marshal may, upon reasonable grounds and with the concurrence of the affected city or county, grant a waiver from any of the rules in this section.

**NEW SECTION**

**WAC 212-17-21521 Temporary fireworks storage associated with the retail fireworks structure operation.**

(1) Temporary fireworks storage is not permanent fireworks storage. Temporary fireworks storage is defined as storage associated with retail fireworks sales and may only be from June the 13th through July the 31st and from December the 12th through January the 10th of the subsequent year. Permanent fireworks storage is associated with retail or wholesale fireworks activities when the period of time of storage is other than, or longer than that specified for temporary storage. Permanent fireworks storage is subject to the Uniform Fire Code and the Uniform Building Code. Temporary fireworks storage is not subject to these or other codes.

(2) Delivery of fireworks to a location, or storage of fireworks in facility, not authorized by the license and permit is prohibited.

(3) A temporary fireworks storage facility or a temporary fireworks storage location shall be authorized as a part of a license and permit if it meets the requirements specified herein.

(4) Retail fireworks structures shall never be locked or secured when occupied.

(5) If fireworks are kept inside the retail fireworks structure when it is not open for business, it shall be locked or secured to prevent unlawful entry. The fireworks may be removed and transferred to a temporary facility or a temporary location approved as a part of the license and permit.

(6) Storage of fireworks authorized by a retail license and permit is legal only during the periods specified in this section.

(7) Fireworks may be stored in a locked or secured truck, trailer or other vehicle which is at least twenty feet from the retail fireworks structure during hours of retail sales; or in a locked or secured truck, trailer or other vehicle which is at least twenty feet from an inhabited building where the term "inhabited building" is defined as in the Uniform Building Code, current edition; or in a locked or secured metal or wooden garage, shed, barn or other building, container, trailer or anything similar which is detached from an inhabited building or an attached garage that has separation as required in the Uniform Building Code, current edition. There shall be no open flame heating or lighting sources.

(8) No cooking is permitted in a retail fireworks structure or in a temporary fireworks storage structure.

(9) Temporary fireworks storage structures may be inspected prior to use and other inspections may occur on other days as warranted. There shall be no additional charge for all such inspections.

(10) Upon request from an applicant for a license and permit, the state fire marshal may, upon reasonable grounds

and with the concurrence of the affected city or county, grant a waiver from any of the rules in this section.

**NEW SECTION**

**WAC 212-17-21525 Clean up.** (1) At the end of the legal selling period, all fireworks must remain in the retail fireworks structure, temporary storage location initially authorized in conjunction with the granting of the retail permit, or another location approved by the city or county fire official or his or her designee until returned to the suppliers from which they were obtained or transferred to an approved location.

(2) In order to obtain return of a clean-up bond or clean-up deposit if made, all litter and the retail fireworks structure, if temporary, shall be removed from the site no later than 11:59 p.m., July the fifteenth for the Fourth of July selling period or no later than 11:59 p.m., January the tenth for the New Year's Eve selling season.

(3) Upon request from an applicant for a license and permit, the state fire marshal may, upon reasonable grounds and with the concurrence of the affected city or county, grant a waiver from any of the rules in this section.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 212-17-185 Retailers of fireworks—General.
- WAC 212-17-190 Retailers of fireworks—Sales dates.
- WAC 212-17-195 Retailers of fireworks—Sales locations.
- WAC 212-17-200 Retailers of fireworks—Safety inspection.
- WAC 212-17-203 Retailers of fireworks—List to be posted.
- WAC 212-17-205 Retailers of fireworks—No smoking signs.
- WAC 212-17-210 Retailers of fireworks—Smoking and discharge of fireworks.

**WSR 96-11-069  
EMERGENCY RULES  
WASHINGTON STATE PATROL**

[Filed May 10, 1996, 11:35 a.m.]

Date of Adoption: May 10, 1996.

Purpose: Repeal WAC 446-20-290 and create a new section to clearly identify fee structures and requirements mandated by recent legislative changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 446-20-290.

Statutory Authority for Adoption: Chapters 10.97, 28A.400, 74.15 RCW, RCW 43.43.830 - [43.43.]845.

Under 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

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notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and 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: Recent legislative changes require the director of fire protection to prescribe uniform, state-wide standards for retail fireworks stands. These laws are in effect, so these amendments and changes will help ensure uniform, safe operations of fireworks stands throughout the state.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 1, amended 0, repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, amended 0, repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 10, 1996

Annette M. Sandberg  
Chief

#### NEW SECTION

**WAC 446-20-600 Fees.** (1) A nonrefundable fee of ten dollars shall accompany each request for conviction records submitted for a name and date of birth background check or a twenty-five dollar fee if the request is submitted by fingerprint card at the state level pursuant to RCW 43.43.830 through 43.43.845, and chapter 10.97 RCW unless through prior arrangement, an account is authorized and established.

(2) A nonrefundable FBI fee of twenty-four dollars shall be charged for fingerprint cards submitted for federal searches. It shall be the responsibility of the Washington state patrol to collect all fees due and forward fingerprint cards and fees to the FBI.

(3) All fees are to be made payable to the Washington state patrol and are to be remitted by cashier's check, money order or check written on a business account. The Washington state patrol identification and criminal history section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of these chapters are recovered.

(4) Pursuant to the provisions of RCW 43.43.838 and chapter 28A.410 RCW, no fees will be charged to a nonprofit organization, or volunteers in school districts and educational service districts for background checks.

#### NEW SECTION

**WAC 446-20-610 Superintendent of public instruction—Prospective educational employees—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410 RCW. Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(2) Appropriate nonrefundable fees are to be charged and made payable to the Washington state patrol for searches conducted under chapter 28A.410 RCW as follows:

(a) The fee for the state search is fifteen dollars for school district employees.

(b) The fee for the state search is twenty-five dollars for persons applying for their certification or for contractual employees.

(c) The fee for the FBI search is twenty-four dollars.

(d) In addition, a four-dollar processing fee will be charged for each fingerprint background check processed under chapter 28A.410 RCW. The Washington state patrol will reimburse the superintendent of public instruction four dollars for each fingerprint background check processed under this chapter for applicants who are certificated, contractual or classified.

(3) Prospective employees hired by the superintendent of public instruction, educational service districts, school districts and/or their contractors shall pay the appropriate fees for state and federal fingerprint checks conducted under chapter 28A.410 RCW.

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

#### NEW SECTION

**WAC 446-20-620 Superintendent of public instruction—Current educational employees hired prior to June 11, 1992.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 28A.410-RCW (2SSB 6272). Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(a) Fingerprint cards submitted under this law shall be clearly marked under reason fingerprinted in the following manner: "School district employees/contractors chapter 28A.400 RCW Laws of 1996."

(b) Failure to clearly identify fingerprint cards submitted under this rule will result in rejection for fees.

(2) An appropriation of fees is provided to the Washington state patrol for implementation of this section which expires March 31, 1998. No fees are to be charged to the superintendent of public instruction, educational service districts, school districts, their contractors or the employees.

(3) Distribution of the sixty-six dollar fee for each set of acceptable fingerprint cards received by the Washington state patrol will be as follows:

(a) A fee of ten dollars to the school district, educational service district, law enforcement agency or other named agency taking the fingerprint impressions. This fee will only be paid upon approval of acceptable quality fingerprints by the Washington state patrol.

(b) The fee for the state search is twenty-five dollars.

(c) The fee for the FBI search is twenty-four dollars.

(d) In addition, a seven-dollar fee for final disposition costs will be reimbursed to the superintendent of public instruction by the Washington state patrol for each fingerprint background check processed under chapter 28A.410 RCW (chapter 126, Laws of 1996).

(4) Fees are to be deposited in the Washington state patrol fingerprint identification account.

This section will expire March 31, 1998.

#### NEW SECTION

**WAC 446-20-630 Department of social and health services—Child care licensing—Fees.** (1) In addition to the state search, an FBI search is required for requests submitted under chapter 74.15 RCW. Two fingerprint cards are required to be submitted to the Washington state patrol identification and criminal history section.

(2) Department of social and health services (DSHS) shall process fingerprint background checks under chapter 74.15 RCW. Under "reason fingerprinted," cards will be marked "DSHS Child Care Licensing RCW 74.15.030" or "DSHS Child Care Licensing RCW 74.15.030 DDD."

(3) Department of social and health services, division of children and family services (DCFS) shall pay the expense and submit a waiver of fee form on licensees if the background check expense would work a hardship on the licensee. The six-dollar processing fee will not be applicable when a waiver of fee form is submitted to the Washington state patrol or the fingerprint card is marked "volunteer."

(4) A monthly billing account will be established for the DSHS division of developmental disabilities (DDD). The six-dollar processing fee will not be applicable on any fingerprint cards indicated as "DDD."

(5) Each month the Washington state patrol shall prepare a billing statement and detail report for waiver of fee forms from DCFS and for all DDD fingerprint cards submitted.

(6) All fees collected under chapter 74.15 RCW, will be deposited into the Washington state patrol fingerprint identification account.

(7) Nonrefundable fees are to be charged to:

(a) "DSHS child care licensing RCW 74.15.030" (division of children and family services (DCFS)) as follows:

(i) The fee for the state search is twenty-five dollars.

(ii) The fee for the FBI search is twenty-four dollars.

(iii) A six-dollar processing fee.

(b) "DSHS division of children and family services (DCFS) for fee waivers" as follows:

(i) The fee for the state search is twenty-five dollars.

(ii) The fee for the FBI search is twenty-four dollars.

(c) "DSHS child care licensing RCW 74.15.030 division of developmental disabilities (DDD)" as follows:

(i) The fee for the state search is twenty-five dollars.

(ii) The fee for the FBI search is twenty-four dollars.

(d) "DSHS child care licensing RCW 74.15.030" division of developmental disabilities "volunteers" as follows:

(i) The fee for the state search is twenty-five dollars.

(ii) The FBI fee shall be eighteen dollars on those fingerprint cards clearly designated as "volunteer" pursuant to provisions under Section 3e of the National Child Care

Protection Act of 1993 as amended by the Crime Control Act of 1994.

(iii) "Chapter 74.15 RCW" and "volunteer" must be entered in the "reason fingerprinted" box on both the state and FBI fingerprint cards submitted. Failure to indicate "volunteer" and the RCW citation on fingerprint cards will result in full fees being charged.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 446-20-290 .Fees.

**WSR 96-11-092**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-46—Filed May 15, 1996, 11:30 a.m., effective May 15, 1996, noon]

Date of Adoption: May 14, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700T; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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 sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 15, 1996, noon.

May 14, 1996

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

**WAC 220-32-05700T Columbia River sturgeon seasons above Bonneville.** (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F and 1G, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon using set line gear effective Noon April 1, 1996 through Noon May 31, 1996.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(d) To deliver to a wholesale dealer or fish buyer sturgeon that have been dressed (not in the round).

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line;

(b) With hooks less than the minimum size of 9/0;

(c) With treble hooks; or

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam.

**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 effective Noon May 31, 1996:

**WAC 220-32-05700T Columbia River sturgeon seasons above Bonneville.** (96-46)

**WSR 96-11-094  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-47—Filed May 16, 1996, 10:25 a.m.]

Date of Adoption: May 15, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000W; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary for conservation and to maintain consistency with regulations adopted by the National Marine Fisheries Service pursuant to the Pacific Fisheries Management Council.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 15, 1996

Edward P. Manary  
for Robert Turner  
Director

NEW SECTION

**WAC 220-44-05000X Coastal bottomfish catch limits.** Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

1. The following definitions apply to this section:

a. Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access

fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

b. Two-month cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per two, fixed calendar months, without a limit on the number of landings or trips. The fixed two-month periods are January-February, March-April, May-June, July-August, September-October and November-December. No more than sixty percent of any two-month cumulative limit may be taken and retained, possessed or landed per vessel in either calendar month of the fixed, two-month period. The two-month cumulative limit includes all fish harvested by a vessel during the two-month period, whether taken in limited entry or open access fisheries. Once a two-month cumulative limit has been achieved, an operator may begin fishing on the next two-month cumulative limit so long as the fish are not landed until after the beginning of the next two-month cumulative period.

c. Daily trip limit - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

d. Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

e. Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

f. Vessel trip - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

g. Vessel trip limit - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

h. Dressed length - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

2. Groundfish limited entry fishery limits. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all listed bottomfish species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29:

a. **Pacific ocean perch** - Two-month cumulative limit of 10,000 pounds. No minimum size.

b. **Widow rockfish** - Two-month cumulative limit of 70,000 pounds. No minimum size.

c. **Shortbelly rockfish** - No minimum size. No maximum poundage.

d. **Black rockfish** - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by

weight of all fish on board including salmon, whichever is greater, per vessel trip.

e. **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.)

(1) North of Cape Lookout and south of Cape Lookout if no declaration has been made - Two-month cumulative limit of 70,000 pounds, of which no more than 32,000 pounds may be yellowtail rockfish and no more than 18,000 pounds may be canary rockfish. No minimum size on any species in this category.

(2) South of Cape Lookout - Two-month cumulative limit of 100,000 pounds of which no more than 70,000 pounds may be yellowtail rockfish and no more than 18,000 pounds may be canary rockfish, provided the licensee has made a declaration as follows:

(a) The declaration must be made at least 12 hours prior to departing from port by telephoning the Department Montesano Office at (360) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.

(b) The declaration must include: vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(c) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano Office at 48 Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(d) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port and notified the Montesano Office during business hours.

1) There is a maximum two-month cumulative limit for landings from both north and south of Cape Lookout of 100,000 pounds of which no more than 70,000 pounds may be yellowtail rockfish and no more than 18,000 pounds may be canary rockfish.

2) Wholesale fish dealers purchasing more than 42,000 pounds of sebastes complex, 19,200 pounds of yellowtail rockfish or 10,800 pounds of canary rockfish (60% of two-month cumulative allowances) must enter the declaration number on the fish receiving ticket.

f. **DTS Complex - (Sablefish, Dover sole and thornyhead rockfish)** - Two-month cumulative limit of 70,000 pounds, of which not more than 12,000 pounds may be sablefish and not more than 20,000 pounds may be thornyhead rockfish. Of the thornyhead rockfish, not more than 4,000 pounds may be shortspine thornyhead.

g. **Sablefish** -

(1) **Trawl vessels** - Not more than 500 pounds (round weight) of sablefish per trip may be smaller than 22 inches.

(2) **Non-trawl vessels** - Daily trip limit of 300 pounds (round weight). No minimum size.

h. **Pacific Whiting** - Vessel trip limit of 10,000 pounds. No minimum size. Effective 12:01 a.m. May 15, 1996, no maximum poundage, no minimum size.

i. **Lingcod** - Two-month cumulative limit of 40,000 pounds. Total length minimum size limit of 22 inches. Lingcod total length of 22 inches is equivalent to dressed

length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(1) It shall be lawful to land up to 100 pounds of lingcod under 22 inches taken in the trawl fishery only.

3. Groundfish open access fishery limits. The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all listed species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29. Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit:

(1) **Sablefish** - Daily trip limit of 300 pounds (round weight) not to exceed 2100 pounds in any calendar month. No minimum size.

(2) **Rockfish** - Vessel trip limit of 10,000 pounds. Cumulative limit of 35,000 pounds.

(3) **Lingcod** - cumulative limit of 20,000 pounds. Total length minimum size limit of 22 inches. Lingcod total length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(4) **Thornyhead rockfish** - Illegal to take, possess, transport or land thornyhead rockfish.

(5) It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species or category of bottomfish having a cumulative limit, vessel trip limit or daily trip limit.

(6) The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

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

**Reviser's note:** The unnecessary underscoring 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 220-44-05000W Coastal bottomfish catch limits (95-189)

**WSR 96-11-095  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-48—Filed May 16, 1996, 10:27 a.m., effective May 16, 1996, 11:59 p.m.]

Date of Adoption: May 15, 1996.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88A-07000E; and amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvest management plan for joint management of Puget Sound (excluding Hood Canal) Pandalid shrimp under Subproceeding 89-3 of *United States v. Washington* provides for regional harvest shares. These rules are necessary to ensure that the harvest shares are not exceeded.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 16, 1996, 11:59 p.m.

May 15, 1996  
Edward P. Manary  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-88A-07000F Emerging commercial fishery - Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restriction.** Notwithstanding the provisions of WAC 220-88A-070, effective 11:59 p.m. May 16, 1996, further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) Areas 20A, 21A, 21B, 22A (outside of Shrimp District 2) 22B, 23A, 23C, 25B, 28A, 28C, 28D, 29, and Shrimp District 2 open until further notice.

(2) The waters of Lopez Sound south of a line projected east and west from the northern tip of Trump Island, from July 10, 1996 open until further notice.

EMERGENCY

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 effective 11:59 p.m. May 16, 1996:

WAC 220-88A-07000E Emerging commercial fishery-Puget Sound shrimp pot experimental fishery-Seasons and gear-Spot prawn restriction. (96-42)

**WSR 96-11-097  
EMERGENCY RULES  
HEALTH CARE AUTHORITY**

[Filed May 16, 1996, 2:35 p.m.]

Date of Adoption: May 16, 1996.

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.

Under 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: To accommodate revisions in the provisions for Medicaid/basic health plan eligibility coordination in the Health Services Act, E2SSB 5304.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 16, 1996  
Elin 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 state health care authority (HCA) 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.))~~

(2) "Appeal procedure" means a written procedure for resolution of problems or concerns raised by enrollees.

(3) "Basic health plan" (BHP) means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the HCA administrator through managed health care systems, created by chapter 70.47 RCW. The Washington state basic health plan is a program within the Washington state health care authority.

~~((3))~~ (4) "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))~~ (5) "Covered services" means those services and benefits to which an enrollee is entitled, under the ~~((certificate of coverage))~~ benefit booklet issued by the ~~((plan))~~ HCA 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).))

(6) "Effective date of enrollment" means the first date, as established by the ~~((plan))~~ HCA, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.)

(7) "Eligible dependents." The following are eligible as dependents under the BHP:

(a) Lawful spouse of the subscriber, if not legally separated, who resides in the same residence.

(b) Dependent child who is an unmarried child and who is:

(i) Younger than age nineteen and is a natural child, stepchild or legally adopted child.

(ii) Younger than age twenty-three who is a registered student in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the subscriber is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

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(iii) Legal dependent of any age who is incapable of self-support due to developmental disability or physical handicap.

(8) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

~~((7))~~ (9) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the ((plan)) BHP, and for whom applicable premium payments have been made.

~~((8))~~ (10) "Family" means an individual or an individual and the individual's ((spouse, if not legally separated, and the individual's dependent children)) eligible dependents. For purposes of eligibility determination and enrollment in the ((plan)) BHP, an individual, or dependent cannot be a member of more than one family.

~~((9))~~ "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.

(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.

~~((10))~~ "Grievance procedure" means the formal process 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))~~ (12) "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 of the subscriber and eligible dependents before taxes from all sources, with the exceptions noted in (b) below.

~~((12))~~ (a) Income includes: (i) money wages and salaries before any deductions regardless of whether those eligible dependents enroll in BHP; (ii) net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); (iii) 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); (iv) regular payments from Social Security, child support, 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; (v) work study; and (vi) dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.~~

~~((13))~~ (b) Income does not include the following types of money received: (i) Capital gains; (ii) any assets drawn down as withdrawals from a bank, the sale of property, a house or a car; (iii) tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation)((- Also excluded are)); (iv) 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((-); (v) ((e) "Income" shall not include)) income earned by dependent children except for regular payments from Social Security, nor shall it include income of a family member who resides in another household when such income is not available to ((those family members)) the subscriber and eligible dependents seeking enrollment in the ((plan)) BHP; and (vi) university scholarships, grants, fellowships and assistantships if not convertible to cash.

~~((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))~~ (13) "Managed health care system" (or "MHCS") means any health care organization who has entered into a contract with the HCA to provide the BHP to enrollees, 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)) enrollees. On and after July 1, 1995, "MHCS" means a certified health plan as defined in RCW 43.72.010.

(14) "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).

~~((13))~~ (15) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(16) "Benefit booklet" means a written document issued by the HCA to a subscriber which describes the covered services, premiums, appeal procedures and other rights and responsibilities of enrollees. The benefit booklet represents the enrollee's certificate of coverage. The benefit booklet issued to a subscriber shall apply to the subscriber and enrolled dependents.

(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.

~~((14))~~ (18) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their ~~((membership))~~ enrollment 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))~~ "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))~~ (19) "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))~~ HCA on behalf of the subscriber and ~~((family))~~ eligible dependents in consideration for enrollment in the ~~((plan))~~ BHP.

~~((17))~~ "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))~~ (20) "Rate" means the per capita amount, including any applicable premium and prepayment tax imposed under RCW 48.14.020, 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))~~ to provide the schedule of benefits described in the benefit booklet to enrollees.

(21) "Residence" means the one principal physical location at which an individual lives.

~~((19))~~ "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))~~ (22) "Service area" means the geographic area served by a ~~((participating))~~ managed health care system as defined in its contract with the ~~((plan))~~ HCA.

~~((21))~~ (23) "Site" means a geographic area designated by the ~~((plan))~~ HCA in which one or more ~~((participating))~~ managed health care systems are offered to enrollees for selection.

~~((22))~~ (24) "Subscriber" is a person who meets all applicable eligibility requirements, is enrolled in the BHP,

and for whom the monthly premium has been paid. Notices (with the exception of disenrollment notices) to a subscriber, or if applicable to a financial sponsor, shall be considered notice to the subscriber and his/her enrolled dependents. Disenrollment notices will be sent to the subscriber, or the parent or legal guardian of an enrolled dependent child. ~~((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.

(25) "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, 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 BHP are also considered by the HCA and the department of social and health services to be "subsidized" enrollees.

(26) "Subsidy" means the difference between the premium responsibility of a subsidized enrollee, who is not a Medicaid recipient, and the costs incurred by the HCA in providing coverage to that subsidized enrollee. The costs incurred include both the rate paid by the HCA to a managed health care system on behalf of the enrollee and that portion of the administrative cost of providing the BHP allocated by the administrator to that enrollee.

~~((24))~~ "Washington basic health plan" 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.)

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.

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)) HCA and payment of required copayments. The schedule of benefits is subject to copayments, limitations and exclusions detailed in the benefit booklet. ((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)) (2) Prior to enrolling in the ((plan)) BHP, 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)) (3) Subscribers will be given written notice by the ((plan)) HCA of any ((planned revisions to the benefit package and the accompanying premiums)) changes in the amount and scope of benefits provided under the BHP. 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)) HCA, on behalf of the subscriber and all ((family)) enrolled 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) Any co-payments required will be established initially in the contract between the HCA and the MHCS and will be detailed in the benefit booklet. Premiums are based on the subscriber's gross family income, the total number of people in the family, and the age of each enrollee. The~~

~~benefit booklet shall specify the terms of payment and notice requirement for changes in the premium. ((The amount of premium payable by any subscriber 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) 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) 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 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) 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, 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 in a twelve month period.~~

~~((5)) (3) 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).

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

**AMENDATORY SECTION** (Amending Order 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 enrollment, not have or not have voluntarily relinquished health insurance more comprehensive than that offered by the BHP 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 ~~(with the exception of (b)), at the time of initial application, as evidenced by information submitted on the application for enrollment or otherwise obtained by the ((plan)) HCA, will not be enrolled. Criterion (b) must be met at the time of enrollment. 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)) BHP 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 BHP, 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 BHP.

(a) The prospective or current enrollee shall comply with an HCA 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 BHP 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 BHP.

(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 BHP subsidy.

~~((2))~~ (3) An individual otherwise eligible for enrollment in the ((plan)) BHP 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)) or additional enrollment in a given MHCS would exceed established contract limits, or would result in an overexpenditure of BHP funds, or would jeopardize the orderly development of BHP. In the event that the administrator closes enrollment in a given service area, the ((plan)) HCA will continue to accept applications for enrollment, but will not process those applications for determination of eligibility. The ((plan)) HCA 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)) HCA of the opportunity to enroll; provided that the ((plan)) HCA 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.

(4) The HCA will accept applications for group enrollment in the BHP from business owners on behalf of themselves and their employees, spouses and dependent children if:

(a) The BHP is the only health plan offered by the business to its eligible employees;

(b) The business owner pays at least fifty percent of the nonsubsidized premium cost of the BHP on behalf of each employee enrolled in the plan; and

(c) The employee is not eligible for medicare.

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

**AMENDATORY SECTION** (Amending 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)) BHP must complete, sign and submit ~~((the plan's))~~ a BHP 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. If an applicant is accepted for enrollment, the applicant's signature acknowledges the applicant's obligation to pay the monthly premium in accordance with the terms and conditions identified in the benefit booklet.

(2) Each applicant shall ~~((complete and sign the application for enrollment,))~~ list ~~((ing))~~ those family members to be enrolled and supply ~~((ing))~~ such other information and documentation as required by the ~~((plan))~~ HCA.

(a) Documentation will be required, showing the amount and sources of ~~((applicants'))~~ applicant's year to date income to include ~~((for))~~ the most recent complete calendar month as of the date of application, ~~((Applicants will also be required to submit))~~ and a signed copy of their most recently filed federal income tax form. Acceptable ~~((I))~~ 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 the applicant's name and physical residence shall also be required, ~~((displaying the applicant's name and address.))~~ (c) The ~~((plan))~~ HCA 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))~~ BHP. 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 (except in cases where a subscriber, who is paying child support for his/her dependents, lives in another covered services area). 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))~~ HCA 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))~~ BHP in the order in which their completed applications, including all required documentation, have been received by the ~~((plan))~~ HCA, provided that the applicant also remits full

payment of the first premium bill to the ~~((plan))~~ HCA by the due date specified by the ~~((plan))~~ HCA.

(6) Not all family members are required to apply for enrollment in the ~~((plan))~~ BHP; 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, unless that family member loses other health coverage. 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))~~ HCA 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))~~ HCA, will be enrolled on the first of a month following completion of the enrollment process by the ~~((plan))~~ HCA, provided that the addition of the spouse does not otherwise render the family ineligible for coverage by the ~~((plan))~~ HCA.

(7) ~~((Any e))~~ Enrollees who disenroll(s) 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) BHP due to loss of eligibility may re-enroll provided they complete a new application for enrollment and ~~((must be))~~ are determined by the ~~((plan))~~ HCA to be otherwise eligible for enrollment as of the date of application. Enrollees who are disenrolled from BHP in accordance with WAC 55-01-060(2), except for loss of eligibility, and who do not maintain continuous coverage may not re-enroll for a period of twelve months from the effective date of disenrollment. Continuous coverage will be defined as coverage with no lapse greater than 90 days.

(8) The ~~((plan))~~ HCA may require any enrollee or applicant for enrollment in the ~~((plan))~~ BHP 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))~~ BHP.

(9) Once every six months, the ~~((plan))~~ HCA will request verification of information from enrollees ("recertification"), which may include a request to complete a new application form and submit required documentation. For good cause, the HCA may recertify on a more frequent basis. At recertification, enrollees will be required to report their gross family income for the ~~((most recent complete))~~ preceding 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))~~ HCA within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility. If, as a result of the eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee failed to inform the HCA of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the poverty level.

**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.

**AMENDATORY SECTION** (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

**WAC 55-01-060 Disenrollment from the ~~((plan))~~ BHP.** (1) An enrollee may disenroll effective the first day of any month by giving the ~~((plan))~~ HCA at least ten days prior written notice of the intention to disenroll. Reenrollment in the ~~((plan))~~ BHP 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 or financial sponsor, including employer group, shall be considered an indication of the enrollee's or group's intention to disenroll from the ~~((plan))~~ BHP.

(2) The ~~((plan))~~ HCA may disenroll any enrollee from the ~~((plan))~~ BHP for good cause, which shall include: (a) Failure to meet the eligibility requirements set forth in WAC 55-01-040; ~~((loss of eligibility));~~ (b) nonpayment of premium; (c) 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.))~~ (d) knowingly providing false information; (e) fraud or abuse ~~((including but not limited to serious misconduct));~~ (f) intentional misconduct; and (g) refusal to accept or follow procedures or medical treatment determined by a ~~((participating provider))~~ MHCS to be essential to the health of the enrollee, where the managed health care system demonstrates to the satisfaction of the ~~((plan))~~ HCA 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))~~ HCA shall provide the enrollee or legal guardian/parent of a child 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 an ~~((grievance))~~ appeal to the ~~((plan))~~ HCA 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))~~ HCA's ~~((grievance))~~ appeal 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))~~ HCA 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))~~ through the ~~((plan))~~ BHP. 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.~~**

(1) ~~If an enrollee has an 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 chapters 34.04 and 34.12 RCW in order to contest the plan's decision.)~~ **Appeals and Mediation of grievances.** (1) The following decisions by the BHP may be appealed pursuant to this section:

(a) A determination that an applicant for enrollment as a subsidized enrollee is ineligible pursuant to WAC 55-01-040;

(b) A decision to disenroll an enrollee pursuant to WAC 55-01-060.

(2) Appeals under subsection (1) shall be conducted as brief adjudicative proceedings pursuant to RCW 34.05.482 through 34.05.494 and WAC 182-16-060.

(3) Disputes arising between enrollees and the managed health care system in which they are enrolled are considered to be contractual disputes between those parties. The HCA offers a mediation service aimed at resolving those disputes as quickly, efficiently and fairly as possible. Both enrollees and managed health care systems are expected, as a condition of participation in the BHP, to participate fully and cooperatively in this mediation process once invoked by either party to such dispute. In the event the dispute cannot be resolved by mediation, and both enrollee and the managed health care system agree, the HCA will designate a person to act as binding arbitrator of the dispute.

**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 96-11-099**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 96-50—Filed May 17, 1996, 8:42 a.m.]

Date of Adoption: May 16, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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: Insufficient spot prawns are available for recreational harvest.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 16, 1996

L. W. Peck

for Robert Turner

Director

**NEW SECTION**

**WAC 220-56-32500G Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-325, effective immediately until further notice it is unlawful to fish for or possess spot shrimp taken from Shrimp District 1.

**WSR 96-11-103**  
**EMERGENCY RULES**  
**DEPARTMENT OF HEALTH**

(Board of Pharmacy)

[Filed May 17, 1996, 12:32 p.m.]

Purpose: Provides for the licensing and regulation of health care entities as created by amended chapter 18.64 RCW, which became effective October 1, 1995.

Statutory Authority for Adoption: RCW 18.64.005.

Under 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: To protect patients that utilize previously unlicensed facilities and enable these facilities to procure, store and dispense the appropriate drugs related to patient care.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal

Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 10, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 10, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 1, amended 0, repealed 0.

Effective Date of Rule: Immediately.

May 17, 1996

Bruce A. Miyahara  
Secretary

**Chapter 246-904 WAC  
HEALTH CARE ENTITIES**

NEW SECTION

**WAC 246-904-010 Definition.** Health care entity - an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes any of the following which are not part of another licensed facility, including: Outpatient surgery centers, cardiac care centers, or kidney dialysis centers. It does not include an individual practitioner's office or a multipractitioner clinic.

NEW SECTION

**WAC 246-904-020 New health care entity licensing.** No health care entity shall be issued a license until the facility has submitted an application along with the applicable fees set forth in WAC 246-907-020 through 246-907-030 and has passed an inspection by a Washington state board of pharmacy investigator. The investigator shall determine if the purchase, ordering, storing, compounding, delivering, dispensing and administration of controlled substances and/or legend drugs complies with all applicable state and federal statutes and regulations. Physical requirements for the areas of a health care entity where drugs are stored, compounded, delivered or dispensed shall comply with WAC 246-873-070.

NEW SECTION

**WAC 296-904-030 Pharmacist in charge.** Every health care entity licensed under this chapter shall designate a pharmacist in charge. The pharmacist in charge may be employed in a full-time capacity or as a pharmacist consultant. The pharmacist in charge must be licensed to practice pharmacy in the state of Washington. The pharmacist in charge designated by a health care entity shall have the authority and responsibility to assure that the area(s) within the health care entity where drugs are stored, compounded, delivered or dispensed are operated in compliance with all applicable state and federal statutes and regulations.

It shall be the responsibility of the pharmacist in charge:

(1) To create and implement policy and procedures relating to:

(a) Purchasing, ordering, storing, compounding, delivering, dispensing or administering of controlled substances or legend drugs.

(b) Accuracy of inventory records, patient medical records as related to the administration of controlled substances and legend drugs, and any other records required to be kept by state and federal regulations.

(c) Adequate security of legend drugs and controlled substances.

(d) Controlling access to controlled substances and legend drugs.

(2) To assure that the Washington state board of pharmacy is in possession of all current policies and procedures identified in subsection (1) of this section.

(3) To execute all forms for the purchase and order of legend drugs and controlled substances.

(4) To verify receipt of all legend drugs and controlled substances purchased and ordered by the health care facility.

NEW SECTION

**WAC 246-904-040 Drug procurement, distribution and control.** The procurement, distribution and control of drugs shall be in accordance with WAC 246-873-080.

NEW SECTION

**WAC 246-904-050 Dispensing of prescription medications from health care entities.** Drugs dispensed to patients of a health care entity must be dispensed in a manner consistent with the requirements of RCW 18.64.246 through 18.64.247, chapters 69.41 and 69.50 RCW, and WAC 246-869-220 through 246-869-240.

NEW SECTION

**WAC 246-904-060 Labeling.** Drugs dispensed to patients of a health care entity must comply with the labeling requirements of WAC 246-869-210.

NEW SECTION

**WAC 246-904-070 Records.** To the extent applicable, all prescription records shall be maintained in accordance with WAC 246-869-100 and chapter 246-875 WAC et seq.

NEW SECTION

**WAC 246-904-080 Absence of a pharmacist.** Pharmaceutical services shall be available at all times patients are present in the facility. At times when no pharmacist is in the facility, the entity must comply with the requirements of WAC 246-873-050 and 246-873-060.

NEW SECTION

**WAC 246-904-090 Administration.** Administration of drugs to patients of a health care entity shall be in accordance with WAC 246-873-090.

EMERGENCY

**NEW SECTION**

**WAC 246-904-100 Closing.** When a health care entity ceases to do business or to provide pharmaceutical services to patients, the entity shall follow the provisions of WAC 246-869-250.

**WSR 96-11-113  
EMERGENCY RULES  
INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**

[Filed May 20, 1996, 4:19 p.m., effective June 1, 1996]

Date of Adoption: May 14, 1996.

Purpose: In relation to projects on the FY 1997 recommended list of projects for the Washington wildlife and recreation program (WWRP), provide option for development cost waiver of retroactivity. Without amendment, the standard rule would prohibit reimbursement for certain local government expenditures in 1996-97.

Citation of Existing Rules Affected by this Order: Amending WAC 286-13-085(2).

Statutory Authority for Adoption: RCW 43.98A.060(1), 43.98A.070(5).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The effective date of a permanent WAC change misses most of the summer's construction and fund-raising season, emergency rule adoption is needed to ensure the relief provided can be used this year by affected local government entities, per IAC Resolution #96-08.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: June 1, 1996.

May 15, 1996  
Laura E. Johnson  
Director

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-13-085 Retroactive and increased costs.** See WAC 286-04-010 for definition of terms for the following section.

(1) Retroactive land acquisition costs.

The director may grant a waiver of retroactivity whenever an applicant asserts, in writing, that a condition exists which may jeopardize the project. When evidence warrants, the director may grant the applicant permission to proceed by issuing the written waiver. This waiver of retroactivity will not be construed as an approval of the proposed project. If the project is subsequently approved, however, the costs incurred will be eligible for assistance. If the project is to remain eligible for grant support from federal funds, the director shall not authorize a waiver of retroactivity to the applicant until the federal agency administering the federal funds has issued its own waiver of retroactivity as provided under its rules and regulations.

(2) Retroactive development costs. The only retroactive development costs eligible for reimbursement consideration are preliminary expenses (e.g., engineering costs).

However, solely in respect to WWRP projects on LEAP Capital Document 5, the director is authorized to grant a waiver of retroactivity which establishes eligibility for future reimbursement of all appropriate development costs. Such applicants' retroactivity requests must be in writing, and provide sufficient justification. Reimbursement of expenditures is subject to the provisions of WAC 286-13-070. This authority shall be effective until the execution of a project agreement or June 30, 1997, whichever occurs first.

(3) Cost increases.

(a) Cost increases for approved projects may be granted by the committee if financial resources are available.

(b) Each cost increase request will be considered on its merits.

(c) If an approved project recommended for federal funding is denied by the appropriate federal agency, the sponsor may request that the committee increase assistance by an equivalent amount; such requests shall be considered on their merits.

(d) The director may approve a sponsor's development project cost increase request so long as the total request does not exceed ten percent of the project's approved initial cost. The director may also approve land acquisition cost increase requests so long as the total request for each parcel does not exceed ten percent of both the committee approved initial cost and the appraised and reviewed value of each parcel for which a cost increase is requested.

**WSR 96-11-117  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-49—Filed May 21, 1996, 1:52 p.m., effective June 1, 1996, 12:01 a.m.]

Date of Adoption: May 21, 1996.

Purpose: Commercial regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-03000J; and amending WAC 220-52-030.

Statutory Authority for Adoption: RCW 75.08.080.

Under 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: Adequate resource is available for commercial harvest.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: June 1, 1996, 12:01 a.m.

May 21, 1996

Edward P. Manary  
for Robert Turner  
Director

**NEW SECTION**

**WAC 220-52-03000J Razor clams.** Notwithstanding the provisions of WAC 220-52-030, effective immediately until further notice, it is unlawful to dig for or possess razor clams taken for commercial purposes from Washington waters except as provided for in this section:

- (1) Those waters and beaches of Razor Clam Area Number One lying south of the Willapa Bay Ship Channel, west of Ellen Sands, and northerly of a line of boundary markers consisting of posts and flagging near the northern tip of Leadbetter Point, are open from 12:01 a.m. June 1, 1996 through 11:59 p.m. July 19, 1996.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 19, 1996:

WAC 220-52-03000J Razor clams.

**WSR 96-11-118  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 96-51—Filed May 21, 1996, 1:55 p.m., effective June 1, 1996, 12:01 a.m.]

Date of Adoption: May 21, 1996.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-27000B; and amending WAC 220-57-270.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The allowable recreational harvest of spring-summer chinook salmon will be exceeded in the Hoh River without additional restrictions to reduce the harvest.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: June 1, 1996, 12:01 a.m.

March 21, 1996

Judith Freeman

Deputy

for Robert Turner

Director

**NEW SECTION**

**WAC 220-57-27000B Hoh River.** Notwithstanding the provisions of WAC 220-57-270, effective June 1, 1996 through August 31, 1996:

- (1) the Hoh River is closed to fishing for salmon from 12:01 a.m. Monday to 11:59 p.m. Tuesday of each week; and

- (2) special daily limit for salmon taken in the Hoh River downstream from Morgan's Crossing boat launch site. The daily limit is six salmon per day not less than 12 inches in length, only one of the which may exceed 24 inches in length.

EMERGENCY

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 31, 1996:

WAC 220-57-27000B Hoh River. (96-51)

EMERGENCY

**WSR 96-11-003**  
**NOTICE OF PUBLIC MEETINGS**  
**GAMBLING COMMISSION**  
 [Memorandum—May 2, 1996]

**1996 COMMISSION MEETING SCHEDULE**  
**\*\*Please note changes\*\***

- January 11 and 12      Silverdale On The Bay/  
                                  WestCoast Hotel  
                                  3037 Bucklin Hill Road  
                                  Silverdale, WA 98310  
                                  (360) 698-1000
  - February 8 and 9      Ramada Governor House  
                                  621 Capitol Way South  
                                  Olympia, WA 98501  
                                  (360) 352-7700
  - March 14 and 15      Red Lion Inn/Yakima Valley  
                                  1507 North 1st Street  
                                  Yakima, WA 98901  
                                  (509) 248-7850
  - April 11 and 12      The Inn at Semi-ah-moo  
                                  9565 Semiahmoo Parkway  
                                  Blaine, WA 98230-9326  
                                  (360) 371-2000
  - May 9 and 10      Red Lion Inn at the Quay  
                                  100 Columbia  
                                  Vancouver, WA 98660  
                                  (360) 694-8341
  - June 13 and 14      La Conner Country Inn/  
                                  Vantage Room  
                                  107 South Second Street  
                                  La Conner, WA 98257  
                                  (360) 466-3101
  - July 11 and 12      Pasco Red Lion  
                                  2525 North 20th  
                                  Pasco, WA 99301  
                                  (509) 547-0701
  - August 8 and 9      Silverdale On The Bay/  
                                  WestCoast Hotel  
                                  3037 Bucklin Hill Road  
                                  Silverdale, WA 98310  
                                  (360) 698-1000
  - September 12 and 13      WestCoast Hotel  
                                  625 116th N.E. Boulevard  
                                  Bellevue, WA 98008  
                                  (206) 455-9444
  - October 10 and 11      Campbell's Resort  
                                  104 West Woodin  
                                  Chelan, WA 98816  
                                  (509) 682-2561
  - November 14 and 15      Cavanaugh's River Inn  
                                  North 700 Division  
                                  Spokane, WA 99202  
                                  (509) 326-5577
  - No meeting in December
- Updated March 1996  
 Contact: Susan Green, (360) 438-7654 ext. 302.

**WSR 96-11-005**  
**NOTICE OF PUBLIC MEETINGS**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**  
 [Memorandum—May 1, 1996]

- MEETING NOTICE:**      July 11, 1996  
                                  Best Western Cotton Tree Inn  
                                  2300 Market Street  
                                  Mt. Vernon, WA 98273  
                                  1:00 p.m. - 5:00 p.m.
- July 12, 1996  
                                  Best Western Cotton Tree Inn  
                                  2300 Market Street  
                                  Mt. Vernon, WA 98273  
                                  9:00 a.m. - 12:00 noon
- PUBLIC HEARING:**      July 12, 1996  
                                  Best Western Cotton Tree Inn  
                                  2300 Market Street  
                                  Mt. Vernon, WA 98273  
                                  10:00 a.m.

\*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 (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact Karen Pendleton at (360) 753-5989.

**WSR 96-11-013**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE**  
**CENTER**  
 [Memorandum—May 6, 1996]

The board of directors of the Washington State Convention and Trade Center (WSCTC) will hold a public hearing on Wednesday, May 15 from 3:00 p.m. to 5:00 p.m. in Room 213 of the Washington State Convention and Trade Center to continue to receive public comments on the draft environmental impact statement (DEIS).

This notice is issued according to chapter 140-09 WAC, Washington State Convention and Trade Center, SEPA Guidelines, WAC 140-09-130(2) and 197-11-502 (6)(a).

On April 2, 1996, the Washington State Convention and Trade Center published a notice of availability of the DEIS and notice of a public meeting according to WAC 140-09-130, 197-11-502, and 197-11-535. A public open house and hearing were held on April 24 at the Washington State Convention and Trade Center to receive comments from the public. The hearing on May 15 will provide an additional opportunity for the public to make oral comments to the board.

Comments may also be made in writing to Linda Willanger, Washington State Convention and Trade Center, 800 Convention Place, Seattle, WA 98101, or by FAX (206) 447-5399. All comments are due by May 17, 1996. Please

MISCELLANEOUS

call Linda Willanger, (206) 447-5107 for more information, or for information on obtaining a copy of the DEIS or DEIS summary.

**WSR 96-11-014**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**

[Memorandum—May 3, 1996]

**BOARD OF TRUSTEES**  
**EDMONDS COMMUNITY COLLEGE**  
**NOTICE OF MEETINGS**  
**TO MEDIA/OTHER**

The Edmonds Community College board of trustees may attend the following functions during the month of May.

- May 6, 1996\* 7:30-8:30 p.m. United States Immigration and Naturalization Ceremony and Reception  
 EdCC Main Campus  
 Triton Union Building  
 Room 202  
 20200 68th Avenue West  
 Lynnwood, WA
- May 9-11\* Washington State Trustees Association of Community and Technical Colleges Spring Convention  
 Sheraton Hotel  
 1320 Broadway  
 Tacoma, WA
- May 13, 1996\* 5:30-7:30 p.m. Articulation Council Banquet  
 EdCC Main Campus  
 Culinary Connections  
 Brier Hall 105  
 20122 68th Avenue West  
 Lynnwood, WA 98036
- May 16, 1996\* 2:45 p.m. Reception for Tenured and Permanent Status Faculty  
 Sno-King Building 209 and 210A  
 6600 196th S.W.  
 Lynnwood, WA 98036
- May 16, 1996 4 p.m. EdCC Board of Trustees Meeting  
 Sno-King Building  
 Boardroom 103  
 6600 196th S.W.  
 Lynnwood, WA 98036
- May 17, 1996\* 3-5 p.m. Campus Wide Budget Meeting  
 EdCC Main Campus  
 Mountlake Terrace Hall 128  
 20124 68th Avenue West  
 Lynnwood, WA 98036
- May 17, 1996\* 6:30 p.m. Salute to the Stars Reception and Banquet  
 EdCC Main Campus  
 Triton Union Building 202  
 20200 68th Avenue West  
 Lynnwood, WA 98036
- May 23, 1996\* 4-6 p.m. Reception for Vaughn Sherman  
 EdCC Main Campus

Miscellaneous

Triton Union Building 202  
 20200 68th Avenue West  
 Lynnwood, WA 98036

May 29, 1996\* 5-7 p.m. Reception for Jack Oharah  
 Battelle  
 4000 N.E. 41st Street  
 Seattle, WA

\*These events are being scheduled as special meetings where no action will be taken.

**WSR 96-11-030**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—May 3, 1996]

**MEETING NOTICE FOR MAY 1996**  
**TRANSPORTATION IMPROVEMENT BOARD**  
**OLYMPIA, WASHINGTON 98504-0901**

Legislative Subcommittee, 4:00 p.m. - 5:00 p.m., Thursday, May 23, 1996, at the WestCoast Wenatchee Hotel, 201 North Wenatchee Avenue, Wenatchee.

Increase Subcommittee, 5:00 p.m. - 6:00 p.m., Thursday, May 23, 1996, at the WestCoast Wenatchee Hotel.

Work Session, 7:00 p.m., Thursday, May 23, 1996, at the WestCoast Wenatchee Hotel.

Board Meeting, 9:00 a.m., Friday, May 24, 1996, at the WestCoast Wenatchee Hotel.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300, by May 14, 1996.

The next scheduled meeting is June 28, 1996, in Seattle. A notice with further detail of the June meeting will be mailed June 7, 1996.

**WSR 96-11-031**  
**ATTORNEY GENERAL'S OFFICE**

[Filed May 6, 1996, 3:45 p.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 June 12, 1996. 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 June 12, 1996, 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 (360) 753-4114, or by writing to the Solicitor General, Office of the Attorney General, 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 seek public input on the following opinion request(s).

96-04-08 Request by Jeremy Randolph  
Prosecuting Attorney for Lewis County

1. Must land patent documents be recorded, or may they be refused, and under what circumstances?
2. Must non-statutory abatement documents be recorded, or may they be refused, and under what circumstances?

96-05-01 Request by Ralph Munro  
Secretary of State

1. May election officials in the state of Washington accept the FPCA as an application for permanent voter registration pursuant to state law?
2. If the answer to question one is in the affirmative, is this acceptance discretionary or mandatory?
3. If the answer to question one is in the affirmative, does this form constitute a request for ongoing absentee status under RCW 29.36.013?
4. Does any written request for voter registration that contains the elements specified by RCW 29.07.005 constitute a valid voter registration application? Does the answer to this question depend on whether the applicant signs the oath specified in RCW 29.07.080 or another oath containing substantially the same information?

**WSR 96-11-048**  
**DEPARTMENT OF AGRICULTURE**  
(Wine Commission)  
[Filed May 8, 1996, 4:02 p.m.]

**NOTICE OF REFERENDUM RESULTS**  
**WASHINGTON STATE WINE COMMISSION**

Chapter 66.24 RCW, requires the Department of Agriculture to conduct a referendum prior to July 1, 1996, to determine whether the vinifera grape growers and the wine producers in the state desire to continue participation in the Washington State Wine Commission after that date.

The referendum was conducted from February 13 to March 8, 1996. The following is the results of the referendum:

Vinifera Grape Growers	93	
In favor	77	8.28 percent
Opposed	16	17.2 percent
Wine Producers	56	
In favor	40	71.4 percent
Opposed	16	28.6 percent

Approval to continue participation by wine producers and grape growers in the commission is signified when approved by a majority of those voting. The vinifera grape growers and the wine producers have assented to participating in the Wine Commission beyond July 1, 1996.

Signed in Olympia, Washington this 7th day of May, 1996.  
Walter Swenson  
Agricultural Programs Administrator

**WSR 96-11-050**  
**NOTICE OF PUBLIC MEETINGS**  
**SEATTLE COMMUNITY COLLEGES**  
[Memorandum—May 6, 1996]

The Seattle Community College District board of trustees will meet at 5:30 p.m., prior to 6:00 p.m., which is the time of their regular meeting, on Tuesday, May 7, 1996.

The meeting will be held at the Maritime Training Center, 4455 Shilshole Avenue N.W., in Seattle, WA 98107.

**WSR 96-11-053**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
[Memorandum—May 8, 1996]

A regular meeting of the board of directors of the Washington State Convention and Trade Center (WSCTC) will be held on Wednesday, May 15 from 1:30-2:50 p.m. in Room 214 of the Convention Center, 800 Convention Place, Seattle, Washington.

A public hearing for the proposed Washington State Convention and Trade Center expansion project will also be held on Wednesday, May 15 from 3:00-5:00 p.m. in Room 213 of the Convention Center.

The Washington State Convention and Trade Center Design Committee will meet on Wednesday, May 22 from 10 a.m. - 12 noon in Room 310 of the Convention Center.

If you have any questions regarding these meetings, please call 447-5000.

**WSR 96-11-064**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
[Memorandum—May 16, 1996]

Board of Trustees Meeting  
May 16, 1996  
Sno-King Building  
Boardroom 103  
4:00 - 5:30

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

MISCELLANEOUS

WSR 96-11-065
RULES COORDINATOR
SHORELINE COMMUNITY COLLEGE

[Filed May 10, 1996, 10:08 a.m.]

In accordance with RCW 34.05.310, please be advised that Dr. James Perez, Vice-President for Student Services, will serve as the agency rules coordinator for Shoreline Community College. His mailing address and phone number are as follows:

Dr. James Perez
Vice-President for Student Services
Shoreline Community College
16101 Greenwood Avenue North
Seattle, WA 98133
Phone (206) 546-4641

WSR 96-11-087
RULES OF COURT
SUPREME COURT

[May 9, 1996]

IN THE MATTER OF THE ADOPTION ) ORDER
OF THE AMENDMENT TO RAP 18.13 ) NO. 25700-A-578

The Attorney General and the Washington State Bar Association having recommended the adoption of the proposed amendment to RAP 18.13, and the Supreme Court Domestic Relations Commission having amended the rule. The Court approves the proposed amendment for publication; Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(f), the proposed amendment as attached hereto is to be published for comment in the Washington Reports in January 1997.

(b) The purpose statement as required by GR 9(d), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court, P.O. Box 40929, Olympia, Washington 98504-0929, no later than April 30, 1997.

DATED at Olympia, Washington this 9th day of May, 1996.

Durham, C.J.

CHIEF JUSTICE

PROPOSED AMENDMENTS TO

RULES OF APPELLATE PROCEDURE (RAP)

RAP 18.13 - ACCELERATED REVIEW OF DISPOSITIONS
IN JUVENILE OFFENSE, JUVENILE DEPENDENCY AND
TERMINATION OF PARENTAL PROCEEDINGS

(a) Generally. A disposition in a juvenile offense proceeding which is beyond the standard range for that offense, juvenile dependency and termination of parental rights, may shall be reviewed in the manner provided in the rules for other decisions or by accelerated review as provided by this rule.

(b) Accelerated Review by Motion. A party seeking The accelerated review of the disposition shall be done so by motion. The motion must include (1) the name of the party

filing the motion; (2) the offense in a juvenile offense proceeding or the issues in a juvenile dependency or termination of parental rights; (3) the disposition of the trial court; (4) the standard range for the offense, as may be appropriate; (5) a statement of the disposition urged by the moving party; (6) copies of the clerk's papers and a written verbatim report of those portions of the disposition proceeding which are material to the motion; (7) an argument for the relief the party seeks; and (8) a statement of any other issues to be decided in the review proceeding.

(c) Motion Procedure Controls. The motion procedure, including a party's response, is governed by Title 17 rule.

(d) Accelerated Review of Other Issues. The decision of issues other than those relating to the juvenile offense disposition may be accelerated only pursuant to rules 18.8 and 18.12.

(e) Supreme Court Review. A decision by the Court of Appeals on accelerated review that relates only to a juvenile offense disposition is subject to review by the Supreme Court only by a motion for discretionary review on the terms and in the manner provided in rule 13.5 (a), (b), and (c).

(f) Schedule. The accelerated review shall include a schedule for filing the record on review, and briefs, and setting oral argument.

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

WSR 96-11-088
RULES OF COURT
SUPREME COURT

[May 9, 1996]

IN THE MATTER OF THE ADOPTION ) ORDER
OF THE AMENDMENTS TO CrRLJ 3.2 )
(m) AND (n) AND IRLJ 6.2(d) ) NO. 25700-A-579

The District and Municipal Court Judges' Association having recommended the adoption of the proposed amendments to CrRLJ 3.2 (m) and (n) and IRLJ 6.2(d). The Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published expeditiously and become effective June 5, 1996.

DATED at Olympia, Washington this 9th day of May, 1996.

Durham, C.J.

Dolliver, J.

Alexander, J.

Guy, J.

Madsen, J.

MISCELLANEOUS

Smith, J.

Sanders, J.

Johnson, J.

Talmadge, J.

RULE 3.2 RELEASE OF ACCUSED

(m) Bail in Criminal Traffic Offense Cases—Mandatory Appearance. When required to reasonably assure appearance in court, bail for a person arrested for the following offenses or comparable ordinances shall be the amount listed in this rule, unless all courts of limited jurisdiction within a county have adopted a uniform local rule. The court for good cause recited in a written order may set a different amount. Forfeiture of bail shall not constitute a final disposition for the following offenses or comparable ordinances without a written order of the court showing the reasons. The order may be a simple docket entry. If the court allows forfeiture of bail, it may accept the bail as full payment including all statutory assessments.

- |  |                           |
|--|---------------------------|
| 1. Driving while <del>intoxicated</del> <u>under the influence</u> ; physical control (RCW 46.61.502; 46.52.100; 46.61.504)            | Bail<br>\$500             |
| 2. Driving while <del>intoxicated</del> <u>under the influence</u> —nonhighway vehicle or snowmobile (RCW 46.09.-120(2); 46.10.090(2)) | \$500                     |
| 3. Operating nonhighway vehicle or snowmobile so as to endanger human life, etc. (RCW 46.09.130; 46.10.130)                            | \$500                     |
| 4. No valid driver's license ( <u>without identification</u> ) (RCW 46.20.021)   | <del>\$100</del><br>\$475 |
| 5. Unlawful possession or use of a driver's license (RCW 46.20.336)  | \$100                     |
| 6. Driving while license suspended or revoked in the first, second and third degrees (RCW 46.20.-342)                                  | \$500                     |
| 7. Violating occupational license restrictions (RCW 46.20.410)   | \$200                     |
| 8. Financial responsibility suspension (RCW 46.29.-610, .620)  | \$100                     |
| 9. Transporting dangerous articles (RCW 46.48.-175)  | \$500                     |
| 10. Unattended hit and run (RCW 46.52.010)   | \$250                     |
| 11. Attended hit and run (RCW 46.52.020)   | \$500                     |
| 12. Reports of repairs, concealing evidence (RCW 46.52.090)  | \$500                     |
| 13. Confidentiality of driving records (RCW 46.52.-130)  | \$500                     |
| 14. Failure to obey police officer, flagger, or fire fighter (RCW 46.61.015)   | \$250                     |
| 15. Failure to cooperate with or give information to police officer (RCW 46.61.020)  | \$100                     |
| 16. Failure to stop and give information (RCW 46.61.-022)  | \$100                     |
| 17. Reckless driving (RCW 46.61.500)   | \$500                     |
| 18. Racing (RCW 46.61.530)   | \$500                     |
| 19. Leaving children unattended (RCW 46.61.685)  | \$250                     |
| 20. Failure to respond or appear (RCW 46.64.020)   | \$250                     |
| 21. Unfair motor vehicle business practices (RCW 46.70.170)  | \$250                     |

- |   |              |
|---|--------------|
| 22. Unlawful operation of for hire vehicles (RCW 46.72.100) | \$250        |
| 23. Motor vehicle wreckers (RCW 46.80.170)                  | \$500        |
| 24. Driving training schools (RCW 46.82.390)                | \$250        |
| 25. <u>First Degree Negligent Driving (RCW 46.61.-525)</u>  | <u>\$250</u> |

~~(n) Negligent Driving Cases. Bail shall be set by each local court. Forfeiture of bail may, in the discretion of the court, constitute a final disposition. (Reserved.)~~

RULE 6.2 MONETARY PENALTY  
SCHEDULE FOR INFRACTIONS

(d) Penalty Schedule. The following infractions shall have the penalty listed, not including statutory assessments.

	Base Penalty
(l) Traffic Infractions	
<u>Second Degree Negligent Driving</u>	<u>\$250</u>
Wrong way on freeway (RCW 46.61.150)	\$175
Wrong way on freeway access (RCW 46.61.155)	\$80
Backing on limited access highway (RCW 46.61.605)	\$80
Spilling or failure to secure load (RCW 46.61.655)	\$80
Throwing or depositing debris on highway (RCW 46.61.645)	\$80
Disobeying school patrol (RCW 46.61.385)	\$80
Passing stopped school bus (with red lights flashing) (RCW 46.61.370)	\$80
Violation of posted road restriction (RCW 46.44.080; RCW 46.44.105(4))	\$175
Switching license plates, loan of license or use of another's (RCW 46.16.240)	\$80
altering or using altered license plates (RCW 46.16.240)	\$80
Operator's Licenses (RCW 46.20)	
<u>No Valid Driver's License (With Identification)</u>	<u>\$250</u>
All <u>Other</u> RCW 46.20 infractions	\$35
Vehicle Licenses (RCW 46.16)	
Expired Vehicle License (RCW 46.16.010)	
Two months or less	\$35
Over 2 months	\$80
Speeding (RCW 46.61.400) if speed limit is over 40 m.p.h.	
1-5 m.p.h. over limit	\$20
6-10 m.p.h. over limit	\$30
11-15 m.p.h. over limit	\$45
16-20 m.p.h. over limit	\$60
21-25 m.p.h. over limit	\$75
26-30 m.p.h. over limit	\$95
31-35 m.p.h. over limit	\$120
36-40 m.p.h. over limit	\$145
Over 40 m.p.h. over limit	\$175

MISCELLANEOUS

<b>Speeding if speed limit is 40 m.p.h. or less</b>			
1-5 m.p.h. over limit	\$30		
6-10 m.p.h. over limit	\$35		
11-15 m.p.h. over limit	\$50		
16-20 m.p.h. over limit	\$70		
21-25 m.p.h. over limit	\$95		
26-30 m.p.h. over limit	\$120		
31-35 m.p.h. over limit	\$145		
Over 35 m.p.h. over limit	\$175		
<b>Speed Too Fast for Conditions (RCW 46.61.400(1))</b>	\$35		
<b>Rules of the Road</b>			
Failure to stop (RCW 46.61.050, .210)	\$35		
Failure to yield the right of way (RCW 46.61.180, .190, .205, .210, .235, .300, .365)	\$35		
Following too close (RCW 46.61.145, .635)	\$35		
Failure to signal (RCW 46.61.310)	\$35		
Improper lane usage or travel (RCW 46.61.140)	\$35		
Impeding traffic (RCW 46.61.425)	\$35		
Improper passing (RCW 46.61.110, .115, .120, .125, .130)	\$35		
Prohibited and improper turn (RCW 46.61.290, .295, .305)	\$35		
Crossing double yellow line left of center line (RCW 46.61.100, .130, .140)	\$35		
Operating with obstructed vision (RCW 46.61.615)	\$35		
Wrong way on one-way street (RCW 46.61.135)	\$35		
Failure to comply with restrictive signs (RCW 46.61.050)	\$35		
<b>Accident</b>			
If an accident occurs in conjunction with any of the listed rules-of-the-road infractions or speed too fast for conditions, the penalty for the infraction shall be:	\$60		
<b>Equipment (RCW 46.37)</b>			
Illegal use of emergency equipment (RCW 46.-37.190)	\$80		
Defective or modified exhaust systems, mufflers, prevention of noise and smoke (RCW 46.37.390 (1) and (3))	\$40		
First offense (the penalty may be waived upon proof to the court of compliance)	\$60		
Second offense within 1 year of first offense	\$80		
Third and subsequent offenses within 1 year of first offense	\$35		
Any other equipment infraction (RCW 46.37.-010)	\$35		
<b>Motorcycles</b>			
Any infraction relating specifically to motor cycles (including no valid endorsement, RCW 46.-20.500)	\$35		
<b>Parking</b>			
Illegal parking on roadway (RCW 46.61.560)	\$30		
Any other parking infraction (not defined by city or county ordinance)	\$20		
<b>Pedestrians</b>			
Any infraction regarding pedestrians (not defined by city or county ordinance)	\$20		
<b>Bicycles</b>			
Any infraction regarding bicycles	\$25		
<b>Load Violations</b>			
(all under RCW 46.44, except over license capacity) (see RCW 46.16)			
Over legal—tires, wheelbase (RCW 46.44.105(1))			
(First offense)	\$65		
(Second offense)	\$95		
(Third offense)	\$110		
In addition to the above (RCW 46.44.105(2)) 3c per excess pound			
Over license capacity (RCW 46.16.145)			
(First offense)	\$50		
(Second offense)	\$95		
(Third offense)	\$110		
Violation of special permit	\$60		
Failure to obtain special permit	\$60		
Failure to submit to being weighed	\$60		
Illegal vehicle combination (RCW 46.44.036)	\$60		
Illegally transporting mobile home	\$65		
Any other infraction defined in RCW 46.44	\$45		
<b>Violation of Federal Motor Carrier Safety Regulations (RCW 46.32.010)</b>			
Logbook/Medical Certificate	\$62		
Equipment/All Others	\$35		
<b>Private Carrier (RCW 46.73)</b>			
Failure to display valid medical exam	\$62		
Violation of daily log book	\$62		
Driver not out of service	\$62		
Driver out of service	\$88		
<b>Off-Road Vehicles (ATV's) (RCW 46.09)</b>			
Any RCW 46.09 infraction	\$40		
<b>Snowmobiles (RCW 46.10)</b>			
Any RCW 46.10 infraction	\$40		
Failure to respond to notice of infraction or failure to pay penalty (RCW 46.63.110(3))	\$25		
Failure to provide proof of motor vehicle insurance (RCW 46.30.020)	\$250		
<b>(2) Commercial Vehicle Infractions</b>			
Defective Equipment/Driver Safety (auto transp.) (WAC 480-30-095)	\$35		
Commercial Vehicle License (auto transp.) (WAC 480-30-095(1))	\$35		
Defective Equipment/Driver Safety (charter/excursion bus) (WAC 480-40-075)	\$35		
Commercial Vehicle License (charter/excursion bus) (WAC 480-40-075(1))	\$35		
Defective Equipment/Driver Safety (solid waste transp.) (WAC 480-70-400)	\$35		
Commercial Vehicle License (solid waste transp.) (WAC 480-70-400(1))	\$35		
Failure to Have Proof of Insurance (RCW 81.80.190)	\$250		

MISCELLANEOUS

Defective Equipment/Driver Safety (WAC 480-12-180)	\$35	aries—Internal Combustion Engines Prohibited (WAC 352-32-155)	
Commercial Vehicle License (WAC 480-12-180(1))	\$35	Lakes Located Partially Within State Park Boundaries—Internal Combustion Engines Prohibited (WAC 352-32-157)	\$35
Defective Equipment/Driver Safety (limousine) (WAC 480-35-090)	\$35	Solicitation (WAC 352-32-195)	\$60
Commercial Vehicle License (limousine) (WAC 480-35-090(1))	\$35	Intoxication in State Park Areas (WAC 352-32-220)	\$135
(3) Parks and Recreation Infractions		Food and Beverage Containers on Swimming Beaches (WAC 532-32-230)	\$35
Display of Snowmobile Registration Number, Decals, and Validation Tabs (WAC 308-94-070)	\$48	Use of Metal Detectors in State Parks (WAC 352-32-235)	\$35
Off-Road Vehicle Traffic Prohibited (WAC 332-52-030(4))	\$35	Self-Registration (WAC 352-32-255)	\$60
Travel Off Road or Off Trail (WAC 332-52-030(4)(c))	\$35	Sno-Park Permit (WAC 352-32-260)	\$35
Spark-Arresting Muffler Required (WAC 332-52-030(4)(h))	\$35	Sno-Park Permit Display (WAC 352-32-265)	\$35
Yield Right of Way to:		Vehicular Traffic—Where Permitted—Generally (WAC 352-37-030)	\$60
Log Hauling and Gravel Trucks (WAC 332-52-030(4)(1))	\$35	Equestrian Traffic (WAC 352-37-080)	\$35
Animal-Drawn Vehicles/Persons Riding Animals (WAC 332-52-030(4)(1))	\$35	Pedestrians To Be Granted Right of Way (WAC 352-37-090)	\$35
Following Closer Than 150 Feet (WAC 332-52-030(4)(m))	\$35	Beach Parking (WAC 352-37-100)	\$24
Moving Through Livestock Herd Without Direction (WAC 332-52-030(4)(o))	\$35	Overnight Parking or Camping Prohibited (WAC 352-37-110)	\$60
Parking on the Traveled Portion of the Roadway (WAC 332-52-030(4)(q))	\$30	Speed Limits (WAC 352-37-130)	\$35
Excessively Rev Vehicle Engine (WAC 332-52-030(4)(r))	\$35	(4) Boating Infractions	
Driving/Parking Vehicles (WAC 332-52-050(1))	\$35	Operating Vessel in Negligent Manner (RCW 88.12.020)	\$160
Bicycles/Motorbikes/Motorcycles on Posted Trails (WAC 332-52-050(3))	\$35	No Personal Flotation Device (PFD) on Vessel for Each Person (RCW 88.12.115(1))	\$35
Driving Motor Vehicle in Camp (WAC 332-52-050(4))	\$35	Personal Flotation Device Not the Appropriate Size (RCW 88.12.115(1))	\$35
Moorage and Use of Marine Facilities (WAC 352-12-010)	\$35	Personal Flotation Device Not Readily Accessible (RCW 88.12.115(1))	\$35
Moorage Fees (WAC 352-12-020)	\$35	Observer Required on Board Vessel (RCW 88.12-125(2))	\$35
Seasonal Permits (WAC 352-12-030)	\$35	Observer To Continuously Observe (RCW 88.12-125(2))	\$35
Use of Onshore Campsites (WAC 352-12-040)	\$35	Failure To Display Skier Down Flag (RCW 88.12-125(2))	\$35
Self-Registration (WAC 352-12-050)	\$60	Flag/Pole Not to Specifications (RCW 88.12.125(2))	\$35
Parking (WAC 352-20-010)	\$24	Observer Does Not Meet Minimum Qualifications (RCW 88.12.125(3))	\$60
Motor Vehicles on Roads and Trails (WAC 352-20-020)	\$60	Water Skier Not Wearing Personal Flotation Device (RCW 88.12.125(4))	\$60
Speed Limits (WAC 352-20-030)	\$35	Overloading of Vessel Beyond Safe Carrying Ability (RCW 88.12.135(1))	\$110
Vehicles in Snow Areas (WAC 352-20-040)	\$60	Carrying Passengers in Unsafe Manner (RCW 88.12.135(1))	\$60
Trucks and Commercial Vehicles (WAC 352-20-050)	\$35	Overpowering of Vessel Beyond Vessel's Ability To Operate Safely (RCW 88.12.135(2))	\$110
Camping (WAC 352-32-030)	\$60	Person Not Wearing Personal Flotation Device (PFD) on Personal Watercraft (RCW 88.12.145(1))	\$60
Campsite Reservation (WAC 352-32-035)	\$35	Failure To Give Accident Information to Law Enforcement (RCW 88.12.155(1))	\$110
Picnicking (WAC 352-32-040)	\$35	Motor Propelled Vessels Without Effective Muffler in Good Working Order and Constant Use (RCW 88.12.085(1))	\$35
Park Periods (Unlawful Entry) (WAC 352-32-050)	\$60	Sound Level in Excess of 90 Decibels for Engines Made Before 1/1/94 Using Stationary Test (RCW 88.12.085(1))	\$35
Park Capacities (WAC 352-32-053)	\$35	Sound level in Excess of 88 Decibels for Engines Made on or After 1/1/94 Using Stationary Test (RCW 88.12.085(1))	\$35
Peace and Quiet (WAC 352-32-056)	\$60		
Pets (WAC 352-32-060)	\$35		
Horseback Riding (WAC 352-32-070)	\$35		
Use of Nonmotorized Cycles or Similar Devices in State Parks (WAC 352-32-075)	\$35		
Swimming (WAC 352-32-080)	\$35		
Games (WAC 352-32-090)	\$35		
Disrobing (WAC 352-32-100)	\$35		
Tents, Etc., on Beaches (WAC 352-32-110)	\$35		
Lakes Located Wholly Within State Park Bound-	\$35		

MISCELLANEOUS

Sound Level in Excess of 75 Decibels Using Shore-line Test (RCW 88.12.085(3))	\$35
Removing, Altering or Modifying Muffler or Muffler System (RCW 88.12.085(7))	\$35
Manufacturing, Selling, or Offering for Sale Any Vessel Equipped With Noncomplying Muffler or Muffler System (RCW 88.12.085(8))	\$60
Vessel Exemption/Exception for Competing in Racing Events Carried on Board Operating Vessel (RCW 88.12.085(8))	\$35
Personal Flotation Devices (PFDs) (WAC 352-60-030)	\$35
Visual Distress Signals (WAC 352-60-040)	\$35
Ventilation (WAC 352-60-050)	\$35
Navigation Lights and Sound Signals (WAC 352-60-060)	\$35
Steering and Sailing (WAC 352-60-070)	\$35
Fire Extinguishing Equipment (WAC 352-60-080)	\$35
Backfire Flame Control (WAC 352-60-090)	\$35
Liquified Petroleum Gas (WAC 352-60-100)	\$35
Canadian Vessels (WAC 352-60-110)	\$35

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

**WSR 96-11-089**  
**RULES OF COURT**  
**SUPREME COURT**  
[May 9, 1996]

IN THE MATTER OF THE ADOPTION ) ORDER  
OF THE AMENDMENT TO JISCR 2 ) NO. 25700-A-580

The JIS Committee having recommended the adoption of the proposed amendments to JISCR 2, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 9th day of May, 1996.

Durham C.J.

Dolliver, J.

Alexander, J.

Guy, J.

Madsen, J.

Smith, J.

Sanders, J.

Johnson, J.

Talmadge, J.

JISCR  
RULE 2  
COMPOSITION

(a) Membership. The Judicial Information System Committee (JISC) shall be appointed by the Chief Justice. The Chief Justice will consider for appointment those individuals who have been suggested by representative groups and associations from within the judicial system but shall not be bound thereby. In addition, the Chief Justice shall consider for appointment only those individuals who have demonstrated an interest and commitment to judicial administration and to automation of judicial systems and functions. The committee shall be composed of four members from the appellate court level (Supreme Court and Court of Appeals), four members from the superior court level, four members from the courts of limited jurisdiction level, ~~and two~~ three at large members from outside the judiciary, ~~at least~~ one of whom will be a member of the Washington State Bar Association, one of whom will be a member of the Washington Association of Sheriffs and Police Chiefs and one of whom will be a member of the Washington State Association of Prosecuting Attorneys.

(b) Terms of Office. The term of membership for those who are appointed to represent specific organizations shall be for a term of 3 years with the initial term as determined by lot, staggered so as to insure that an equal number of terms expire each year. Any vacancy in the membership of the committee shall be filled in the same manner in which the original appointment was made and the term of membership shall expire on the same date as the original appointment expiration date.

(c) Operation. The Supreme Court Justice shall be the chairperson. The members of the committee shall elect a vice-chairperson from among themselves. Meetings of the committee shall be called regularly and at a minimum of four times per year at the discretion of the chair. Any members with two unexcused absences from regularly scheduled JISC meetings during any calendar year shall be requested to resign and the respective association shall appoint a successor to fulfill the unexpired term. User advisory committees shall be established for each level of court and will be representative of the users at each level. Ad hoc committees shall also be established for the purpose of monitoring specific projects undertaken by the Judicial Information System.

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

**WSR 96-11-093**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE**  
**CENTER**

[Memorandum—May 15, 1996]

Pursuant to board action on May 15, 1996, the following change was made to the board's 1996 meeting schedule.

The regular meeting originally scheduled for Wednesday, June 19, 1996, has been cancelled. Instead, a special

MISCELLANEOUS

meeting of the board will be held on Friday, June 21, 1996, from 10:30 a.m. - 2:00 p.m.

#### 1996 Board of Directors' Regular/Special Meetings

All meetings are regular meetings, with the exception of the June 21st meeting which will be a special meeting.

January 10  
February 21  
March 20  
April 17  
May 15  
June 21 (special)  
September 18  
October 16  
November 20  
December 18

#### WSR 96-11-098

##### NOTICE OF PUBLIC MEETINGS TRANSPORTATION COMMISSION

[Memorandum—March 21, 1996]

The June 1996 Washington State Transportation Commission meetings will be held at 9:00 a.m. on Tuesday, June 18, and at 9:00 a.m. on Wednesday, June 19, 1996, at the Sheridan Recreation Center, 680 Lebo Boulevard, Bremerton, WA.

The July 1996 Washington State Transportation Commission meetings will be held at 9:00 a.m. on Wednesday, July 17, and 9:00 a.m. on Thursday, July 18, 1996, at the Transportation Building, Room 1D2, Olympia, Washington.

#### WSR 96-11-109

##### NOTICE OF PUBLIC MEETINGS WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

[Memorandum—May 17, 1996]

On September 14, 1995, the Washington State Workforce Training and Education Coordinating Board adopted a 1996 meeting schedule which was provided for publication in the Washington State Register. The location of the November 14, 1996, meeting has been changed as noted below.

Tuesday, January 23, 1996  
(Department of Labor and Industries, Olympia)

Thursday, March 7, 1996  
(New Market Vocational Skills Center, Tumwater)

Thursday, May 2, 1996  
(Grays Harbor Community College, Aberdeen)

Thursday, June 13, 1996  
(J. M. Perry Technical Institute, Yakima)

Thursday, August 22, 1996  
WTECB Planning Session  
(IAM Boeing Quality Through Training, Tukwila)

Thursday, October 3, 1996  
(Batelle, Richland)

Thursday, November 14, 1996  
(Red Lion Inn at the Quay, Vancouver)

#### WSR 96-11-110

##### NOTICE OF PUBLIC MEETINGS EASTERN WASHINGTON UNIVERSITY

[Memorandum—May 20, 1996]

Eastern Washington University  
Board of Trustees  
May 24, 1996, 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 the Spokane Center Board Room.

Immediately following the board meeting, Dr. McDermott will conduct a tour of the Riverpoint facilities for board members who wish to join.

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, (509) 359-2371.

#### WSR 96-11-142

##### NOTICE OF PUBLIC MEETINGS WASHINGTON STATE LIBRARY

(Library Commission)

[Memorandum—May 20, 1996]

The Washington State Library Commission will hold the following meetings as listed below:

##### WASHINGTON STATE LIBRARY (WSL) COMMISSION DINNER BRIEFING MEETING

DATE: Monday, June 10, 1996  
TIME: 7:00 p.m.  
LOCATION: WestCoast Wenatchee Center Hotel  
201 North Wenatchee Avenue  
Wenatchee, WA  
(509) 662-4411

##### WASHINGTON STATE LIBRARY COMMISSION QUARTERLY MEETING

DATE: Tuesday, June 11, 1996  
TIME: 10:00 a.m.  
LOCATION: WestCoast Wenatchee Center Hotel  
201 North Wenatchee Avenue  
Wenatchee, WA  
(509) 664-4411

For additional information, please do not hesitate to contact Cathy M. Stussy at (360) 753-2914, FAX (360) 586-7575 or e-mail [cstussy@wln.com](mailto:cstussy@wln.com).

1



**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

**Suffixes:**

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
4-25-530	PREP	96-05-081	16-06-160	NEW-P	96-06-082	16-168-070	NEW	96-09-037
4-25-530	AMD-P	96-09-065	16-06-160	NEW-C	96-11-119	16-168-080	NEW-P	96-05-027
4-25-722	PREP	96-05-082	16-06-165	NEW-P	96-06-082	16-168-080	NEW	96-09-037
4-25-722	AMD-P	96-09-064	16-06-165	NEW-C	96-11-119	16-168-090	NEW-P	96-05-027
4-25-750	PREP	96-05-083	16-06-170	NEW-P	96-06-082	16-168-090	NEW	96-09-037
4-25-750	AMD-P	96-09-066	16-06-170	NEW-C	96-11-119	16-168-100	NEW-P	96-05-027
4-25-810	PREP	96-05-084	16-06-175	NEW-P	96-06-082	16-168-100	NEW	96-09-037
4-25-810	PREP-W	96-10-027	16-06-175	NEW-C	96-11-119	16-200-640	REP-P	96-10-071
12-18-020	PREP	96-10-041	16-06-180	NEW-P	96-06-082	16-200-650	REP-P	96-10-071
16-05-001	NEW-P	96-10-080	16-06-180	NEW-C	96-11-119	16-200-750	AMD-P	96-10-071
16-05-005	NEW-P	96-10-080	16-06-185	NEW-P	96-06-082	16-200-755	NEW-P	96-10-071
16-05-010	NEW-P	96-10-080	16-06-185	NEW-C	96-11-119	16-200-760	AMD-P	96-10-071
16-05-015	NEW-P	96-10-080	16-06-190	NEW-P	96-06-082	16-200-770	AMD-P	96-10-071
16-05-020	NEW-P	96-10-080	16-06-190	NEW-C	96-11-119	16-200-780	REP-P	96-10-071
16-05-025	NEW-P	96-10-080	16-06-195	NEW-P	96-06-082	16-200-790	AMD-P	96-10-071
16-05-030	NEW-P	96-10-080	16-06-195	NEW-C	96-11-119	16-200-795	NEW-P	96-10-071
16-05-035	NEW-P	96-10-080	16-06-200	NEW-P	96-06-082	16-200-800	REP-P	96-10-071
16-05-040	NEW-P	96-10-080	16-06-200	NEW-C	96-11-119	16-200-805	AMD-P	96-10-071
16-05-045	NEW-P	96-10-080	16-06-205	NEW-P	96-06-082	16-200-810	REP-P	96-10-071
16-06-010	REP-P	96-06-082	16-06-205	NEW-C	96-11-119	16-200-815	AMD-P	96-10-071
16-06-010	REP-C	96-11-119	16-06-210	NEW-P	96-06-082	16-200-830	AMD-P	96-10-071
16-06-020	REP-P	96-06-082	16-06-210	NEW-C	96-11-119	16-200-850	REP-P	96-10-071
16-06-020	REP-C	96-11-119	16-06-215	NEW-P	96-06-082	16-200-860	AMD-P	96-10-071
16-06-030	REP-P	96-06-082	16-06-215	NEW-C	96-11-119	16-200-865	NEW-P	96-10-071
16-06-030	REP-C	96-11-119	16-06-220	NEW-P	96-06-082	16-200-870	REP-P	96-10-071
16-06-040	REP-P	96-06-082	16-06-220	NEW-C	96-11-119	16-200-885	NEW-P	96-10-071
16-06-040	REP-C	96-11-119	16-06-225	NEW-P	96-06-082	16-200-887	NEW-P	96-10-071
16-06-050	REP-P	96-06-082	16-06-225	NEW-C	96-11-119	16-300-010	AMD	96-04-058
16-06-050	REP-C	96-11-119	16-06-230	NEW-P	96-06-082	16-304-110	AMD-P	96-09-091
16-06-060	REP-P	96-06-082	16-06-230	NEW-C	96-11-119	16-304-130	AMD-P	96-09-091
16-06-060	REP-C	96-11-119	16-06-235	NEW-P	96-06-082	16-316	PREP	96-07-085
16-06-070	REP-P	96-06-082	16-06-235	NEW-C	96-11-119	16-316	PREP	96-07-086
16-06-070	REP-C	96-11-119	16-138-010	NEW-E	96-11-001	16-316-280	AMD-P	96-07-087
16-06-080	REP-P	96-06-082	16-138-020	NEW-E	96-11-001	16-316-280	AMD-C	96-11-121
16-06-080	REP-C	96-11-119	16-138-030	NEW-E	96-11-001	16-316-315	AMD-P	96-11-120
16-06-090	REP-P	96-06-082	16-138-035	NEW-E	96-11-001	16-316-327	AMD-P	96-07-087
16-06-090	REP-C	96-11-119	16-138-040	NEW-E	96-11-001	16-316-327	AMD-C	96-11-121
16-06-100	REP-P	96-06-082	16-156	PREP	96-08-074	16-316-455	AMD-P	96-11-122
16-06-100	REP-C	96-11-119	16-168-010	NEW-P	96-05-027	16-316-474	AMD-P	96-11-124
16-06-110	REP-P	96-06-082	16-168-010	NEW	96-09-037	16-316-724	AMD-P	96-11-124
16-06-110	REP-C	96-11-119	16-168-020	NEW-P	96-05-027	16-316-921	AMD-P	96-11-123
16-06-120	REP-P	96-06-082	16-168-020	NEW	96-09-037	16-319-041	AMD-P	96-03-065
16-06-120	REP-C	96-11-119	16-168-030	NEW-P	96-05-027	16-400-040	AMD	96-11-044
16-06-130	REP-P	96-06-082	16-168-030	NEW	96-09-037	16-400-040	AMD-P	96-05-071
16-06-130	REP-C	96-11-119	16-168-040	NEW-P	96-05-027	16-400-040	AMD	96-10-060
16-06-140	REP-P	96-06-082	16-168-040	NEW	96-09-037	16-400-100	AMD-P	96-05-071
16-06-140	REP-C	96-11-119	16-168-050	NEW-P	96-05-027	16-400-100	AMD	96-10-060
16-06-150	NEW-P	96-06-082	16-168-050	NEW	96-09-037	16-400-210	AMD-P	96-05-071
16-06-150	NEW-C	96-11-119	16-168-060	NEW-P	96-05-027	16-400-210	AMD	96-10-060
16-06-155	NEW-P	96-06-082	16-168-060	NEW	96-09-037	16-409-020	PREP	96-09-090
16-06-155	NEW-C	96-11-119	16-168-070	NEW-P	96-05-027	16-409-030	PREP	96-09-090

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Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
16-409-060	PREP	96-09-090	50-20-190	DECOD	96-04-013
16-409-065	PREP	96-09-090	50-20-200	REP	96-04-013
16-473-005	NEW-E	96-10-036	50-30-005	NEW	96-03-059
16-473-010	NEW-E	96-10-036	50-30-005	DECOD	96-03-059
16-473-015	NEW-E	96-10-036	50-30-010	AMD	96-03-059
16-473-020	NEW-E	96-10-036	50-30-010	DECOD	96-03-059
16-473-025	NEW-E	96-10-036	50-30-015	NEW	96-03-059
16-473-030	NEW-E	96-10-036	50-30-015	DECOD	96-03-059
16-473-035	NEW-E	96-10-036	50-30-020	AMD	96-03-059
16-529-150	AMD	96-03-151	50-30-020	DECOD	96-03-059
16-532-010	AMD-P	96-05-086	50-30-025	NEW	96-03-059
16-532-040	PREP	96-02-082	50-30-025	DECOD	96-03-059
16-532-0402	NEW-P	96-05-086	50-30-030	AMD	96-03-059
16-532-0404	NEW-P	96-05-086	50-30-030	DECOD	96-03-059
16-532-0406	NEW-P	96-05-086	50-30-035	NEW	96-03-059
16-532-0408	NEW-P	96-05-086	50-30-035	DECOD	96-03-059
16-532-0410	NEW-P	96-05-086	50-30-040	AMD	96-03-059
16-532-0412	NEW-P	96-05-086	50-30-040	DECOD	96-03-059
16-532-0414	NEW-P	96-05-086	50-30-050	AMD	96-03-059
16-540-040	AMD	96-03-150	50-30-050	DECOD	96-03-059
16-560-06001	AMD	96-07-054	50-30-060	AMD	96-03-059
16-750	AMD-C	96-03-093	50-30-060	DECOD	96-03-059
16-750-005	AMD	96-06-030	50-30-065	NEW	96-03-059
16-750-011	AMD	96-06-030	50-30-065	DECOD	96-03-059
16-750-015	AMD	96-06-030	50-30-068	NEW	96-03-059
36-12	PREP	96-11-114	50-30-068	DECOD	96-03-059
44-10-010	AMD	96-03-155	50-30-070	AMD	96-03-059
44-10-020	NEW	96-03-155	50-30-070	DECOD	96-03-059
44-10-030	AMD	96-03-155	50-30-075	NEW	96-03-059
44-10-031	NEW	96-03-155	50-30-075	DECOD	96-03-059
44-10-040	AMD	96-03-155	50-30-080	AMD	96-03-059
44-10-050	AMD	96-03-155	50-30-080	DECOD	96-03-059
44-10-060	AMD	96-03-155	50-30-085	NEW	96-03-059
44-10-070	AMD	96-03-155	50-30-085	DECOD	96-03-059
44-10-080	AMD	96-03-155	50-30-090	AMD	96-03-059
44-10-090	AMD	96-03-155	50-30-090	DECOD	96-03-059
44-10-100	AMD	96-03-155	50-30-095	NEW	96-03-059
44-10-110	AMD	96-03-155	50-30-095	DECOD	96-03-059
44-10-120	AMD	96-03-155	50-30-100	AMD	96-03-059
44-10-130	AMD	96-03-155	50-30-100	DECOD	96-03-059
44-10-140	AMD	96-03-155	50-30-110	REP	96-03-059
44-10-150	AMD	96-03-155	50-44-020	AMD	96-04-022
44-10-160	AMD	96-03-155	50-44-025	NEW	96-04-022
44-10-165	REP	96-03-155	50-60-010	DECOD	96-04-028
44-10-170	AMD	96-03-155	50-60-020	DECOD	96-04-028
44-10-180	AMD	96-03-155	50-60-030	DECOD	96-04-028
44-10-200	AMD	96-03-155	50-60-035	DECOD	96-04-028
44-10-210	AMD	96-03-155	50-60-040	DECOD	96-04-028
44-10-220	REP	96-03-155	50-60-042	DECOD	96-04-028
44-10-221	NEW	96-03-155	50-60-045	DECOD	96-04-028
44-10-222	NEW	96-03-155	50-60-050	DECOD	96-04-028
44-10-223	NEW	96-03-155	50-60-060	DECOD	96-04-028
44-10-230	REP	96-03-155	50-60-070	DECOD	96-04-028
44-10-300	AMD	96-03-155	50-60-080	DECOD	96-04-028
44-10-310	AMD	96-03-155	50-60-08005	DECOD	96-04-028
44-10-320	REP	96-03-155	50-60-08010	DECOD	96-04-028
50-20-100	AMD	96-04-013	50-60-08015	DECOD	96-04-028
50-20-100	DECOD	96-04-013	50-60-08020	DECOD	96-04-028
50-20-110	AMD	96-04-013	50-60-08025	DECOD	96-04-028
50-20-110	DECOD	96-04-013	50-60-08030	DECOD	96-04-028
50-20-120	AMD	96-04-013	50-60-08035	DECOD	96-04-028
50-20-120	DECOD	96-04-013	50-60-08040	DECOD	96-04-028
50-20-130	AMD	96-04-013	50-60-085	DECOD	96-04-028
50-20-130	DECOD	96-04-013	50-60-090	DECOD	96-04-028
50-20-140	AMD	96-04-013	50-60-09005	DECOD	96-04-028
50-20-140	DECOD	96-04-013	50-60-09010	DECOD	96-04-028
50-20-150	AMD	96-04-013	50-60-09015	DECOD	96-04-028
50-20-150	DECOD	96-04-013	50-60-09020	DECOD	96-04-028
50-20-160	AMD	96-04-013	50-60-100	DECOD	96-04-028
50-20-160	DECOD	96-04-013	50-60-110	DECOD	96-04-028
50-20-170	REP	96-04-013	50-60-120	DECOD	96-04-028
50-20-180	DECOD	96-04-013	50-60-125	DECOD	96-04-028
50-20-190	AMD	96-04-013	50-60-130	DECOD	96-04-028
50-60-140	DECOD	96-04-028	50-60-145	DECOD	96-04-028
50-60-150	DECOD	96-04-028	50-60-160	DECOD	96-04-028
50-60-165	DECOD	96-04-028	50-60-170	DECOD	96-04-028
50-60-170	DECOD	96-04-028	50-60-190	DECOD	96-04-028
50-60-200	DECOD	96-04-028	50-60-200	DECOD	96-04-028
50-60-210	DECOD	96-04-028	50-60-210	DECOD	96-04-028
55-01-001	REP-P	96-09-102	55-01-001	REP-P	96-09-102
55-01-010	AMD-E	96-03-104	55-01-010	AMD-E	96-03-104
55-01-010	REP-P	96-09-102	55-01-010	REP-P	96-09-102
55-01-010	AMD-E	96-11-097	55-01-010	AMD-E	96-11-097
55-01-020	AMD-E	96-03-104	55-01-020	AMD-E	96-03-104
55-01-020	REP-P	96-09-102	55-01-020	REP-P	96-09-102
55-01-020	AMD-E	96-11-097	55-01-020	AMD-E	96-11-097
55-01-030	AMD-E	96-03-104	55-01-030	AMD-E	96-03-104
55-01-030	REP-P	96-09-102	55-01-030	REP-P	96-09-102
55-01-030	AMD-E	96-11-097	55-01-030	AMD-E	96-11-097
55-01-040	AMD-E	96-03-104	55-01-040	AMD-E	96-03-104
55-01-040	REP-P	96-09-102	55-01-040	REP-P	96-09-102
55-01-040	AMD-E	96-11-097	55-01-040	AMD-E	96-11-097
55-01-050	AMD-E	96-03-104	55-01-050	AMD-E	96-03-104
55-01-050	REP-P	96-09-102	55-01-050	REP-P	96-09-102
55-01-050	AMD-E	96-11-097	55-01-050	AMD-E	96-11-097
55-01-060	AMD-E	96-03-104	55-01-060	AMD-E	96-03-104
55-01-060	REP-P	96-09-102	55-01-060	REP-P	96-09-102
55-01-060	AMD-E	96-11-097	55-01-060	AMD-E	96-11-097
55-01-070	AMD-E	96-03-104	55-01-070	AMD-E	96-03-104
55-01-070	REP-P	96-09-102	55-01-070	REP-P	96-09-102
55-01-070	AMD-E	96-11-097	55-01-070	AMD-E	96-11-097
67-35-910	AMD-P	96-08-026	67-35-910	AMD-P	96-08-026
67-35-910	AMD	96-11-096	67-35-910	AMD	96-11-096
82-05-010	NEW	96-03-048	82-05-010	NEW	96-03-048
82-05-020	NEW	96-03-048	82-05-020	NEW	96-03-048
82-05-030	NEW	96-03-048	82-05-030	NEW	96-03-048
82-05-040	NEW	96-03-048	82-05-040	NEW	96-03-048
82-05-050	NEW	96-03-048	82-05-050	NEW	96-03-048
131-28-026	AMD	96-03-049	131-28-026	AMD	96-03-049
132D-120-055	PREP	96-10-016	132D-120-055	PREP	96-10-016
132N-276	PREP	96-03-101	132N-276	PREP	96-03-101
132N-276-005	AMD-P	96-07-029	132N-276-005	AMD-P	96-07-029
132N-276-010	AMD-P	96-07-029	132N-276-010	AMD-P	96-07-029
132N-276-020	AMD-P	96-07-029	132N-276-020	AMD-P	96-07-029
132N-276-030	AMD-P	96-07-029	132N-276-030	AMD-P	96-07-029
132N-276-040	AMD-P	96-07-029	132N-276-040	AMD-P	96-07-029
132N-276-050	AMD-P	96-07-029	132N-276-050	AMD-P	96-07-029
132N-276-060	AMD-P	96-07-029	132N-276-060	AMD-P	96-07-029
132N-276-070	AMD-P	96-07-029	132N-276-070	AMD-P	96-07-029
132N-276-080	AMD-P	96-07-029	132N-276-080	AMD-P	96-07-029
132N-276-090	AMD-P	96-07-029	132N-276-090	AMD-P	96-07-029
132N-276-100	AMD-P	96-07-029	132N-276-100	AMD-P	96-07-029
132N-276-110	AMD-P	96-07-029	132N-276-110	AMD-P	96-07-029
132N-276-120	AMD-P	96-07-029	132N-276-120	AMD-P	96-07-029
132N-276-130	AMD-P	96-07-029	132N-276-130	AMD-P	96-07-029
132N-276-140	AMD-P	96-07-029	132N-276-140	AMD-P	96-07-029
132N-276-150	AMD-P	96-07-029	132N-276-150	AMD-P	96-07-029
132V-11	PREP	96-09-050	132V-11	PREP	96-09-050
132V-15	PREP	96-09-050A	132V-15	PREP	96-09-050A
132V-24	PREP	96-09-050B	132V-24	PREP	96-09-050B
132V-130	PREP	96-09-050C	132V-130	PREP	96-09-050C
132Z-104-010	NEW-P	96-09-074	132Z-104-010	NEW-P	96-09-074
132Z-104-020	NEW-P	96-09-074	132Z-104-020	NEW-P	96-09-074
132Z-104-030	NEW-P	96-09-074	132Z-104-030	NEW-P	96-09-074
132Z-108-010	NEW-P	96-09-074	132Z-108-010	NEW-P	96-09-074
132Z-108-020	NEW-P	96-09-074	132Z-108-020	NEW-P	96-09-074
132Z-108-030	NEW-P	96-09-074	132Z-108-030	NEW-P	96-09-074
132Z-108-040	NEW-P	96-09-074	132Z-108-040	NEW-P	96-09-074
132Z-108-050	NEW-P	96-09-074	132Z-108-050	NEW-P	96-09-074
132Z-108-060	NEW-P	96-09-074	132Z-108-060	NEW-P	96-09-074
132Z-108-070	NEW-P	96-09-074	132Z-108-070	NEW-P	96-09-074
132Z-108-080	NEW-P	96-09-074	132Z-108-080	NEW-P	96-09-074
132Z-122-010	NEW-P	96-09-074	132Z-122-010	NEW-P	96-09-074

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
162-36-006	NEW-P	96-06-087	173-354-800	NEW-W	96-05-020	180-87-093	NEW-P	96-04-072
162-36-010	AMD-P	96-06-087	173-354-900	NEW-W	96-05-020	180-87-093	NEW	96-08-012
162-36-020	AMD-P	96-06-087	173-354-990	NEW-W	96-05-020	180-90	PREP	96-09-026
162-38	PREP	96-02-081	173-400-030	AMD-P	96-06-036	182-08-010	AMD-P	96-02-079
162-38-010	AMD-P	96-06-087	173-400-045	AMD-P	96-06-036	182-08-010	AMD	96-08-042
162-38-020	REP-P	96-06-087	173-400-070	AMD-P	96-06-036	182-08-015	NEW-P	96-02-079
162-38-030	REP-P	96-06-087	173-400-075	AMD-P	96-06-036	182-08-015	NEW	96-08-042
162-38-035	AMD-P	96-06-087	173-400-105	AMD-P	96-06-036	182-08-020	AMD-P	96-02-079
162-38-040	AMD-P	96-06-087	173-400-115	AMD-P	96-06-036	182-08-020	AMD	96-08-042
162-38-050	AMD-P	96-06-087	173-400-116	AMD-P	96-06-036	182-08-030	REP-P	96-02-079
162-38-060	AMD-P	96-06-087	173-400-141	AMD-P	96-06-036	182-08-030	REP	96-08-042
162-38-070	AMD-P	96-06-087	173-401	PREP	96-11-134	182-08-040	REP-P	96-02-079
162-38-080	AMD-P	96-06-087	173-430-040	AMD-E	96-08-041	182-08-040	REP	96-08-042
162-38-090	AMD-P	96-06-087	173-492	PREP	96-11-135	182-08-060	REP-P	96-02-079
162-38-100	AMD-P	96-06-087	173-806	PREP	96-06-018	182-08-060	REP	96-08-042
162-38-110	AMD-P	96-06-087	174-120	PREP	96-03-138	182-08-090	NEW-P	96-02-079
162-38-120	AMD-P	96-06-087	174-120-010	REP-P	96-08-066	182-08-095	NEW	96-08-042
173-09-010	AMD-P	96-11-136	174-120-015	NEW-P	96-08-066	182-08-110	REP-P	96-02-079
173-09-020	AMD-P	96-11-136	174-120-025	NEW-P	96-08-066	182-08-110	REP	96-08-042
173-09-040	NEW-P	96-11-136	174-120-030	REP-P	96-08-066	182-08-120	AMD-P	96-02-079
173-145-100	AMD-E	96-09-007	174-120-035	NEW-P	96-08-066	182-08-120	AMD	96-08-042
173-224-040	AMD	96-03-041	174-120-040	REP-P	96-08-066	182-08-160	AMD-P	96-02-079
173-224-050	AMD	96-03-041	174-120-045	NEW-P	96-08-066	182-08-160	AMD	96-08-042
173-224-070	REP	96-03-041	174-120-050	REP-P	96-08-066	182-08-165	AMD-P	96-02-079
173-224-090	AMD	96-03-041	174-120-055	NEW-P	96-08-066	182-08-165	AMD	96-08-042
173-303-515	REP-W	96-05-020	174-120-060	REP-P	96-08-066	182-08-170	REP-P	96-02-079
173-330-010	REP-W	96-05-020	174-120-065	NEW-P	96-08-066	182-08-170	REP	96-08-042
173-330-020	REP-W	96-05-020	174-120-070	REP-P	96-08-066	182-08-180	AMD-P	96-02-079
173-330-030	REP-W	96-05-020	174-120-075	NEW-P	96-08-066	182-08-180	AMD	96-08-042
173-330-040	REP-W	96-05-020	174-120-080	REP-P	96-08-066	182-08-190	AMD-P	96-02-079
173-330-050	REP-W	96-05-020	174-120-085	NEW-P	96-08-066	182-08-190	AMD	96-08-042
173-330-060	REP-W	96-05-020	174-120-090	REP-P	96-08-066	182-08-195	REP-P	96-02-079
173-330-070	REP-W	96-05-020	180-16-238	PREP	96-04-070	182-08-195	REP	96-08-042
173-330-900	REP-W	96-05-020	180-16-238	NEW-P	96-07-046	182-08-200	AMD-P	96-02-079
173-340-200	AMD	96-04-010	180-16-238	NEW	96-11-111	182-08-200	AMD	96-08-042
173-340-440	AMD	96-04-010	180-20	PREP	96-08-060	182-08-210	AMD-P	96-02-079
173-340-530	AMD	96-04-010	180-40	PREP	96-10-003	182-08-210	AMD	96-08-042
173-340-700	AMD	96-04-010	180-40-240	AMD-P	96-08-061	182-08-220	AMD-P	96-02-079
173-340-706	AMD	96-04-010	180-40-240	AMD-W	96-09-025	182-08-220	AMD	96-08-042
173-340-740	AMD	96-04-010	180-40-255	AMD-P	96-08-061	182-08-300	REP-P	96-02-079
173-340-745	AMD	96-04-010	180-40-255	AMD-W	96-09-025	182-08-300	REP	96-08-042
173-354-008	NEW-W	96-05-020	180-40-310	AMD-P	96-08-061	182-12-110	AMD-P	96-02-080
173-354-010	NEW-W	96-05-020	180-40-310	AMD-W	96-09-025	182-12-110	AMD	96-08-043
173-354-020	NEW-W	96-05-020	180-40-315	AMD-P	96-08-061	182-12-111	AMD-P	96-02-080
173-354-050	NEW-W	96-05-020	180-40-315	AMD-W	96-09-025	182-12-111	AMD	96-08-043
173-354-070	NEW-W	96-05-020	180-40-317	NEW-P	96-08-061	182-12-115	AMD-P	96-02-080
173-354-090	NEW-W	96-05-020	180-40-317	NEW-W	96-09-025	182-12-115	AMD	96-08-043
173-354-100	NEW-W	96-05-020	180-40-320	AMD-P	96-08-061	182-12-117	NEW-P	96-02-080
173-354-150	NEW-W	96-05-020	180-40-320	AMD-W	96-09-025	182-12-117	NEW	96-08-043
173-354-200	NEW-W	96-05-020	180-51-050	AMD-P	96-04-071	182-12-119	NEW-P	96-02-080
173-354-230	NEW-W	96-05-020	180-51-050	AMD-C	96-09-010	182-12-119	NEW	96-08-043
173-354-300	NEW-W	96-05-020	180-51-050	AMD	96-09-027	182-12-122	REP-P	96-02-080
173-354-320	NEW-W	96-05-020	180-75-047	AMD	96-08-022	182-12-122	REP	96-08-043
173-354-340	NEW-W	96-05-020	180-78-160	PREP	96-07-102	182-12-130	REP-P	96-02-080
173-354-360	NEW-W	96-05-020	180-79-086	AMD-P	96-04-047	182-12-130	REP	96-08-043
173-354-380	NEW-W	96-05-020	180-79-086	AMD	96-08-023	182-12-132	AMD-P	96-02-080
173-354-400	NEW-W	96-05-020	180-79-230	AMD	96-08-022	182-12-132	AMD	96-08-043
173-354-440	NEW-W	96-05-020	180-79-311	AMD-P	96-04-048	182-12-145	AMD-P	96-02-080
173-354-460	NEW-W	96-05-020	180-79-311	AMD	96-08-024	182-12-145	AMD	96-08-043
173-354-500	NEW-W	96-05-020	180-79-334	AMD-P	96-04-049	182-12-151	REP-P	96-02-080
173-354-515	NEW-W	96-05-020	180-79-334	AMD	96-08-025	182-12-151	REP	96-08-043
173-354-525	NEW-W	96-05-020	180-83-010	NEW	96-04-073	182-12-160	REP-P	96-02-080
173-354-535	NEW-W	96-05-020	180-83-020	NEW	96-04-073	182-12-160	REP	96-08-043
173-354-545	NEW-W	96-05-020	180-83-030	NEW	96-04-073	182-12-165	REP-P	96-02-080
173-354-555	NEW-W	96-05-020	180-83-040	NEW	96-04-073	182-12-165	REP	96-08-043
173-354-600	NEW-W	96-05-020	180-83-050	NEW	96-04-073	182-12-200	AMD-P	96-02-080
173-354-620	NEW-W	96-05-020	180-83-060	NEW	96-04-073	182-12-200	AMD	96-08-043
173-354-640	NEW-W	96-05-020	180-83-070	NEW	96-04-073	182-12-215	AMD-P	96-02-080
173-354-660	NEW-W	96-05-020	180-85-025	AMD-P	96-04-074	182-12-215	AMD	96-08-043
173-354-670	NEW-W	96-05-020	180-85-025	AMD	96-08-013	182-12-220	AMD-P	96-02-080
173-354-680	NEW-W	96-05-020	180-85-032	NEW-P	96-04-074	182-12-220	AMD	96-08-043
173-354-700	NEW-W	96-05-020	180-85-032	NEW	96-08-013	182-25-001	NEW-P	96-09-102
173-354-720	NEW-W	96-05-020	180-86	PREP	96-06-038	182-25-010	NEW-P	96-09-102

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182-25-030	NEW-P	96-09-102	208-08-080	NEW	96-11-035	208-472-050	RECOD	96-06-011
182-25-040	NEW-P	96-09-102	208-08-090	NEW-P	96-06-085	208-472-060	RECOD	96-06-011
182-25-050	NEW-P	96-09-102	208-08-090	NEW	96-11-035	208-472-065	RECOD	96-06-011
182-25-060	NEW-P	96-09-102	208-08-100	NEW-P	96-06-085	208-472-070	RECOD	96-06-011
182-25-070	NEW-P	96-09-102	208-08-100	NEW	96-11-035	208-472-075	RECOD	96-06-011
182-25-080	NEW-P	96-09-102	208-08-110	NEW-P	96-06-085	208-472-080	RECOD	96-06-011
182-25-090	NEW-P	96-09-102	208-08-110	NEW	96-11-035	208-480-010	RECOD	96-06-011
182-25-100	NEW-P	96-09-102	208-08-120	NEW-P	96-06-085	208-480-020	RECOD	96-06-011
182-25-105	NEW-P	96-09-102	208-08-120	NEW	96-11-035	208-480-030	RECOD	96-06-011
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184-10-140	NEW-C	96-03-033	208-08-130	NEW	96-11-035	208-480-050	RECOD	96-06-011
192-12-300	PREP	96-03-158	208-08-140	NEW-P	96-06-085	208-480-060	RECOD	96-06-011
192-12-305	PREP	96-03-158	208-08-140	NEW	96-11-035	208-480-070	RECOD	96-06-011
192-16-002	AMD-P	96-04-065	208-12-010	NEW-P	96-11-145	208-620-010	NEW	96-04-013
192-16-002	AMD	96-11-002	208-12-020	NEW-P	96-11-145	208-620-020	NEW	96-04-013
192-16-024	NEW-P	96-04-065	208-12-030	NEW-P	96-11-145	208-620-030	NEW	96-04-013
192-16-024	NEW	96-11-002	208-12-040	NEW-P	96-11-145	208-620-040	NEW	96-04-013
192-16-051	AMD-P	96-04-065	208-12-050	NEW-P	96-11-145	208-620-050	NEW	96-04-013
192-16-051	AMD	96-11-002	208-12-070	NEW-P	96-11-145	208-620-060	NEW	96-04-013
192-16-052	NEW-P	96-04-065	208-12-080	NEW-P	96-11-145	208-620-070	NEW	96-04-013
192-16-052	NEW	96-11-002	208-12-090	NEW-P	96-11-145	208-620-080	NEW	96-04-013
192-28-105	PREP	96-03-159	208-12-100	NEW-P	96-11-145	208-620-090	NEW	96-04-013
192-28-120	PREP	96-03-159	208-12-110	NEW-P	96-11-145	208-620-100	RECOD	96-04-013
192-33-001	NEW-E	96-09-004	208-12-120	NEW-P	96-11-145	208-620-110	RECOD	96-04-013
192-36-010	NEW-P	96-08-062	208-12-130	NEW-P	96-11-145	208-620-120	RECOD	96-04-013
192-36-010	NEW	96-11-141	208-418	AMD-P	96-08-076	208-620-130	RECOD	96-04-013
192-36-015	NEW-P	96-08-062	208-418-020	RECOD	96-06-011	208-620-140	RECOD	96-04-013
192-36-015	NEW	96-11-141	208-418-020	AMD-P	96-08-076	208-620-150	NEW	96-04-013
192-36-020	NEW-P	96-08-062	208-418-030	RECOD	96-06-011	208-620-160	RECOD	96-04-013
192-36-020	NEW	96-11-141	208-418-030	REP-P	96-08-076	208-620-170	RECOD	96-04-013
192-36-025	NEW-P	96-08-062	208-418-040	RECOD	96-06-011	208-620-180	NEW	96-04-013
192-36-025	NEW	96-11-141	208-418-040	AMD-P	96-08-076	208-620-190	RECOD	96-04-013
196-16-005	REP-P	96-07-052	208-418-045	RECOD	96-06-011	208-620-200	NEW	96-04-013
196-16-005	REP	96-11-086	208-418-045	AMD-P	96-08-076	208-620-210	RECOD	96-04-013
196-16-007	AMD-P	96-07-052	208-418-050	RECOD	96-06-011	208-620-220	NEW	96-04-013
196-16-007	AMD	96-11-086	208-418-050	AMD-P	96-08-076	208-630-005	RECOD	96-03-059
196-16-010	AMD-P	96-07-052	208-418-060	RECOD	96-06-011	208-630-010	RECOD	96-03-059
196-16-010	AMD	96-11-086	208-418-060	AMD-P	96-08-076	208-630-015	RECOD	96-03-059
196-16-020	AMD-P	96-07-052	208-418-070	RECOD	96-06-011	208-630-020	RECOD	96-03-059
196-16-020	AMD	96-11-086	208-418-070	AMD-P	96-08-076	208-630-025	RECOD	96-03-059
196-16-031	AMD-P	96-07-052	208-418-080	RECOD	96-06-011	208-630-030	RECOD	96-03-059
196-16-031	AMD	96-11-086	208-418-080	REP-P	96-08-076	208-630-035	RECOD	96-03-059
196-20-010	AMD-P	96-07-052	208-436-010	RECOD	96-06-011	208-630-040	RECOD	96-03-059
196-20-010	AMD	96-11-086	208-436-020	RECOD	96-06-011	208-630-050	RECOD	96-03-059
196-20-020	AMD-P	96-07-052	208-436-030	RECOD	96-06-011	208-630-060	RECOD	96-03-059
196-20-020	AMD	96-11-086	208-436-040	RECOD	96-06-011	208-630-065	RECOD	96-03-059
196-20-030	AMD-P	96-07-052	208-436-050	RECOD	96-06-011	208-630-068	RECOD	96-03-059
196-20-030	AMD	96-11-086	208-436-060	RECOD	96-06-011	208-630-070	RECOD	96-03-059
196-21-010	NEW-P	96-07-052	208-436-070	RECOD	96-06-011	208-630-075	RECOD	96-03-059
196-21-010	NEW	96-11-086	208-436-080	RECOD	96-06-011	208-630-080	RECOD	96-03-059
196-21-020	NEW-P	96-07-052	208-436-090	RECOD	96-06-011	208-630-085	RECOD	96-03-059
196-21-020	NEW	96-11-086	208-440-010	RECOD	96-06-011	208-630-090	RECOD	96-03-059
196-21-030	NEW-P	96-07-052	208-440-020	RECOD	96-06-011	208-630-095	RECOD	96-03-059
196-21-030	NEW	96-11-086	208-440-030	RECOD	96-06-011	208-630-100	RECOD	96-03-059
196-24-058	NEW-P	96-07-037	208-440-040	RECOD	96-06-011	208-660-010	RECOD	96-04-028
196-24-058	NEW	96-11-085	208-440-050	RECOD	96-06-011	208-660-020	RECOD	96-04-028
204-56	PREP	96-06-060	208-444-010	RECOD	96-06-011	208-660-030	RECOD	96-04-028
204-56-085	AMD-P	96-09-080	208-464-010	RECOD	96-06-011	208-660-035	RECOD	96-04-028
208-08-010	NEW-P	96-06-085	208-464-020	RECOD	96-06-011	208-660-040	RECOD	96-04-028
208-08-010	NEW	96-11-035	208-464-030	RECOD	96-06-011	208-660-042	RECOD	96-04-028
208-08-020	NEW-P	96-06-085	208-464-040	RECOD	96-06-011	208-660-045	RECOD	96-04-028
208-08-020	NEW	96-11-035	208-464-050	RECOD	96-06-011	208-660-050	RECOD	96-04-028
208-08-030	NEW-P	96-06-085	208-464-060	RECOD	96-06-011	208-660-060	RECOD	96-04-028
208-08-030	NEW	96-11-035	208-464-070	RECOD	96-06-011	208-660-070	RECOD	96-04-028
208-08-040	NEW-P	96-06-085	208-464-080	RECOD	96-06-011	208-660-080	RECOD	96-04-028
208-08-040	NEW	96-11-035	208-464-090	RECOD	96-06-011	208-660-08005	RECOD	96-04-028
208-08-050	NEW-P	96-06-085	208-472-010	RECOD	96-06-011	208-660-08010	RECOD	96-04-028
208-08-050	NEW	96-11-035	208-472-012	RECOD	96-06-011	208-660-08015	RECOD	96-04-028
208-08-060	NEW-P	96-06-085	208-472-015	RECOD	96-06-011	208-660-08020	RECOD	96-04-028
208-08-060	NEW	96-11-035	208-472-020	RECOD	96-06-011	208-660-08025	RECOD	96-04-028
208-08-070	NEW-P	96-06-085	208-472-025	RECOD	96-06-011	208-660-08030	RECOD	96-04-028
208-08-070	NEW	96-11-035	208-472-041	RECOD	96-06-011	208-660-08035	RECOD	96-04-028

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208-660-085	RECOD	96-04-028	220-16-320	AMD-W	96-11-084	220-56-19100Q	NEW-E	96-09-063
208-660-090	RECOD	96-04-028	220-32-05100S	NEW-E	96-04-039	220-56-192	AMD-W	96-11-084
208-660-09005	RECOD	96-04-028	220-32-05100S	REP-E	96-04-039	220-56-195	AMD-C	96-05-005
208-660-09010	RECOD	96-04-028	220-32-05500V	NEW-E	96-10-015	220-56-195	AMD	96-11-078
208-660-09015	RECOD	96-04-028	220-32-05700S	NEW-E	96-08-064	220-56-205	AMD-C	96-05-005
208-660-09020	RECOD	96-04-028	220-32-05700S	REP-E	96-08-064	220-56-205	AMD	96-11-078
208-660-100	RECOD	96-04-028	220-32-05700T	NEW-E	96-11-092	220-56-20500A	NEW-E	96-11-039
208-660-110	RECOD	96-04-028	220-32-05700T	REP-E	96-11-092	220-56-225	AMD-W	96-11-084
208-660-120	RECOD	96-04-028	220-33-01000D	NEW-E	96-05-055	220-56-235	AMD	96-05-004
208-660-125	RECOD	96-04-028	220-33-01000D	REP-E	96-05-055	220-56-240	AMD	96-05-004
208-660-130	RECOD	96-04-028	220-33-03000J	NEW-E	96-11-032	220-56-24000B	NEW-E	96-08-063
208-660-140	RECOD	96-04-028	220-33-03000J	REP-E	96-11-032	220-56-250	AMD-W	96-11-084
208-660-145	RECOD	96-04-028	220-33-04000B	NEW-E	96-04-026	220-56-28500G	NEW-E	96-06-052
208-660-150	RECOD	96-04-028	220-33-04000B	REP-E	96-04-026	220-56-28500G	REP-E	96-06-052
208-660-160	RECOD	96-04-028	220-36-021	AMD-P	96-09-104	220-56-28500H	NEW-E	96-08-063
208-660-165	RECOD	96-04-028	220-36-023	AMD-P	96-09-104	220-56-310	AMD-C	96-05-005
208-660-170	RECOD	96-04-028	220-40-021	AMD-P	96-09-104	220-56-310	AMD-W	96-11-084
208-660-190	RECOD	96-04-028	220-40-027	AMD-P	96-09-104	220-56-325	AMD	96-05-004
208-660-200	RECOD	96-04-028	220-44-030	AMD-P	96-03-154	220-56-32500E	NEW-E	96-09-049
208-660-210	RECOD	96-04-028	220-44-030	AMD	96-11-055	220-56-32500F	NEW-E	96-11-034
208-680A	PREP	96-06-084	220-44-050	AMD-P	96-03-154	220-56-32500F	REP-E	96-11-034
208-680A-010	RECOD	96-05-018	220-44-050	AMD	96-11-055	220-56-32500G	NEW-E	96-11-099
208-680A-020	RECOD	96-05-018	220-44-05000W	REP-E	96-11-094	220-56-326	NEW	96-05-004
208-680A-030	RECOD	96-05-018	220-44-05000X	NEW-E	96-11-094	220-56-330	AMD-C	96-05-005
208-680A-040	RECOD	96-05-018	220-47-304	AMD-P	96-09-105	220-56-330	AMD	96-11-078
208-680B	PREP	96-06-084	220-47-307	AMD-P	96-09-105	220-56-350	AMD-C	96-05-005
208-680B-010	RECOD	96-05-018	220-47-311	AMD-P	96-09-105	220-56-350	AMD	96-11-078
208-680B-020	RECOD	96-05-018	220-47-401	AMD-P	96-09-105	220-56-35000J	REP-E	96-08-046
208-680B-030	RECOD	96-05-018	220-47-411	AMD-P	96-09-105	220-56-35000K	NEW-E	96-08-046
208-680B-050	RECOD	96-05-018	220-47-427	NEW-P	96-09-105	220-56-35000K	REP-E	96-11-008
208-680B-070	RECOD	96-05-018	220-47-428	NEW-P	96-09-105	220-56-35000L	NEW-E	96-11-008
208-680B-080	RECOD	96-05-018	220-49-02000I	NEW-E	96-10-002	220-56-36000Q	NEW-E	96-07-051
208-680B-090	RECOD	96-05-018	220-49-02000I	REP-E	96-10-002	220-56-36000Q	REP-E	96-07-051
208-680C	PREP	96-06-084	220-52-03000J	NEW-E	96-11-117	220-56-36000Q	REP-E	96-11-038
208-680C-020	RECOD	96-05-018	220-52-03000J	REP-E	96-11-117	220-56-36000R	NEW-E	96-11-038
208-680C-030	RECOD	96-05-018	220-52-04600L	REP-E	96-02-065	220-56-36000R	REP-E	96-11-038
208-680C-040	RECOD	96-05-018	220-52-04600M	NEW-E	96-03-055	220-56-372	AMD	96-05-004
208-680C-050	RECOD	96-05-018	220-52-04600N	NEW-E	96-06-006	220-56-380	AMD-C	96-05-005
208-680D	PREP	96-06-084	220-52-06000A	NEW-E	96-10-046	220-56-380	AMD	96-11-078
208-680D-010	RECOD	96-05-018	220-52-07100Y	NEW-E	96-11-007	220-56-38000D	REP-E	96-08-046
208-680D-020	RECOD	96-05-018	220-52-07300C	REP-E	96-03-014	220-56-38000E	NEW-E	96-08-046
208-680D-030	RECOD	96-05-018	220-52-07300D	NEW-E	96-03-014	220-56-38000E	REP-E	96-11-008
208-680D-040	RECOD	96-05-018	220-52-07300D	REP-E	96-03-014	220-56-38000F	NEW-E	96-11-008
208-680D-050	RECOD	96-05-018	220-52-07300E	NEW-E	96-04-038	220-56-420	AMD-W	96-11-084
208-680D-060	RECOD	96-05-018	220-52-07300E	REP-E	96-04-038	220-57-130	AMD-C	96-05-005
208-680D-070	RECOD	96-05-018	220-52-07300F	NEW-E	96-05-019	220-57-130	AMD	96-11-078
208-680D-080	RECOD	96-05-018	220-52-07300F	REP-E	96-05-019	220-57-135	AMD-C	96-05-005
208-680E	PREP	96-06-084	220-52-07300F	REP-E	96-05-033	220-57-135	AMD	96-11-078
208-680E-011	RECOD	96-05-018	220-52-07300G	NEW-E	96-05-033	220-57-137	AMD-C	96-05-005
208-680F	PREP	96-06-084	220-52-07300G	REP-E	96-05-033	220-57-137	AMD	96-11-078
208-680F-010	RECOD	96-05-018	220-52-07300H	NEW-E	96-06-005	220-57-140	AMD-C	96-05-005
208-680F-020	RECOD	96-05-018	220-52-07300H	REP-E	96-06-005	220-57-140	AMD-W	96-11-084
208-680F-040	RECOD	96-05-018	220-52-07500A	NEW-E	96-09-048	220-57-155	AMD-C	96-05-005
208-680F-050	RECOD	96-05-018	220-55-005	AMD	96-05-004	220-57-155	AMD	96-11-078
208-680F-060	RECOD	96-05-018	220-55-010	AMD	96-05-004	220-57-160	AMD-C	96-05-005
208-680F-070	RECOD	96-05-018	220-55-050	AMD	96-05-004	220-57-160	AMD-W	96-11-084
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212-17-190	REP-E	96-11-068	220-55-075	AMD	96-05-004	220-57-16000E	NEW-E	96-11-033
212-17-195	REP-E	96-11-068	220-55-110	AMD	96-05-004	220-57-16000E	REP-E	96-11-033
212-17-200	REP-E	96-11-068	220-56-100	AMD-C	96-05-005	220-57-170	AMD-C	96-05-005
212-17-203	REP-E	96-11-068	220-56-100	AMD	96-11-078	220-57-170	AMD-W	96-11-084
212-17-205	REP-E	96-11-068	220-56-105	AMD-C	96-05-005	220-57-175	AMD-C	96-05-005
212-17-210	REP-E	96-11-068	220-56-105	AMD	96-11-078	220-57-175	AMD	96-11-078
212-17-215	AMD-E	96-11-068	220-56-10500A	NEW-E	96-11-039	220-57-17500D	NEW-E	96-08-045
212-17-21501	NEW-E	96-11-068	220-56-115	AMD-W	96-11-084	220-57-187	NEW-C	96-05-005
212-17-21503	NEW-E	96-11-068	220-56-116	AMD-W	96-11-084	220-57-187	NEW-W	96-11-084
212-17-21506	NEW-E	96-11-068	220-56-124	AMD-C	96-05-005	220-57-190	AMD-C	96-05-005
212-17-21509	NEW-E	96-11-068	220-56-124	AMD	96-11-078	220-57-190	AMD-W	96-11-084
212-17-21512	NEW-E	96-11-068	220-56-189	AMD-W	96-11-084	220-57-200	AMD-C	96-05-005
212-17-21515	NEW-E	96-11-068	220-56-190	AMD-C	96-05-005	220-57-200	AMD	96-11-078
212-17-21518	NEW-E	96-11-068	220-56-190	AMD	96-11-078	220-57-205	AMD-C	96-05-005
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220-57-215	AMD-C	96-05-005	220-57-525	AMD-C	96-05-005	222-30-075	NEW-W	96-03-067
220-57-215	AMD	96-11-078	220-57-525	AMD-W	96-11-084	222-30-100	AMD-E	96-03-009
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220-57-250	AMD-W	96-11-084	220-88A-07000C	REP-E	96-11-054	230-08-155	REP-P	96-09-057
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220-57-260	AMD-W	96-11-084	220-88A-07000D	REP-E	96-11-054	230-02-035	AMD-P	96-10-050
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220-57-270	AMD-W	96-11-084	220-88A-08000B	NEW-E	96-09-048	230-02-162	NEW	96-07-075
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220-57-27000B	REP-E	96-11-118	220-95-013	AMD-P	96-04-069	230-02-278	AMD	96-07-075
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220-57-280	AMD-W	96-11-084	220-95-022	AMD-P	96-04-069	230-02-279	NEW	96-07-075
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220-57-285	AMD-W	96-11-084	222-10-030	NEW-W	96-03-067	230-02-511	AMD	96-07-076
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220-57-300	AMD-C	96-05-005	222-10-040	NEW-C	96-05-090	230-04-024	AMD	96-07-075
220-57-300	AMD-W	96-11-084	222-10-040	NEW-S	96-09-099	230-04-040	AMD-P	96-03-077
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220-57-310	AMD	96-11-078	222-10-041	NEW-C	96-05-090	230-04-064	AMD-P	96-03-077
220-57-31000S	NEW-E	96-08-045	222-10-041	NEW-S	96-09-099	230-04-064	AMD	96-07-075
220-57-31500B	NEW-E	96-08-045	222-16-010	AMD-E	96-03-009	230-04-120	AMD-P	96-05-042
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220-57-370	AMD-C	96-05-005	222-16-085	NEW-S	96-09-099	230-08-095	AMD	96-07-075
220-57-370	AMD	96-11-078	222-16-086	NEW-C	96-04-076	230-08-105	AMD-P	96-07-072
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220-57-385	AMD	96-11-078	222-16-086	NEW-S	96-09-099	230-08-122	AMD	96-07-075
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220-57-410	AMD-W	96-11-084	222-16-100	NEW-C	96-05-090	230-08-255	AMD	96-07-075
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220-57-430	AMD-W	96-11-084	222-24-030	AMD-E	96-03-009	230-20-050	AMD-P	96-03-079
220-57-435	AMD-C	96-05-005	222-24-030	AMD-C	96-04-076	230-20-050	AMD	96-07-078
220-57-435	AMD	96-11-078	222-24-030	AMD-C	96-05-090	230-20-052	NEW-P	96-03-079
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220-57-450	AMD	96-11-078	222-30-050	AMD-E	96-03-009	230-20-055	AMD-P	96-03-080
220-57-455	AMD-C	96-05-005	222-30-050	AMD-C	96-04-076	230-20-055	AMD	96-07-076
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220-57-460	AMD-C	96-05-005	222-30-050	AMD-S	96-09-099	230-20-064	AMD	96-05-011
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220-57-465	AMD-C	96-05-005	222-30-060	AMD-C	96-04-076	230-20-064	PREP	96-11-125
220-57-465	AMD	96-11-078	222-30-060	AMD-C	96-05-090	230-20-101	AMD-P	96-07-072
220-57-473	AMD-C	96-05-005	222-30-060	AMD-S	96-09-099	230-20-103	AMD-P	96-03-079
220-57-473	AMD	96-11-078	222-30-065	NEW-E	96-03-009	230-20-103	AMD	96-07-078
220-57-480	AMD-C	96-05-005	222-30-065	NEW-C	96-04-076	230-20-104	NEW-P	96-07-072
220-57-480	AMD-W	96-11-084	222-30-065	NEW-C	96-05-090	230-20-105	NEW-P	96-07-072
220-57-495	AMD-C	96-05-005	222-30-065	NEW-S	96-09-099	230-20-106	NEW-P	96-07-072
220-57-495	AMD	96-11-078	222-30-070	AMD-E	96-03-009	230-20-107	NEW-P	96-07-072
220-57-50500Y	NEW-E	96-08-045	222-30-070	AMD-C	96-04-076	230-20-108	NEW-P	96-07-072
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230-20-240	AMD-P	96-07-072	232-28-215	REP	96-04-027	246-254-053	AMD	96-11-043
230-20-241	AMD-P	96-07-072	232-28-216	REP	96-04-027	246-254-070	AMD-P	96-07-103
230-20-242	AMD-P	96-07-072	232-28-225	REP	96-04-027	246-254-070	AMD	96-11-043
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230-20-335	AMD	96-07-077	232-28-248	AMD	96-04-027	246-254-100	AMD	96-11-043
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230-20-510	NEW	96-07-076	232-28-250	AMD-P	96-06-069	246-316-990	AMD-P	96-09-084
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230-25-040	AMD	96-07-077	232-28-252	AMD-P	96-06-071	246-327-990	AMD-P	96-09-082
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230-25-220	AMD	96-07-077	232-28-254	AMD-P	96-06-073	246-328-150	NEW-P	96-11-131
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230-25-330	AMD	96-09-071	232-28-257	AMD	96-04-027	246-328-990	NEW-P	96-11-131
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230-40-010	AMD-P	96-07-073	232-28-261	NEW-P	96-06-075	246-336-990	AMD-P	96-09-083
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230-40-055	AMD-P	96-03-080	232-28-407	REP	96-04-027	246-800	PREP-W	96-09-018
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230-46-100	AMD	96-11-073	232-28-60101	REP	96-04-027	246-806-020	REP-P	96-10-006
230-50-560	AMD-P	96-03-078	232-28-60102	REP	96-04-027	246-806-030	REP-P	96-10-006
230-50-560	AMD	96-09-072	232-28-604	REP	96-04-027	246-806-040	REP-P	96-10-006
230-50-562	NEW-P	96-03-078	232-28-60415	REP	96-04-027	246-806-060	REP-P	96-10-006
230-50-562	NEW	96-09-072	232-28-605	REP	96-04-027	246-806-070	REP-P	96-10-006
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232-12-001	AMD	96-11-079	232-28-619	AMD-C	96-05-044	246-806-085	REP-P	96-10-006
232-12-01701	NEW-P	96-06-063	232-28-619	AMD	96-11-079	246-806-090	REP-P	96-10-006
232-12-025	AMD-P	96-06-062	232-28-61900K	NEW-E	96-03-053	246-806-100	REP-P	96-10-006
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232-12-619	AMD	96-11-079	236-12-360	AMD-P	96-10-019	246-807-080	REP-P	96-10-006
232-12-61900B	NEW-E	96-10-070	236-12-361	AMD-E	96-09-006	246-807-090	REP-P	96-10-006
232-12-61900B	REP-E	96-10-070	236-12-361	AMD-P	96-10-019	246-807-100	REP-P	96-10-006
232-12-827	REP	96-04-027	236-12-362	REP-E	96-09-006	246-807-110	REP-P	96-10-006
232-12-828	NEW	96-03-084	236-12-362	REP-P	96-10-019	246-807-115	REP-P	96-10-006
232-12-829	REP-E	96-03-083	236-12-370	AMD-E	96-09-006	246-807-120	REP-P	96-10-006
232-12-829	REP	96-03-084	236-12-370	AMD-P	96-10-019	246-807-125	REP-P	96-10-006
232-12-829	REP-P	96-06-065	236-12-371	AMD-E	96-09-006	246-807-130	REP-P	96-10-006
232-12-831	REP	96-04-027	236-12-371	AMD-P	96-10-019	246-807-135	REP-P	96-10-006
232-16-080	AMD-P	96-06-066	245-02-040	PREP	96-04-059	246-807-140	REP-P	96-10-006
232-16-410	REP-P	96-06-067	245-02-040	AMD-P	96-08-090	246-807-150	REP-P	96-10-006
232-24-120	REP	96-04-027	245-02-040	AMD	96-11-133	246-807-160	REP-P	96-10-006
232-28-02203	AMD	96-04-027	246-10	PREP	96-06-048	246-807-171	REP-P	96-10-006
232-28-02204	AMD	96-04-027	246-11	PREP	96-06-048	246-807-173	REP-P	96-10-006
232-28-02205	AMD	96-04-027	246-50-001	AMD-P	96-04-082	246-807-180	REP-P	96-10-006
232-28-02210	AMD	96-04-027	246-50-001	AMD	96-09-042	246-807-190	REP-P	96-10-006
232-28-02220	AMD	96-04-027	246-50-010	AMD-P	96-04-082	246-807-200	REP-P	96-10-006
232-28-02240	AMD	96-04-027	246-50-010	AMD	96-09-042	246-807-210	REP-P	96-10-006
232-28-02250	AMD	96-04-027	246-100-042	AMD-P	96-04-078	246-807-220	REP-P	96-10-006
232-28-02270	AMD	96-04-027	246-100-042	AMD	96-11-077	246-807-230	REP-P	96-10-006
232-28-02280	AMD	96-04-027	246-100-166	AMD	96-04-079	246-807-240	REP-P	96-10-006
232-28-02290	AMD	96-04-027	246-100-218	NEW-P	96-04-077	246-807-250	REP-P	96-10-006

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-807-260	REP-P	96-10-006	246-808-550	NEW-P	96-10-006	246-917-026	REP	96-03-073
246-807-270	REP-P	96-10-006	246-808-560	NEW-P	96-10-006	246-917-030	REP	96-03-073
246-807-280	REP-P	96-10-006	246-808-565	NEW-P	96-10-006	246-917-040	REP	96-03-073
246-807-290	REP-P	96-10-006	246-808-570	NEW-P	96-10-006	246-917-050	REP	96-03-073
246-807-300	REP-P	96-10-006	246-808-575	NEW-P	96-10-006	246-917-060	REP	96-03-073
246-807-310	REP-P	96-10-006	246-808-580	NEW-P	96-10-006	246-917-070	REP	96-03-073
246-807-311	REP-P	96-10-006	246-808-585	NEW-P	96-10-006	246-917-080	REP	96-03-073
246-807-320	REP-P	96-10-006	246-808-590	NEW-P	96-10-006	246-917-090	REP	96-03-073
246-807-330	REP-P	96-10-006	246-808-600	NEW-P	96-10-006	246-917-100	REP	96-03-073
246-807-340	REP-P	96-10-006	246-808-605	NEW-P	96-10-006	246-917-110	REP	96-03-073
246-807-350	REP-P	96-10-006	246-808-610	NEW-P	96-10-006	246-917-120	REP	96-03-073
246-807-360	REP-P	96-10-006	246-808-615	NEW-P	96-10-006	246-917-121	REP	96-03-073
246-807-370	REP-P	96-10-006	246-808-620	NEW-P	96-10-006	246-917-125	REP	96-03-073
246-807-380	REP-P	96-10-006	246-808-625	NEW-P	96-10-006	246-917-126	REP	96-03-073
246-807-390	REP-P	96-10-006	246-808-630	NEW-P	96-10-006	246-917-130	REP	96-03-073
246-807-395	REP-P	96-10-006	246-808-640	NEW-P	96-10-006	246-917-135	REP	96-03-073
246-807-396	REP-P	96-10-006	246-808-650	NEW-P	96-10-006	246-917-140	REP	96-03-073
246-807-400	REP-P	96-10-006	246-808-655	NEW-P	96-10-006	246-917-150	REP	96-03-073
246-807-410	REP-P	96-10-006	246-808-660	NEW-P	96-10-006	246-917-160	REP	96-03-073
246-807-420	REP-P	96-10-006	246-808-670	NEW-P	96-10-006	246-917-170	REP	96-03-073
246-807-430	REP-P	96-10-006	246-808-680	NEW-P	96-10-006	246-917-180	REP	96-03-073
246-807-440	REP-P	96-10-006	246-808-685	NEW-P	96-10-006	246-917-190	REP	96-03-073
246-807-450	REP-P	96-10-006	246-808-690	NEW-P	96-10-006	246-917-200	REP	96-03-073
246-807-460	REP-P	96-10-006	246-808-695	NEW-P	96-10-006	246-917-210	REP	96-03-073
246-807-470	REP-P	96-10-006	246-808-700	NEW-P	96-10-006	246-917-220	REP	96-03-073
246-807-480	REP-P	96-10-006	246-808-710	NEW-P	96-10-006	246-917-300	REP	96-03-073
246-807-500	REP-P	96-10-006	246-808-720	NEW-P	96-10-006	246-917-990	REP	96-03-073
246-807-510	REP-P	96-10-006	246-808-801	NEW-P	96-10-006	246-918	AMD	96-03-073
246-807-520	REP-P	96-10-006	246-808-810	NEW-P	96-10-006	246-918-005	AMD	96-03-073
246-807-530	REP-P	96-10-006	246-808-820	NEW-P	96-10-006	246-918-006	AMD	96-03-073
246-808-001	NEW-P	96-10-006	246-808-830	NEW-P	96-10-006	246-918-007	AMD	96-03-073
246-808-010	NEW-P	96-10-006	246-808-990	NEW-P	96-10-006	246-918-008	AMD	96-03-073
246-808-015	NEW-P	96-10-006	246-810-990	AMD	96-08-069	246-918-009	AMD	96-03-073
246-808-020	NEW-P	96-10-006	246-838-010	PREP-W	96-06-028	246-918-030	AMD	96-03-073
246-808-030	NEW-P	96-10-006	246-838-130	PREP-W	96-06-028	246-918-035	AMD	96-03-073
246-808-040	NEW-P	96-10-006	246-839-120	PREP-W	96-06-028	246-918-050	AMD	96-03-073
246-808-101	NEW-P	96-10-006	246-840-910	NEW	96-05-060	246-918-070	AMD	96-03-073
246-808-105	NEW-P	96-10-006	246-840-920	NEW	96-05-060	246-918-080	AMD	96-03-073
246-808-106	NEW-P	96-10-006	246-840-930	NEW	96-05-060	246-918-085	AMD	96-03-073
246-808-115	NEW-P	96-10-006	246-840-940	NEW	96-05-060	246-918-090	AMD	96-03-073
246-808-120	NEW-P	96-10-006	246-840-950	NEW	96-05-060	246-918-095	AMD	96-03-073
246-808-130	NEW-P	96-10-006	246-840-960	NEW	96-05-060	246-918-110	AMD	96-03-073
246-808-135	NEW-P	96-10-006	246-840-970	NEW	96-05-060	246-918-120	AMD	96-03-073
246-808-140	NEW-P	96-10-006	246-840-980	NEW	96-05-060	246-918-130	AMD	96-03-073
246-808-150	NEW-P	96-10-006	246-841-405	NEW	96-06-029	246-918-140	AMD	96-03-073
246-808-155	NEW-P	96-10-006	246-841-990	AMD	96-03-051	246-918-170	AMD	96-03-073
246-808-160	NEW-P	96-10-006	246-851-080	PREP	96-11-049	246-918-180	AMD	96-03-073
246-808-165	NEW-P	96-10-006	246-851-480	PREP	96-11-049	246-918-250	AMD	96-03-073
246-808-170	NEW-P	96-10-006	246-851-490	PREP	96-11-049	246-918-260	AMD	96-03-073
246-808-180	NEW-P	96-10-006	246-851-500	PREP	96-11-049	246-918-310	AMD	96-03-073
246-808-185	NEW-P	96-10-006	246-861-040	AMD-P	96-04-080	246-918-990	AMD	96-03-073
246-808-190	NEW-P	96-10-006	246-861-040	AMD	96-11-042	246-919-010	NEW	96-03-073
246-808-201	NEW-P	96-10-006	246-869-240	REP	96-03-016	246-919-020	NEW	96-03-073
246-808-215	NEW-P	96-10-006	246-883-020	PREP	96-03-012	246-919-030	NEW	96-03-073
246-808-301	NEW-P	96-10-006	246-883-020	AMD-P	96-11-041	246-919-100	NEW	96-03-073
246-808-320	NEW-P	96-10-006	246-885-030	NEW-P	96-03-134	246-919-110	NEW	96-03-073
246-808-330	NEW-P	96-10-006	246-885-030	NEW	96-07-012	246-919-120	NEW	96-03-073
246-808-340	NEW-P	96-10-006	246-887-170	PREP	96-10-038	246-919-130	NEW	96-03-073
246-808-350	NEW-P	96-10-006	246-904	PREP	96-11-130	246-919-140	NEW	96-03-073
246-808-360	NEW-P	96-10-006	246-904-010	NEW-E	96-11-103	246-919-150	NEW	96-03-073
246-808-370	NEW-P	96-10-006	246-904-020	NEW-E	96-11-103	246-919-200	NEW	96-03-073
246-808-380	NEW-P	96-10-006	246-904-030	NEW-E	96-11-103	246-919-210	NEW	96-03-073
246-808-390	NEW-P	96-10-006	246-904-040	NEW-E	96-11-103	246-919-220	NEW	96-03-073
246-808-400	NEW-P	96-10-006	246-904-050	NEW-E	96-11-103	246-919-230	NEW	96-03-073
246-808-410	NEW-P	96-10-006	246-904-060	NEW-E	96-11-103	246-919-240	NEW	96-03-073
246-808-505	NEW-P	96-10-006	246-904-070	NEW-E	96-11-103	246-919-300	NEW	96-03-073
246-808-510	NEW-P	96-10-006	246-904-080	NEW-E	96-11-103	246-919-305	NEW	96-03-073
246-808-520	NEW-P	96-10-006	246-904-090	NEW-E	96-11-103	246-919-310	NEW	96-03-073
246-808-525	NEW-P	96-10-006	246-904-100	NEW-E	96-11-103	246-919-320	NEW	96-03-073
246-808-530	NEW-P	96-10-006	246-915-030	AMD-E	96-03-050	246-919-330	NEW	96-03-073
246-808-535	NEW-P	96-10-006	246-915-030	AMD-P	96-08-068	246-919-340	NEW	96-03-073
246-808-540	NEW-P	96-10-006	246-917-020	REP	96-03-073	246-919-350	NEW	96-03-073
246-808-545	NEW-P	96-10-006	246-917-025	REP	96-03-073	246-919-355	NEW	96-03-073

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
246-919-360	NEW	96-03-073	246-920-530	REP	96-03-073	251-12-106	NEW-C	96-07-091
246-919-365	NEW	96-03-073	246-920-540	REP	96-03-073	251-12-106	NEW	96-09-055
246-919-370	NEW	96-03-073	246-920-550	REP	96-03-073	251-12-180	AMD-P	96-04-053
246-919-380	NEW	96-03-073	246-920-560	REP	96-03-073	251-12-180	AMD-C	96-07-091
246-919-390	NEW	96-03-073	246-920-570	REP	96-03-073	251-12-180	AMD	96-09-055
246-919-395	NEW	96-03-073	246-920-580	REP	96-03-073	251-12-232	AMD-P	96-04-053
246-919-400	NEW	96-03-073	246-920-590	REP	96-03-073	251-12-232	AMD-C	96-07-091
246-919-410	NEW	96-03-073	246-920-600	REP	96-03-073	251-12-232	AMD	96-09-055
246-919-420	NEW	96-03-073	246-920-610	REP	96-03-073	251-14-110	AMD-P	96-04-053
246-919-430	NEW	96-03-073	246-920-620	REP	96-03-073	251-14-110	AMD-C	96-07-091
246-919-440	NEW	96-03-073	246-920-630	REP	96-03-073	251-14-110	AMD	96-09-055
246-919-450	NEW	96-03-073	246-920-640	REP	96-03-073	251-14-130	NEW-P	96-04-053
246-919-460	NEW	96-03-073	246-920-650	REP	96-03-073	251-14-130	NEW-C	96-07-091
246-919-470	NEW	96-03-073	246-920-660	REP	96-03-073	251-14-130	NEW	96-09-055
246-919-480	NEW	96-03-073	246-920-670	REP	96-03-073	251-17-010	AMD	96-02-072
246-919-500	NEW	96-03-073	246-920-680	REP	96-03-073	251-17-150	AMD-P	96-08-086
246-919-510	NEW	96-03-073	246-920-690	REP	96-03-073	251-17-150	AMD	96-11-061
246-919-600	NEW	96-03-073	246-920-710	REP	96-03-073	251-17-170	AMD	96-02-072
246-919-610	NEW	96-03-073	246-920-720	REP	96-03-073	251-19-105	REP-W	96-02-069
246-919-620	NEW	96-03-073	246-920-730	REP	96-03-073	251-19-105	AMD-P	96-02-071
246-919-700	NEW	96-03-073	246-920-740	REP	96-03-073	251-19-105	AMD	96-05-026
246-919-710	NEW	96-03-073	246-920-750	REP	96-03-073	251-22-116	AMD-P	96-08-081
246-919-720	NEW	96-03-073	246-920-760	REP	96-03-073	251-22-116	AMD-C	96-09-089
246-919-730	NEW	96-03-073	246-920-770	REP	96-03-073	251-22-167	AMD-P	96-08-081
246-919-740	NEW	96-03-073	246-920-780	REP	96-03-073	251-22-167	AMD-C	96-09-089
246-919-750	NEW	96-03-073	246-920-790	REP	96-03-073	251-22-195	AMD-P	96-08-081
246-919-760	NEW	96-03-073	246-924-080	AMD-P	96-02-086	251-22-195	AMD-C	96-09-089
246-919-770	NEW	96-03-073	246-924-080	AMD	96-08-007	251-22-197	REP-P	96-08-081
246-919-990	NEW	96-03-073	246-924-250	AMD-P	96-02-086	251-22-197	REP-C	96-09-089
246-920-020	REP	96-03-073	246-924-250	AMD	96-08-007	251-22-200	AMD-P	96-08-081
246-920-030	REP	96-03-073	246-924-470	AMD-P	96-02-086	251-22-200	AMD-C	96-09-089
246-920-040	REP	96-03-073	246-924-470	AMD	96-08-007	251-22-250	AMD-P	96-08-084
246-920-120	REP	96-03-073	246-924-500	NEW-P	96-02-086	251-22-250	AMD	96-11-059
246-920-130	REP	96-03-073	246-924-500	NEW	96-08-007	251-22-270	AMD-W	96-02-069
246-920-140	REP	96-03-073	246-924-990	AMD-P	96-02-085	251-22-270	AMD-P	96-08-084
246-920-150	REP	96-03-073	246-924-990	AMD	96-08-006	251-22-270	AMD	96-11-059
246-920-160	REP	96-03-073	246-976-010	AMD	96-03-052	251-22-280	AMD-P	96-08-084
246-920-170	REP	96-03-073	246-976-045	NEW	96-03-052	251-22-280	AMD	96-11-059
246-920-180	REP	96-03-073	246-976-076	PREP	96-06-049	251-22-290	AMD-P	96-08-084
246-920-190	REP	96-03-073	246-976-077	PREP	96-06-049	251-22-290	AMD	96-11-059
246-920-200	REP	96-03-073	246-976-140	PREP	96-06-049	260-12	PREP	96-03-142
246-920-210	REP	96-03-073	246-976-165	NEW	96-03-052	260-20	PREP	96-03-143
246-920-220	REP	96-03-073	246-976-181	PREP	96-06-049	260-24	PREP	96-06-086
246-920-230	REP	96-03-073	250-20-021	AMD	96-04-019	260-24-010	REP-P	96-09-097
246-920-240	REP	96-03-073	250-20-021	PREP	96-07-096	260-24-020	REP-P	96-09-097
246-920-250	REP	96-03-073	250-20-021	AMD-P	96-11-101	260-24-030	REP-P	96-09-097
246-920-260	REP	96-03-073	250-65	PREP	96-07-095	260-24-040	REP-P	96-09-097
246-920-270	REP	96-03-073	250-65-020	AMD-P	96-11-090	260-24-050	REP-P	96-09-097
246-920-280	REP	96-03-073	250-65-060	AMD-P	96-11-090	260-24-060	REP-P	96-09-097
246-920-290	REP	96-03-073	251-04-050	AMD-P	96-08-088	260-24-070	REP-P	96-09-097
246-920-300	REP	96-03-073	251-04-050	AMD	96-11-063	260-24-080	REP-P	96-09-097
246-920-310	REP	96-03-073	251-06-020	AMD-P	96-08-088	260-24-090	REP-P	96-09-097
246-920-320	REP	96-03-073	251-06-020	AMD	96-11-063	260-24-100	REP-P	96-09-097
246-920-330	REP	96-03-073	251-10-030	AMD-P	96-10-065	260-24-110	REP-P	96-09-097
246-920-340	REP	96-03-073	251-12-099	AMD-P	96-04-053	260-24-120	REP-P	96-09-097
246-920-350	REP	96-03-073	251-12-099	AMD-C	96-07-091	260-24-130	REP-P	96-09-097
246-920-360	REP	96-03-073	251-12-099	AMD	96-09-055	260-24-140	REP-P	96-09-097
246-920-370	REP	96-03-073	251-12-100	AMD-P	96-04-053	260-24-150	REP-P	96-09-097
246-920-380	REP	96-03-073	251-12-100	AMD-C	96-07-091	260-24-160	REP-P	96-09-097
246-920-390	REP	96-03-073	251-12-100	AMD	96-09-055	260-24-170	REP-P	96-09-097
246-920-400	REP	96-03-073	251-12-101	REP-P	96-04-053	260-24-180	REP-P	96-09-097
246-920-410	REP	96-03-073	251-12-101	REP-C	96-07-091	260-24-190	REP-P	96-09-097
246-920-420	REP	96-03-073	251-12-101	REP	96-09-055	260-24-200	REP-P	96-09-097
246-920-430	REP	96-03-073	251-12-102	AMD-P	96-04-053	260-24-210	REP-P	96-09-097
246-920-440	REP	96-03-073	251-12-102	AMD-C	96-07-091	260-24-220	REP-P	96-09-097
246-920-450	REP	96-03-073	251-12-102	AMD	96-09-055	260-24-230	REP-P	96-09-097
246-920-460	REP	96-03-073	251-12-104	NEW-P	96-04-053	260-24-240	REP-P	96-09-097
246-920-470	REP	96-03-073	251-12-104	NEW-C	96-07-091	260-24-250	REP-P	96-09-097
246-920-480	REP	96-03-073	251-12-104	NEW	96-09-055	260-24-260	REP-P	96-09-097
246-920-490	REP	96-03-073	251-12-105	NEW-P	96-04-053	260-24-270	REP-P	96-09-097
246-920-500	REP	96-03-073	251-12-105	NEW-C	96-07-091	260-24-280	REP-P	96-09-097
246-920-510	REP	96-03-073	251-12-105	NEW	96-09-055	260-24-290	REP-P	96-09-097
246-920-520	REP	96-03-073	251-12-106	NEW-P	96-04-053	260-24-300	REP-P	96-09-097

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
260-60-400	NEW-P	96-09-098	260-70-270	REP	96-10-001	284-02-050	AMD-P	96-04-087
260-60-410	NEW-P	96-09-098	260-70-280	REP-P	96-04-067	284-02-050	AMD	96-09-038
260-60-420	NEW-P	96-09-098	260-70-280	REP	96-10-001	284-02-060	AMD-P	96-04-087
260-60-430	NEW-P	96-09-098	260-70-290	REP-P	96-04-067	284-02-060	AMD	96-09-038
260-60-440	NEW-P	96-09-098	260-70-290	REP	96-10-001	284-02-070	AMD-P	96-04-087
260-60-450	NEW-P	96-09-098	260-70-300	REP-P	96-04-067	284-02-070	AMD	96-09-038
260-60-460	NEW-P	96-09-098	260-70-300	REP	96-10-001	284-02-080	AMD-P	96-04-087
260-60-470	NEW-P	96-09-098	260-70-500	NEW-P	96-04-067	284-02-080	AMD	96-09-038
260-70-010	REP-P	96-04-067	260-70-500	NEW	96-10-001	284-02-100	AMD-P	96-04-087
260-70-010	REP	96-10-001	260-70-510	NEW-P	96-04-067	284-02-100	AMD	96-09-038
260-70-021	REP-P	96-04-067	260-70-510	NEW	96-10-001	284-07	AMD-C	96-08-017
260-70-021	REP	96-10-001	260-70-520	NEW-P	96-04-067	284-07	AMD-C	96-09-046
260-70-025	REP-P	96-04-067	260-70-520	NEW	96-10-001	284-07	AMD-C	96-11-046
260-70-025	REP	96-10-001	260-70-530	NEW-P	96-04-067	284-07-050	AMD-P	96-05-091
260-70-026	REP-P	96-04-067	260-70-530	NEW	96-10-001	284-07-050	AMD-C	96-11-046
260-70-026	REP	96-10-001	260-70-540	NEW-P	96-04-067	284-07-070	AMD-P	96-05-091
260-70-027	REP-P	96-04-067	260-70-540	NEW	96-10-001	284-07-070	AMD-C	96-11-046
260-70-027	REP	96-10-001	260-70-550	NEW-P	96-04-067	284-10-140	NEW-C	96-03-033
260-70-028	REP-P	96-04-067	260-70-550	NEW	96-10-001	284-10-140	NEW-C	96-03-075
260-70-028	REP	96-10-001	260-70-560	NEW-P	96-04-067	284-10-140	NEW	96-04-060
260-70-029	REP-P	96-04-067	260-70-560	NEW	96-10-001	284-17-220	AMD-P	96-11-144
260-70-029	REP	96-10-001	260-70-570	NEW-P	96-04-067	284-17-230	AMD-P	96-11-144
260-70-031	REP-P	96-04-067	260-70-570	NEW	96-10-001	284-44-140	AMD-P	96-07-081
260-70-031	REP	96-10-001	260-70-580	NEW-P	96-04-067	284-44-140	AMD	96-11-004
260-70-032	REP-P	96-04-067	260-70-580	NEW	96-10-001	284-44-345	REP-P	96-05-091
260-70-032	REP	96-10-001	260-70-590	NEW-P	96-04-067	284-44-345	REP-C	96-08-017
260-70-040	REP-P	96-04-067	260-70-590	NEW	96-10-001	284-44-345	REP-C	96-09-046
260-70-040	REP	96-10-001	260-70-600	NEW-P	96-04-067	284-44-345	REP-C	96-11-046
260-70-050	REP-P	96-04-067	260-70-600	NEW	96-10-001	284-46-025	NEW-P	96-07-081
260-70-050	REP	96-10-001	260-70-610	NEW-P	96-04-067	284-46-025	NEW	96-11-004
260-70-060	REP-P	96-04-067	260-70-610	NEW	96-10-001	284-46-060	REP-P	96-05-091
260-70-060	REP	96-10-001	260-70-620	NEW-P	96-04-067	284-46-060	REP-C	96-08-017
260-70-070	REP-P	96-04-067	260-70-620	NEW	96-10-001	284-46-060	REP-C	96-09-046
260-70-070	REP	96-10-001	260-70-630	NEW-P	96-04-067	284-46-060	REP-C	96-11-046
260-70-080	REP-P	96-04-067	260-70-630	NEW	96-10-001	284-54-170	NEW-W	96-04-018
260-70-080	REP	96-10-001	260-70-640	NEW-P	96-04-067	284-58-030	AMD-P	96-07-081
260-70-090	REP-P	96-04-067	260-70-640	NEW	96-10-001	284-58-030	AMD	96-11-004
260-70-090	REP	96-10-001	260-70-650	NEW-P	96-04-067	284-58-250	AMD-P	96-07-081
260-70-100	REP-P	96-04-067	260-70-650	NEW	96-10-001	284-58-250	AMD	96-11-004
260-70-100	REP	96-10-001	260-70-660	NEW-P	96-04-067	284-66	AMD-C	96-08-016
260-70-110	REP-P	96-04-067	260-70-660	NEW	96-10-001	284-66-020	AMD-P	96-04-086
260-70-110	REP	96-10-001	260-70-670	NEW-P	96-04-067	284-66-020	AMD	96-09-047
260-70-120	REP-P	96-04-067	260-70-670	NEW	96-10-001	284-66-063	AMD-P	96-04-086
260-70-120	REP	96-10-001	260-70-680	NEW-P	96-04-067	284-66-063	AMD	96-09-047
260-70-130	REP-P	96-04-067	260-70-680	NEW	96-10-001	284-66-077	AMD-P	96-04-086
260-70-130	REP	96-10-001	260-70-690	NEW-P	96-04-067	284-66-077	AMD	96-09-047
260-70-140	REP-P	96-04-067	260-70-690	NEW	96-10-001	284-66-110	AMD-P	96-04-086
260-70-140	REP	96-10-001	260-70-700	NEW-P	96-04-067	284-66-110	AMD	96-09-047
260-70-150	REP-P	96-04-067	260-70-700	NEW	96-10-001	284-66-120	AMD-P	96-04-086
260-70-150	REP	96-10-001	260-70-710	NEW-P	96-04-067	284-66-120	AMD	96-09-047
260-70-160	REP-P	96-04-067	260-70-710	NEW	96-10-001	284-66-130	AMD-P	96-04-086
260-70-160	REP	96-10-001	260-70-720	NEW-P	96-04-067	284-66-130	AMD	96-09-047
260-70-170	REP-P	96-04-067	260-70-720	NEW	96-10-001	284-66-135	NEW-P	96-04-086
260-70-170	REP	96-10-001	260-70-730	NEW-P	96-04-067	284-66-135	NEW	96-09-047
260-70-180	REP-P	96-04-067	260-70-730	NEW	96-10-001	284-66-142	AMD-P	96-04-086
260-70-180	REP	96-10-001	275-26-010	AMD-P	96-07-090	284-66-142	AMD	96-09-047
260-70-190	REP-P	96-04-067	275-26-010	AMD	96-10-076	284-66-203	AMD-P	96-04-086
260-70-190	REP	96-10-001	275-26-074	NEW-P	96-07-090	284-66-203	AMD	96-09-047
260-70-200	REP-P	96-04-067	275-26-074	NEW	96-10-076	284-85-005	NEW-P	96-11-144
260-70-200	REP	96-10-001	275-26-076	NEW-P	96-07-090	284-85-010	NEW-P	96-11-144
260-70-210	REP-P	96-04-067	275-26-076	NEW	96-10-076	284-85-015	NEW-P	96-11-144
260-70-210	REP	96-10-001	275-26-077	NEW-P	96-07-090	284-85-030	NEW-P	96-11-144
260-70-220	REP-P	96-04-067	275-26-077	NEW	96-10-076	284-85-040	NEW-P	96-11-144
260-70-220	REP	96-10-001	275-30-020	PREP	96-10-058	284-85-045	NEW-P	96-11-144
260-70-230	REP-P	96-04-067	284-02	AMD-C	96-09-002	284-85-050	NEW-P	96-11-144
260-70-230	REP	96-10-001	284-02-010	AMD-P	96-04-087	284-85-055	NEW-P	96-11-144
260-70-240	REP-P	96-04-067	284-02-010	AMD	96-09-038	284-85-060	NEW-P	96-11-144
260-70-240	REP	96-10-001	284-02-020	AMD-P	96-04-087	284-85-070	NEW-P	96-11-144
260-70-250	REP-P	96-04-067	284-02-020	AMD	96-09-038	284-85-075	NEW-P	96-11-144
260-70-250	REP	96-10-001	284-02-030	AMD-P	96-04-087	284-85-080	NEW-P	96-11-144
260-70-260	REP-P	96-04-067	284-02-030	AMD	96-09-038	284-85-085	NEW-P	96-11-144
260-70-260	REP	96-10-001	284-02-040	AMD-P	96-04-087	284-85-090	NEW-P	96-11-144
260-70-270	REP-P	96-04-067	284-02-040	AMD	96-09-038	284-85-100	NEW-P	96-11-144

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Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
284-85-110	NEW-P	96-11-144	286-30-020	REP	96-08-044	292-100-020	NEW-E	96-03-072
284-85-900	NEW-P	96-11-144	286-30-030	AMD-P	96-04-054	292-100-030	NEW-E	96-03-072
286-04-010	AMD-P	96-04-054	286-30-030	AMD	96-08-044	292-100-040	NEW-E	96-03-072
286-04-010	AMD	96-08-044	286-35	AMD-P	96-04-054	292-100-050	NEW-E	96-03-072
286-04-030	AMD-P	96-04-054	286-35	AMD	96-08-044	292-100-060	NEW-E	96-03-072
286-04-030	AMD	96-08-044	286-35-020	REP-P	96-04-054	292-100-070	NEW-E	96-03-072
286-04-060	AMD-P	96-04-054	286-35-020	REP	96-08-044	292-100-080	NEW-E	96-03-072
286-04-060	AMD	96-08-044	286-35-030	AMD-P	96-04-054	292-100-090	NEW-E	96-03-072
286-04-070	AMD-P	96-04-054	286-35-030	AMD	96-08-044	292-100-100	NEW-E	96-03-072
286-04-070	AMD	96-08-044	286-35-040	AMD-P	96-04-054	292-100-110	NEW-E	96-03-072
286-04-080	AMD-P	96-04-054	286-35-040	AMD	96-08-044	296-04	PREP	96-10-035
286-04-080	AMD	96-08-044	286-35-050	REP-P	96-04-054	296-17	PREP	96-09-100
286-04-090	AMD-P	96-04-054	286-35-050	REP	96-08-044	296-17-420	AMD-P	96-05-064
286-04-090	AMD	96-08-044	286-35-060	AMD-P	96-04-054	296-17-420	AMD-P	96-05-065
286-13-010	AMD-P	96-04-054	286-35-060	AMD	96-08-044	296-17-440	AMD-P	96-05-064
286-13-010	AMD	96-08-044	286-35-070	REP-P	96-04-054	296-17-440	AMD-P	96-05-065
286-13-020	AMD-P	96-04-054	286-35-070	REP	96-08-044	296-17-45003	AMD-P	96-05-064
286-13-020	AMD	96-08-044	286-40-010	AMD-P	96-04-054	296-17-45003	AMD-P	96-05-065
286-13-030	AMD-P	96-04-054	286-40-010	AMD	96-08-044	296-17-501	AMD-P	96-05-064
286-13-030	AMD	96-08-044	286-40-020	AMD-P	96-04-054	296-17-501	AMD-P	96-05-065
286-13-040	AMD-P	96-04-054	286-40-020	AMD	96-08-044	296-17-502	REP-P	96-05-064
286-13-040	AMD	96-08-044	286-40-030	AMD-P	96-04-054	296-17-502	REP-P	96-05-065
286-13-045	NEW-P	96-04-054	286-40-030	AMD	96-08-044	296-17-503	AMD-P	96-05-064
286-13-045	NEW	96-08-044	292-04-270	AMD-E	96-03-092	296-17-503	AMD-P	96-05-065
286-13-060	AMD-P	96-04-054	292-06-001	NEW-P	96-04-083	296-17-505	AMD-P	96-05-064
286-13-060	AMD	96-08-044	292-06-005	NEW-P	96-04-083	296-17-505	AMD-P	96-05-065
286-13-070	AMD-P	96-04-054	292-06-010	NEW-P	96-04-083	296-17-50603	NEW-P	96-05-064
286-13-070	AMD	96-08-044	292-06-020	NEW-P	96-04-083	296-17-507	REP-P	96-05-064
286-13-080	AMD-P	96-04-054	292-06-030	NEW-P	96-04-083	296-17-507	NEW-P	96-05-065
286-13-080	AMD	96-08-044	292-06-040	NEW-P	96-04-083	296-17-50703	NEW-P	96-05-065
286-13-085	AMD-P	96-04-054	292-06-050	NEW-P	96-04-083	296-17-508	AMD-P	96-05-064
286-13-085	AMD	96-08-044	292-06-060	NEW-P	96-04-083	296-17-508	AMD-P	96-05-065
286-13-085	AMD-P	96-11-112	292-06-070	NEW-P	96-04-083	296-17-50904	REP-P	96-05-064
286-13-085	AMD-E	96-11-113	292-06-080	NEW-P	96-04-083	296-17-50904	REP-P	96-05-065
286-13-100	AMD-P	96-04-054	292-06-090	NEW-P	96-04-083	296-17-50908	NEW-P	96-05-064
286-13-100	AMD	96-08-044	292-06-100	NEW-P	96-04-083	296-17-50908	NEW-P	96-05-065
286-13-110	AMD-P	96-04-054	292-06-110	NEW-P	96-04-083	296-17-50910	NEW-P	96-05-064
286-13-110	AMD	96-08-044	292-06-130	NEW-P	96-04-083	296-17-50910	NEW-P	96-05-065
286-13-115	AMD-P	96-04-054	292-06-140	NEW-P	96-04-083	296-17-50912	NEW-P	96-05-064
286-13-115	AMD	96-08-044	292-06-160	NEW-P	96-04-083	296-17-50912	NEW-P	96-05-065
286-26-010	AMD-P	96-04-054	292-06-170	NEW-P	96-04-083	296-17-50915	NEW-P	96-05-064
286-26-010	AMD	96-08-044	292-06-190	NEW-P	96-04-083	296-17-50915	NEW-P	96-05-065
286-26-020	AMD-P	96-04-054	292-06-200	NEW-P	96-04-083	296-17-50917	NEW-P	96-05-064
286-26-020	AMD	96-08-044	292-06-210	NEW-P	96-04-083	296-17-50917	NEW-P	96-05-065
286-26-030	REP-P	96-04-054	292-06-220	NEW-P	96-04-083	296-17-510	AMD-P	96-05-064
286-26-030	REP	96-08-044	292-06-230	NEW-P	96-04-083	296-17-510	AMD-P	96-05-065
286-26-080	AMD-P	96-04-054	292-06-240	NEW-P	96-04-083	296-17-511	AMD-P	96-05-064
286-26-080	AMD	96-08-044	292-06-250	NEW-P	96-04-083	296-17-511	AMD-P	96-05-065
286-26-100	AMD-P	96-04-054	292-06-270	NEW-P	96-04-083	296-17-51101	NEW-P	96-05-064
286-26-100	AMD	96-08-044	292-06-280	NEW-P	96-04-083	296-17-51101	NEW-P	96-05-065
286-26-110	NEW-P	96-04-054	292-08-010	REP-P	96-05-006	296-17-512	AMD-P	96-05-064
286-26-110	NEW	96-08-044	292-08-020	REP-P	96-05-006	296-17-512	AMD-P	96-05-065
286-27-010	AMD-P	96-04-054	292-08-030	REP-P	96-05-006	296-17-513	AMD-P	96-05-064
286-27-010	AMD	96-08-044	292-08-040	REP-P	96-05-006	296-17-513	AMD-P	96-05-065
286-27-030	REP-P	96-04-054	292-08-050	REP-P	96-05-006	296-17-51301	NEW-P	96-05-064
286-27-030	REP	96-08-044	292-12-010	REP-P	96-05-006	296-17-51301	NEW-P	96-05-065
286-27-040	AMD-P	96-04-054	292-12-020	REP-P	96-05-006	296-17-517	AMD-P	96-05-064
286-27-040	AMD	96-08-044	292-12-030	REP-P	96-05-006	296-17-517	AMD-P	96-05-065
286-27-050	AMD-P	96-04-054	292-12-040	REP-P	96-05-006	296-17-519	AMD-P	96-05-064
286-27-050	AMD	96-08-044	292-12-050	REP-P	96-05-006	296-17-519	AMD-P	96-05-065
286-27-055	NEW-P	96-04-054	292-12-060	REP-P	96-05-006	296-17-52002	AMD-P	96-05-064
286-27-055	NEW	96-08-044	292-12-070	REP-P	96-05-006	296-17-52002	AMD-P	96-05-065
286-27-065	NEW-P	96-04-054	292-12-080	REP-P	96-05-006	296-17-52103	AMD-P	96-05-064
286-27-065	NEW	96-08-044	292-12-090	REP-P	96-05-006	296-17-52103	AMD-P	96-05-065
286-27-070	REP-P	96-04-054	292-12-110	REP-P	96-05-006	296-17-52104	AMD-P	96-05-064
286-27-070	REP	96-08-044	292-12-120	REP-P	96-05-006	296-17-52104	AMD-P	96-05-065
286-27-075	NEW-P	96-04-054	292-12-130	REP-P	96-05-006	296-17-52107	AMD-P	96-05-064
286-27-075	NEW	96-08-044	292-12-140	REP-P	96-05-006	296-17-52107	AMD-P	96-05-065
286-27-080	REP-P	96-04-054	292-12-150	REP-P	96-05-006	296-17-52110	AMD-P	96-05-064
286-27-080	REP	96-08-044	292-12-160	REP-P	96-05-006	296-17-52110	AMD-P	96-05-065
286-30-010	AMD-P	96-04-054	292-12-170	REP-P	96-05-006	296-17-52112	NEW-P	96-05-064
286-30-010	AMD	96-08-044	292-12-180	REP-P	96-05-006	296-17-52112	NEW-P	96-05-065
286-30-020	REP-P	96-04-054	292-100-010	NEW-E	96-03-072	296-17-52113	NEW-P	96-05-064

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296-17-52113	NEW-P	96-05-065	296-17-57003	AMD-P	96-05-064	296-17-646	AMD-P	96-05-065
296-17-524	AMD-P	96-05-064	296-17-57003	AMD-P	96-05-065	296-17-649	AMD-P	96-05-064
296-17-524	AMD-P	96-05-065	296-17-571	AMD-P	96-05-064	296-17-649	AMD-P	96-05-065
296-17-526	AMD-P	96-05-064	296-17-571	AMD-P	96-05-065	296-17-64901	AMD-P	96-05-064
296-17-526	AMD-P	96-05-065	296-17-572	AMD-P	96-05-064	296-17-64901	AMD-P	96-05-065
296-17-527	AMD-P	96-05-064	296-17-572	AMD-P	96-05-065	296-17-64902	AMD-P	96-05-064
296-17-527	AMD-P	96-05-065	296-17-573	AMD-P	96-05-064	296-17-64902	AMD-P	96-05-065
296-17-528	AMD-P	96-05-064	296-17-573	AMD-P	96-05-065	296-17-64903	AMD-P	96-05-064
296-17-528	AMD-P	96-05-065	296-17-57602	AMD-P	96-05-064	296-17-64903	AMD-P	96-05-065
296-17-529	AMD-P	96-05-064	296-17-57602	AMD-P	96-05-065	296-17-64904	AMD-P	96-05-064
296-17-529	AMD-P	96-05-065	296-17-57603	AMD-P	96-05-064	296-17-64904	AMD-P	96-05-065
296-17-530	REP-P	96-05-064	296-17-57603	AMD-P	96-05-065	296-17-64905	AMD-P	96-05-064
296-17-530	REP-P	96-05-065	296-17-579	REP-P	96-05-064	296-17-64905	AMD-P	96-05-065
296-17-534	AMD-P	96-05-064	296-17-579	REP-P	96-05-065	296-17-64999	NEW-P	96-05-064
296-17-534	AMD-P	96-05-065	296-17-580	AMD-P	96-05-064	296-17-64999	NEW-P	96-05-065
296-17-53501	AMD-P	96-05-064	296-17-580	AMD-P	96-05-065	296-17-651	AMD-P	96-05-064
296-17-53501	AMD-P	96-05-065	296-17-582	AMD-P	96-05-064	296-17-651	AMD-P	96-05-065
296-17-53502	AMD-P	96-05-064	296-17-582	AMD-P	96-05-065	296-17-654	AMD-P	96-05-064
296-17-53502	AMD-P	96-05-065	296-17-58201	AMD-P	96-05-064	296-17-654	AMD-P	96-05-065
296-17-536	AMD-P	96-05-064	296-17-58201	AMD-P	96-05-065	296-17-659	AMD-P	96-05-064
296-17-536	AMD-P	96-05-065	296-17-583	AMD-P	96-05-064	296-17-659	AMD-P	96-05-065
296-17-538	AMD-P	96-05-064	296-17-583	AMD-P	96-05-065	296-17-66002	AMD-P	96-05-064
296-17-538	AMD-P	96-05-065	296-17-585	AMD-P	96-05-064	296-17-66002	AMD-P	96-05-065
296-17-53802	NEW-P	96-05-064	296-17-585	AMD-P	96-05-065	296-17-66004	NEW-P	96-05-064
296-17-53802	NEW-P	96-05-065	296-17-58501	AMD-P	96-05-064	296-17-66004	NEW-P	96-05-065
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296-17-54101	AMD-P	96-05-065	296-17-586	AMD-P	96-05-064	296-17-681	AMD-P	96-05-065
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296-305-02011	NEW-C	96-03-026	296-305-064	AMD-C	96-03-026	304-25-010	REP	96-04-045
296-305-02011	NEW	96-11-067	296-305-064	REP	96-11-067	304-25-020	REP	96-04-045
296-305-02013	NEW-C	96-03-026	296-305-065	AMD-C	96-03-026	304-25-030	REP	96-04-045
296-305-02013	NEW	96-11-067	296-305-065	REP	96-11-067	304-25-040	REP	96-04-045
296-305-02015	NEW-C	96-03-026	296-305-06501	AMD-C	96-03-026	304-25-050	REP	96-04-045
296-305-02015	NEW	96-11-067	296-305-06501	AMD	96-11-067	304-25-060	REP	96-04-045
296-305-02017	NEW-C	96-03-026	296-305-06503	AMD-C	96-03-026	304-25-110	REP	96-04-045
296-305-02017	NEW	96-11-067	296-305-06503	AMD	96-11-067	304-25-120	REP	96-04-045
296-305-02019	NEW-C	96-03-026	296-305-06505	AMD-C	96-03-026	304-25-510	REP	96-04-045
296-305-02019	NEW	96-11-067	296-305-06505	AMD	96-11-067	304-25-520	REP	96-04-045
296-305-025	AMD-C	96-03-026	296-305-06507	AMD-C	96-03-026	304-25-530	REP	96-04-045
296-305-025	REP	96-11-067	296-305-06507	AMD	96-11-067	304-25-540	REP	96-04-045
296-305-02501	NEW-C	96-03-026	296-305-06509	AMD-C	96-03-026	304-25-550	REP	96-04-045
296-305-02501	NEW	96-11-067	296-305-06509	AMD	96-11-067	304-25-555	REP	96-04-045
296-305-030	AMD-C	96-03-026	296-305-06511	AMD-C	96-03-026	304-25-560	REP	96-04-045
296-305-030	REP	96-11-067	296-305-06511	AMD	96-11-067	304-25-570	REP	96-04-045
296-305-03001	NEW-C	96-03-026	296-305-06513	AMD-C	96-03-026	304-25-580	REP	96-04-045
296-305-03001	NEW	96-11-067	296-305-06513	AMD	96-11-067	304-25-590	REP	96-04-045
296-305-035	AMD-C	96-03-026	296-305-06515	AMD-C	96-03-026	308-10-010	AMD	96-05-036
296-305-035	REP	96-11-067	296-305-06515	AMD	96-11-067	308-10-020	AMD	96-05-036
296-305-040	AMD-C	96-03-026	296-305-06517	AMD-C	96-03-026	308-10-025	AMD	96-05-036
296-305-040	REP	96-11-067	296-305-06517	AMD	96-11-067	308-10-030	AMD	96-05-036
296-305-04001	NEW-C	96-03-026	296-305-06519	NEW-C	96-03-026	308-10-040	AMD	96-05-036
296-305-04001	NEW	96-11-067	296-305-06519	NEW	96-11-067	308-10-045	AMD	96-05-036
296-305-045	AMD-C	96-03-026	296-305-070	AMD-C	96-03-026	308-10-067	AMD	96-05-036
296-305-045	REP	96-11-067	296-305-070	REP	96-11-067	308-13-005	AMD-P	96-04-009
296-305-04501	NEW-C	96-03-026	296-305-07001	AMD-C	96-03-026	308-13-005	AMD-C	96-04-040
296-305-04501	NEW	96-11-067	296-305-07001	AMD	96-11-067	308-13-005	AMD	96-10-013
296-305-04503	NEW-C	96-03-026	296-305-07003	AMD-C	96-03-026	308-13-015	AMD-P	96-04-009
296-305-04503	NEW	96-11-067	296-305-07003	AMD	96-11-067	308-13-015	AMD-C	96-04-040
296-305-04505	NEW-C	96-03-026	296-305-07005	AMD-C	96-03-026	308-13-015	AMD	96-10-013
296-305-04505	NEW	96-11-067	296-305-07005	AMD	96-11-067	308-13-024	AMD-P	96-04-009
296-305-04507	NEW-C	96-03-026	296-305-07007	AMD-C	96-03-026	308-13-024	AMD-C	96-04-040
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308-13-050	AMD-P	96-04-009	308-128C-050	DECOD	96-05-018	314-14-150	NEW	96-03-074
308-13-050	AMD-C	96-04-040	308-128D	PREP	96-06-084	314-14-160	NEW	96-03-074
308-13-050	AMD	96-10-013	308-128D-010	DECOD	96-05-018	314-16-196	AMD	96-03-005
308-13-110	REP-P	96-04-009	308-128D-020	DECOD	96-05-018	314-20-100	AMD-P	96-07-101
308-13-110	REP-C	96-04-040	308-128D-030	DECOD	96-05-018	314-20-100	AMD-W	96-11-075
308-13-110	REP	96-10-013	308-128D-040	DECOD	96-05-018	314-24-190	AMD-P	96-07-101
308-13-150	PREP	96-04-007	308-128D-050	DECOD	96-05-018	314-24-190	AMD-W	96-11-075
308-13-150	AMD-P	96-08-005	308-128D-060	DECOD	96-05-018	314-24-220	AMD-P	96-07-100
308-13-150	AMD	96-11-132	308-128D-070	DECOD	96-05-018	314-24-220	AMD	96-11-076
308-56A-030	AMD	96-04-004	308-128D-080	DECOD	96-05-018	314-70-010	AMD	96-03-004
308-56A-090	AMD	96-03-047	308-128E	PREP	96-06-084	314-70-030	AMD	96-03-004
308-56A-210	AMD	96-03-047	308-128E-011	DECOD	96-05-018	315-04-220	AMD	96-03-039
308-57	PREP	96-11-104	308-128F	PREP	96-06-084	315-06	PREP	96-09-103
308-87-010	NEW-P	96-11-006	308-128F-010	DECOD	96-05-018	315-10-050	PREP	96-03-156
308-87-020	NEW-P	96-11-006	308-128F-020	DECOD	96-05-018	315-10-050	REP-P	96-07-104
308-87-030	NEW-P	96-11-006	308-128F-040	DECOD	96-05-018	315-10-050	REP	96-11-107
308-87-040	NEW-P	96-11-006	308-128F-050	DECOD	96-05-018	315-11A	PREP	96-08-004
308-87-050	NEW-P	96-11-006	308-128F-060	DECOD	96-05-018	315-11A-157	NEW-W	96-03-038
308-87-060	NEW-P	96-11-006	308-128F-070	DECOD	96-05-018	315-11A-157	NEW-P	96-03-157
308-87-070	NEW-P	96-11-006	308-129-010	NEW-W	96-08-057	315-11A-157	NEW	96-07-015
308-87-080	NEW-P	96-11-006	308-129-010	NEW-P	96-11-102	315-11A-158	NEW	96-03-039
308-89-010	AMD-P	96-11-006	308-129-011	NEW-E	96-09-056	315-11A-159	NEW	96-03-039
308-89-020	AMD-P	96-11-006	308-129-020	NEW-W	96-08-057	315-11A-160	NEW	96-03-039
308-89-030	AMD-P	96-11-006	308-129-020	NEW-P	96-11-102	315-11A-161	NEW	96-03-039
308-89-040	AMD-P	96-11-006	308-129-021	NEW-E	96-09-056	315-11A-162	NEW-P	96-03-157
308-89-050	AMD-P	96-11-006	308-129-030	NEW-W	96-08-057	315-11A-162	NEW	96-07-015
308-89-060	AMD-P	96-11-006	308-129-030	NEW-P	96-11-102	315-11A-163	NEW-P	96-03-157
308-93-010	AMD-P	96-07-030	308-129-031	NEW-E	96-09-056	315-11A-163	NEW	96-07-015
308-93-010	AMD-S	96-11-128	308-129-100	NEW-W	96-08-057	315-11A-164	NEW-P	96-03-157
308-93-050	AMD-P	96-07-030	308-129-100	NEW-P	96-11-102	315-11A-164	NEW	96-07-015
308-93-050	AMD-S	96-11-128	308-129-101	NEW-E	96-09-056	315-11A-164	PREP	96-08-071
308-93-070	AMD	96-04-004	308-129-110	NEW-W	96-08-057	315-11A-164	PREP	96-09-103
308-93-088	AMD	96-03-046	308-129-110	NEW-P	96-11-102	315-11A-165	NEW-P	96-03-157
308-93-174	REP-P	96-09-041	308-129-111	NEW-E	96-09-056	315-11A-165	NEW	96-07-015
308-93-440	AMD	96-03-046	308-129-120	NEW-W	96-08-057	315-11A-166	NEW-P	96-03-157
308-93-670	AMD	96-03-046	308-129-120	NEW-P	96-11-102	315-11A-166	NEW	96-07-015
308-93-700	NEW-P	96-07-030	308-129-130	NEW-W	96-08-057	315-11A-167	NEW-P	96-03-157
308-93-700	NEW-S	96-11-128	308-129-130	NEW-P	96-11-102	315-11A-167	NEW	96-07-015
308-93-710	NEW-P	96-07-030	308-129-200	NEW-W	96-08-057	315-11A-168	NEW-P	96-07-104
308-93-710	NEW-S	96-11-128	308-129-210	NEW-W	96-08-057	315-11A-168	NEW	96-11-107
308-93-720	NEW-P	96-07-030	308-129-220	NEW-W	96-08-057	315-11A-169	NEW-P	96-07-104
308-93-720	NEW-S	96-11-128	308-129-230	NEW-W	96-08-057	315-11A-169	NEW	96-11-107
308-93-730	NEW-P	96-07-030	308-129-230	NEW-P	96-11-102	315-11A-170	NEW-P	96-07-104
308-93-730	NEW-S	96-11-128	308-129-240	NEW-W	96-08-057	315-11A-170	NEW	96-11-107
308-93-740	NEW-P	96-07-030	308-129-300	NEW-W	96-08-057	315-11A-171	NEW-P	96-07-104
308-93-740	NEW-S	96-11-128	308-129-300	NEW-P	96-11-102	315-11A-171	NEW	96-11-107
308-93-750	NEW-P	96-07-030	308-129-310	NEW-W	96-08-057	315-11A-172	NEW-P	96-07-104
308-93-750	NEW-S	96-11-128	308-129-310	NEW-P	96-11-102	315-11A-172	NEW	96-11-107
308-93-760	NEW-P	96-07-030	308-129-320	NEW-P	96-11-102	315-11A-173	NEW-P	96-07-104
308-93-760	NEW-S	96-11-128	308-330-300	AMD-P	96-10-039	315-11A-173	NEW	96-11-107
308-93-770	NEW-P	96-07-030	308-330-305	AMD-P	96-10-039	315-34	PREP	96-08-004
308-93-770	NEW-S	96-11-128	308-330-307	AMD-P	96-10-039	317-21-020	AMD	96-03-070
308-94-030	AMD	96-04-004	308-330-316	AMD-P	96-10-039	317-21-030	AMD	96-03-070
308-94-035	REP-P	96-09-039	308-330-400	AMD-P	96-10-039	317-21-120	AMD	96-03-070
308-96A-035	AMD	96-04-004	314-12-020	AMD	96-03-004	317-21-200	AMD	96-03-070
308-96A-505	AMD-P	96-09-040	314-12-025	AMD	96-03-004	317-21-205	AMD	96-03-070
308-128A	PREP	96-06-084	314-12-035	AMD	96-03-004	317-21-210	AMD	96-03-070
308-128A-010	DECOD	96-05-018	314-12-070	AMD	96-03-004	317-21-215	AMD	96-03-070
308-128A-020	DECOD	96-05-018	314-12-080	AMD	96-03-004	317-21-235	AMD	96-03-070
308-128A-030	DECOD	96-05-018	314-14-010	NEW	96-03-074	317-21-245	AMD	96-03-070
308-128A-040	DECOD	96-05-018	314-14-020	NEW	96-03-074	317-21-265	AMD	96-03-070
308-128B	PREP	96-06-084	314-14-030	NEW	96-03-074	317-21-320	AMD	96-03-070
308-128B-010	DECOD	96-05-018	314-14-040	NEW	96-03-074	317-21-345	AMD	96-03-070
308-128B-020	DECOD	96-05-018	314-14-050	NEW	96-03-074	317-21-500	AMD	96-03-070
308-128B-030	DECOD	96-05-018	314-14-060	NEW	96-03-074	317-21-530	AMD	96-03-070
308-128B-050	DECOD	96-05-018	314-14-070	NEW	96-03-074	317-21-540	AMD	96-03-070
308-128B-070	DECOD	96-05-018	314-14-080	NEW	96-03-074	317-30	REP-C	96-09-008
308-128B-080	DECOD	96-05-018	314-14-090	NEW	96-03-074	317-30-010	REP-P	96-03-071
308-128B-090	DECOD	96-05-018	314-14-100	NEW	96-03-074	317-30-020	REP-P	96-03-071
308-128C	PREP	96-06-084	314-14-110	NEW	96-03-074	317-30-030	REP-P	96-03-071
308-128C-020	DECOD	96-05-018	314-14-120	NEW	96-03-074	317-30-040	REP-P	96-03-071
308-128C-030	DECOD	96-05-018	314-14-130	NEW	96-03-074	317-30-050	REP-P	96-03-071

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317-30-070	REP-P	96-03-071	356-30-050	AMD	96-02-073	371-08-167	REP-P	96-10-063
317-30-080	REP-P	96-03-071	356-30-065	AMD-W	96-02-069	371-08-180	REP-P	96-10-063
317-30-090	REP-P	96-03-071	356-30-067	AMD-W	96-02-069	371-08-183	REP-P	96-10-063
317-30-100	REP-P	96-03-071	356-30-230	AMD	96-02-073	371-08-184	REP-P	96-10-063
317-30-110	REP-P	96-03-071	356-30-315	AMD	96-02-073	371-08-185	REP-P	96-10-063
317-30-120	REP-P	96-03-071	356-30-330	AMD	96-02-073	371-08-186	REP-P	96-10-063
317-30-130	REP-P	96-03-071	356-37-020	AMD-P	96-04-052A	371-08-187	REP-P	96-10-063
317-30-140	REP-P	96-03-071	356-37-020	AMD	96-07-093	371-08-188	REP-P	96-10-063
317-30-150	REP-P	96-03-071	356-37-030	AMD-P	96-04-052A	371-08-189	REP-P	96-10-063
317-30-900	REP-P	96-03-071	356-37-030	AMD	96-07-093	371-08-195	REP-P	96-10-063
317-31	NEW-C	96-09-008	356-37-040	AMD-P	96-04-052A	371-08-196	REP-P	96-10-063
317-31-010	NEW-P	96-03-071	356-37-040	AMD	96-07-093	371-08-197	REP-P	96-10-063
317-31-020	NEW-P	96-03-071	356-37-050	AMD-P	96-04-052A	371-08-200	REP-P	96-10-063
317-31-030	NEW-P	96-03-071	356-37-050	AMD	96-07-093	371-08-215	REP-P	96-10-063
317-31-100	NEW-P	96-03-071	356-37-100	AMD-P	96-04-052A	371-08-220	REP-P	96-10-063
317-31-110	NEW-P	96-03-071	356-37-100	AMD	96-07-093	371-08-230	REP-P	96-10-063
317-31-120	NEW-P	96-03-071	356-37-160	NEW-P	96-04-052A	371-08-235	REP-P	96-10-063
317-31-130	NEW-P	96-03-071	356-37-160	NEW	96-07-093	371-08-240	REP-P	96-10-063
317-31-140	NEW-P	96-03-071	356-37-170	NEW-P	96-04-052A	371-08-250	REP-P	96-10-063
317-31-200	NEW-P	96-03-071	356-37-170	NEW	96-07-093	371-08-255	REP-P	96-10-063
317-31-210	NEW-P	96-03-071	356-42-020	AMD-P	96-06-059	371-08-260	REP-P	96-10-063
317-31-220	NEW-P	96-03-071	356-42-020	AMD-C	96-09-054	371-08-300	NEW-P	96-10-063
317-31-230	NEW-P	96-03-071	356-42-020	AMD-C	96-11-057	371-08-305	NEW-P	96-10-063
317-31-240	NEW-P	96-03-071	356-42-045	AMD-P	96-10-066	371-08-310	NEW-P	96-10-063
317-31-250	NEW-P	96-03-071	356-42-055	AMD-P	96-04-052A	371-08-315	NEW-P	96-10-063
317-31-300	NEW-P	96-03-071	356-42-055	AMD	96-07-093	371-08-320	NEW-P	96-10-063
317-31-310	NEW-P	96-03-071	356-46-080	AMD	96-02-073	371-08-325	NEW-P	96-10-063
317-31-900	NEW-P	96-03-071	356-56-115	AMD-P	96-08-089	371-08-330	NEW-P	96-10-063
317-50-999	NEW-E	96-08-002	365-185-010	NEW-E	96-03-045	371-08-335	NEW-P	96-10-063
326-30-041	PREP	96-07-089	365-185-010	NEW	96-04-046	371-08-340	NEW-P	96-10-063
326-30-041	AMD-P	96-11-100	365-185-020	NEW-E	96-03-045	371-08-345	NEW-P	96-10-063
326-40-030	PREP	96-07-088	365-185-020	NEW	96-04-046	371-08-350	NEW-P	96-10-063
332-24-221	AMD-P	96-08-027	365-185-030	NEW-E	96-03-045	371-08-355	NEW-P	96-10-063
332-24-720	AMD	96-03-003	365-185-030	NEW	96-04-046	371-08-360	NEW-P	96-10-063
356-05-171	REP-P	96-08-082	365-185-040	NEW-E	96-03-045	371-08-365	NEW-P	96-10-063
356-05-171	REP-C	96-09-088	365-185-040	NEW	96-04-046	371-08-370	NEW-P	96-10-063
356-05-415	AMD-W	96-02-069	365-185-050	NEW-E	96-03-045	371-08-375	NEW-P	96-10-063
356-06-080	AMD-P	96-08-087	365-185-050	NEW	96-04-046	371-08-380	NEW-P	96-10-063
356-06-080	AMD	96-11-062	365-185-060	NEW-E	96-03-045	371-08-385	NEW-P	96-10-063
356-10-020	AMD-P	96-08-087	365-185-060	NEW	96-04-046	371-08-390	NEW-P	96-10-063
356-10-020	AMD	96-11-062	371-08-001	REP-P	96-10-063	371-08-395	NEW-P	96-10-063
356-14-240	AMD	96-02-073	371-08-002	REP-P	96-10-063	371-08-400	NEW-P	96-10-063
356-14-260	AMD-P	96-08-082	371-08-005	REP-P	96-10-063	371-08-405	NEW-P	96-10-063
356-14-260	AMD-C	96-09-088	371-08-010	REP-P	96-10-063	371-08-410	NEW-P	96-10-063
356-15-030	AMD-P	96-08-082	371-08-020	REP-P	96-10-063	371-08-415	NEW-P	96-10-063
356-15-030	AMD-C	96-09-088	371-08-030	REP-P	96-10-063	371-08-420	NEW-P	96-10-063
356-15-050	AMD	96-02-073	371-08-032	REP-P	96-10-063	371-08-425	NEW-P	96-10-063
356-15-060	AMD-P	96-02-070	371-08-033	REP-P	96-10-063	371-08-430	NEW-P	96-10-063
356-15-060	AMD-C	96-07-092	371-08-035	REP-P	96-10-063	371-08-435	NEW-P	96-10-063
356-15-060	AMD-W	96-09-053	371-08-040	REP-P	96-10-063	371-08-440	NEW-P	96-10-063
356-15-060	AMD-P	96-10-064	371-08-050	REP-P	96-10-063	371-08-445	NEW-P	96-10-063
356-15-070	AMD	96-02-073	371-08-055	REP-P	96-10-063	371-08-450	NEW-P	96-10-063
356-15-090	AMD	96-02-073	371-08-061	REP-P	96-10-063	371-08-455	NEW-P	96-10-063
356-15-110	AMD	96-02-073	371-08-065	REP-P	96-10-063	371-08-460	NEW-P	96-10-063
356-18-060	AMD-P	96-08-082	371-08-071	REP-P	96-10-063	371-08-465	NEW-P	96-10-063
356-18-060	AMD-C	96-09-088	371-08-075	REP-P	96-10-063	371-08-470	NEW-P	96-10-063
356-18-080	AMD-P	96-08-082	371-08-080	REP-P	96-10-063	371-08-475	NEW-P	96-10-063
356-18-080	AMD-C	96-09-088	371-08-085	REP-P	96-10-063	371-08-480	NEW-P	96-10-063
356-18-110	AMD-P	96-08-082	371-08-100	REP-P	96-10-063	371-08-485	NEW-P	96-10-063
356-18-110	AMD-C	96-09-088	371-08-104	REP-P	96-10-063	371-08-490	NEW-P	96-10-063
356-18-112	AMD-W	96-02-069	371-08-106	REP-P	96-10-063	371-08-500	NEW-P	96-10-063
356-18-112	AMD-P	96-08-083	371-08-125	REP-P	96-10-063	371-08-505	NEW-P	96-10-063
356-18-112	AMD	96-11-058	371-08-130	REP-P	96-10-063	371-08-510	NEW-P	96-10-063
356-18-116	AMD	96-02-073	371-08-140	REP-P	96-10-063	371-08-515	NEW-P	96-10-063
356-18-140	AMD-P	96-08-082	371-08-144	REP-P	96-10-063	371-08-520	NEW-P	96-10-063
356-18-140	AMD-C	96-09-088	371-08-146	REP-P	96-10-063	371-08-525	NEW-P	96-10-063
356-18-145	AMD-P	96-08-082	371-08-147	REP-P	96-10-063	371-08-530	NEW-P	96-10-063
356-18-145	AMD-C	96-09-088	371-08-148	REP-P	96-10-063	371-08-535	NEW-P	96-10-063
356-18-150	AMD-P	96-08-082	371-08-150	REP-P	96-10-063	371-08-540	NEW-P	96-10-063
356-18-150	AMD-C	96-09-088	371-08-155	REP-P	96-10-063	371-08-545	NEW-P	96-10-063
356-22-220	AMD-P	96-08-085	371-08-156	REP-P	96-10-063	371-08-550	NEW-P	96-10-063
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371-08-565	NEW-P	96-10-063	388-15-145	AMD	96-09-035	388-73-048	AMD-E	96-07-079
371-08-570	NEW-P	96-10-063	388-15-900	REP-P	96-04-084	388-73-048	AMD	96-10-032
374-60-030	AMD	96-04-005	388-15-900	REP	96-11-045	388-73-054	AMD-P	96-06-051
374-60-120	AMD	96-04-005	388-15-905	REP-P	96-04-084	388-73-054	AMD-E	96-07-079
388-11-010	REP-P	96-06-039	388-15-905	REP	96-11-045	388-73-054	AMD	96-10-032
388-11-010	REP	96-09-036	388-15-910	REP-P	96-04-084	388-73-606	AMD-P	96-06-051
388-11-011	AMD-P	96-06-039	388-15-910	REP	96-11-045	388-73-606	AMD-E	96-07-079
388-11-011	AMD	96-09-036	388-15-915	REP-P	96-04-084	388-73-606	AMD	96-10-032
388-11-015	AMD-P	96-06-039	388-15-915	REP	96-11-045	388-73-800	AMD-P	96-06-051
388-11-015	AMD	96-09-036	388-15-920	REP-P	96-04-084	388-73-800	AMD-E	96-07-079
388-11-030	REP-P	96-06-039	388-15-920	REP	96-11-045	388-73-800	AMD	96-10-032
388-11-030	REP	96-09-036	388-15-925	REP-P	96-04-084	388-73-803	NEW-P	96-06-051
388-11-032	REP-P	96-06-039	388-15-925	REP	96-11-045	388-73-803	NEW-E	96-07-079
388-11-032	REP	96-09-036	388-15-935	REP-P	96-04-084	388-73-803	NEW	96-10-032
388-11-035	REP-P	96-06-039	388-15-935	REP	96-11-045	388-73-805	NEW-P	96-06-051
388-11-035	REP	96-09-036	388-15-940	REP-P	96-04-084	388-73-805	NEW-E	96-07-079
388-11-040	REP-P	96-06-039	388-15-940	REP	96-11-045	388-73-805	NEW	96-10-032
388-11-040	REP	96-09-036	388-15-945	REP-P	96-04-084	388-73-815	AMD-P	96-06-051
388-11-045	AMD-P	96-06-039	388-15-945	REP	96-11-045	388-73-815	AMD-E	96-07-079
388-11-045	AMD	96-09-036	388-15-950	REP-P	96-04-084	388-73-815	AMD	96-10-032
388-11-048	AMD-P	96-06-039	388-15-950	REP	96-11-045	388-73-821	NEW-P	96-06-051
388-11-048	AMD	96-09-036	388-15-955	REP-P	96-04-084	388-73-821	NEW-E	96-07-079
388-11-055	REP-P	96-06-039	388-15-955	REP	96-11-045	388-73-821	NEW	96-10-032
388-11-055	REP	96-09-036	388-49-020	AMD-P	96-03-013	388-73-822	NEW-P	96-06-051
388-11-060	REP-P	96-06-039	388-49-020	AMD	96-06-031	388-73-822	NEW-E	96-07-079
388-11-060	REP	96-09-036	388-49-160	PREP	96-07-094	388-73-822	NEW	96-10-032
388-11-065	AMD-P	96-06-039	388-49-160	AMD-E	96-10-059	388-73-823	NEW-P	96-06-051
388-11-065	AMD	96-09-036	388-49-160	AMD-P	96-11-146	388-73-823	NEW-E	96-07-079
388-11-120	AMD-P	96-06-039	388-49-330	AMD-P	96-04-036	388-73-823	NEW	96-10-032
388-11-120	AMD	96-09-036	388-49-330	AMD	96-07-053	388-73-825	NEW-P	96-06-051
388-11-140	AMD-P	96-06-039	388-49-410	AMD-P	96-04-008	388-73-825	NEW-E	96-07-079
388-11-140	AMD	96-09-036	388-49-410	AMD	96-07-022	388-73-825	NEW	96-10-032
388-11-150	AMD-P	96-06-039	388-49-480	PREP	96-09-034	388-76	AMD-C	96-11-106
388-11-150	AMD	96-09-036	388-49-500	AMD-P	96-03-097	388-76-010	REP-P	96-06-040
388-11-210	AMD-P	96-06-039	388-49-500	AMD	96-06-046	388-76-020	REP-P	96-06-040
388-11-210	AMD	96-09-036	388-49-520	AMD-P	96-11-082	388-76-030	REP-P	96-06-040
388-11-215	AMD-P	96-06-039	388-49-530	REP-P	96-11-081	388-76-040	REP-P	96-06-040
388-11-215	AMD	96-09-036	388-49-535	AMD-P	96-11-080	388-76-045	REP-P	96-06-040
388-11-220	AMD-P	96-06-039	388-49-670	AMD-P	96-03-095	388-76-050	REP-P	96-06-040
388-11-220	AMD	96-09-036	388-49-670	AMD	96-06-042	388-76-060	REP-P	96-06-040
388-11-280	NEW-P	96-06-039	388-55-006	NEW	96-05-009	388-76-070	REP-P	96-06-040
388-11-280	NEW	96-09-036	388-55-008	NEW	96-05-009	388-76-080	REP-P	96-06-040
388-11-285	NEW-P	96-06-039	388-55-010	AMD	96-05-009	388-76-085	REP-P	96-06-040
388-11-285	NEW	96-09-036	388-55-020	AMD	96-05-009	388-76-087	REP-P	96-06-040
388-11-290	NEW-P	96-06-039	388-55-024	NEW	96-05-009	388-76-090	REP-P	96-06-040
388-11-290	NEW	96-09-036	388-55-027	NEW	96-05-009	388-76-095	REP-P	96-06-040
388-11-295	NEW-P	96-06-039	388-55-030	AMD	96-05-009	388-76-100	REP-P	96-06-040
388-11-295	NEW	96-09-036	388-55-040	AMD	96-05-009	388-76-110	REP-P	96-06-040
388-11-300	NEW-P	96-06-039	388-55-050	NEW	96-05-009	388-76-130	REP-P	96-06-040
388-11-300	NEW	96-09-036	388-55-060	NEW	96-05-009	388-76-140	REP-P	96-06-040
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388-11-305	NEW	96-09-036	388-73-012	AMD-E	96-07-079	388-76-160	REP-P	96-06-040
388-11-310	NEW-P	96-06-039	388-73-012	AMD	96-10-032	388-76-170	REP-P	96-06-040
388-11-310	NEW	96-09-036	388-73-014	AMD-P	96-06-051	388-76-180	REP-P	96-06-040
388-11-315	NEW-P	96-06-039	388-73-014	AMD-E	96-07-079	388-76-185	REP-P	96-06-040
388-11-315	NEW	96-09-036	388-73-014	AMD	96-10-032	388-76-190	REP-P	96-06-040
388-11-400	NEW-P	96-06-039	388-73-01950	AMD-P	96-06-051	388-76-200	REP-P	96-06-040
388-11-400	NEW	96-09-036	388-73-01950	AMD-E	96-07-079	388-76-220	REP-P	96-06-040
388-11-405	NEW-P	96-06-039	388-73-01950	AMD	96-10-032	388-76-240	REP-P	96-06-040
388-11-405	NEW	96-09-036	388-73-020	AMD-P	96-06-051	388-76-250	REP-P	96-06-040
388-11-410	NEW-P	96-06-039	388-73-020	AMD-E	96-07-079	388-76-260	REP-P	96-06-040
388-11-410	NEW	96-09-036	388-73-020	AMD	96-10-032	388-76-280	REP-P	96-06-040
388-11-415	NEW-P	96-06-039	388-73-030	AMD-C	96-03-105	388-76-290	REP-P	96-06-040
388-11-415	NEW	96-09-036	388-73-030	AMD-S	96-05-061	388-76-300	REP-P	96-06-040
388-11-420	NEW-P	96-06-039	388-73-030	RESCIND	96-05-067	388-76-310	REP-P	96-06-040
388-11-420	NEW	96-09-036	388-73-030	AMD-E	96-05-068	388-76-320	REP-P	96-06-040
388-11-425	NEW-P	96-06-039	388-73-030	AMD	96-10-043	388-76-325	REP-P	96-06-040
388-11-425	NEW	96-09-036	388-73-030	AMD-E	96-10-054	388-76-330	REP-P	96-06-040
388-11-430	NEW-P	96-06-039	388-73-036	AMD-S	96-05-061	388-76-340	REP-P	96-06-040
388-11-430	NEW	96-09-036	388-73-036	AMD-E	96-05-068	388-76-350	REP-P	96-06-040
388-15	PREP	96-06-009	388-73-036	AMD	96-10-043	388-76-360	REP-P	96-06-040
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388-76-400	REP-P	96-06-040	388-86	PREP	96-07-044	388-110-270	NEW	96-11-045
388-76-405	REP-P	96-06-040	388-86	PREP	96-07-045	388-110-280	NEW-P	96-04-084
388-76-410	REP-P	96-06-040	388-87	PREP	96-07-042	388-110-280	NEW	96-11-045
388-76-420	REP-P	96-06-040	388-87	PREP	96-07-043	388-150-090	AMD-C	96-03-105
388-76-430	REP-P	96-06-040	388-87	PREP	96-07-044	388-150-090	AMD-S	96-05-061
388-76-435	REP-P	96-06-040	388-87	PREP	96-07-045	388-150-090	RESCIND	96-05-067
388-76-440	REP-P	96-06-040	388-87-020	PREP	96-08-091	388-150-090	AMD-E	96-05-068
388-76-450	REP-P	96-06-040	388-96	PREP	96-07-024	388-150-090	AMD	96-10-043
388-76-460	REP-P	96-06-040	388-96-221	AMD-P	96-11-010	388-150-090	AMD-E	96-10-054
388-76-465	REP-P	96-06-040	388-96-534	AMD-P	96-11-010	388-151-090	AMD-C	96-03-105
388-76-467	REP-P	96-06-040	388-96-585	AMD-P	96-11-010	388-151-090	AMD-S	96-05-061
388-76-470	REP-P	96-06-040	388-96-708	NEW-P	96-11-010	388-151-090	RESCIND	96-05-067
388-76-475	REP-P	96-06-040	388-96-735	AMD-P	96-11-010	388-151-090	AMD-E	96-05-068
388-76-480	REP-P	96-06-040	388-96-745	AMD-P	96-11-010	388-151-090	AMD	96-10-043
388-76-490	REP-P	96-06-040	388-96-762	AMD-P	96-11-010	388-151-090	AMD-E	96-10-054
388-76-500	REP-P	96-06-040	388-96-774	AMD-P	96-11-010	388-155-060	AMD-P	96-07-010
388-76-520	REP-P	96-06-040	388-96-776	AMD-P	96-11-010	388-155-060	AMD	96-10-042
388-76-530	REP-P	96-06-040	388-96-810	AMD-P	96-11-010	388-155-070	AMD-P	96-07-010
388-76-535	NEW-P	96-06-040	388-96-904	AMD-P	96-11-010	388-155-070	AMD	96-10-042
388-76-540	NEW-P	96-06-040	388-110	NEW-C	96-09-032	388-155-090	AMD-C	96-03-105
388-76-545	NEW-P	96-06-040	388-110	NEW-C	96-10-010	388-155-090	AMD-S	96-05-061
388-76-550	NEW-P	96-06-040	388-110	NEW-C	96-10-077	388-155-090	RESCIND	96-05-067
388-76-555	NEW-P	96-06-040	388-110-005	NEW-P	96-04-084	388-155-090	AMD-E	96-05-068
388-76-560	NEW-P	96-06-040	388-110-005	NEW	96-11-045	388-155-090	AMD	96-10-043
388-76-565	NEW-P	96-06-040	388-110-010	NEW-P	96-04-084	388-155-090	AMD-E	96-10-054
388-76-570	NEW-P	96-06-040	388-110-010	NEW	96-11-045	388-155-600	NEW-P	96-07-010
388-76-575	NEW-P	96-06-040	388-110-020	NEW-P	96-04-084	388-155-600	NEW	96-10-042
388-76-580	NEW-P	96-06-040	388-110-020	NEW	96-11-045	388-155-605	NEW-P	96-07-010
388-76-585	NEW-P	96-06-040	388-110-030	NEW-P	96-04-084	388-155-605	NEW	96-10-042
388-76-590	NEW-P	96-06-040	388-110-030	NEW	96-11-045	388-155-610	NEW-P	96-07-010
388-76-595	NEW-P	96-06-040	388-110-040	NEW-P	96-04-084	388-155-610	NEW	96-10-042
388-76-600	NEW-P	96-06-040	388-110-040	NEW	96-11-045	388-155-620	NEW-P	96-07-010
388-76-605	NEW-P	96-06-040	388-110-050	NEW-P	96-04-084	388-155-620	NEW	96-10-042
388-76-610	NEW-P	96-06-040	388-110-050	NEW	96-11-045	388-155-630	NEW-P	96-07-010
388-76-615	NEW-P	96-06-040	388-110-060	NEW-P	96-04-084	388-155-630	NEW	96-10-042
388-76-620	NEW-P	96-06-040	388-110-060	NEW	96-11-045	388-155-640	NEW-P	96-07-010
388-76-625	NEW-P	96-06-040	388-110-070	NEW-P	96-04-084	388-155-640	NEW	96-10-042
388-76-630	NEW-P	96-06-040	388-110-070	NEW	96-11-045	388-155-650	NEW-P	96-07-010
388-76-635	NEW-P	96-06-040	388-110-080	NEW-P	96-04-084	388-155-650	NEW	96-10-042
388-76-640	NEW-P	96-06-040	388-110-080	NEW	96-11-045	388-155-660	NEW-P	96-07-010
388-76-645	NEW-P	96-06-040	388-110-090	NEW-P	96-04-084	388-155-660	NEW	96-10-042
388-76-650	NEW-P	96-06-040	388-110-090	NEW	96-11-045	388-155-670	NEW-P	96-07-010
388-76-655	NEW-P	96-06-040	388-110-100	NEW-P	96-04-084	388-155-670	NEW	96-10-042
388-76-660	NEW-P	96-06-040	388-110-100	NEW	96-11-045	388-155-680	NEW-P	96-07-010
388-76-665	NEW-P	96-06-040	388-110-110	NEW-P	96-04-084	388-155-680	NEW	96-10-042
388-76-670	NEW-P	96-06-040	388-110-110	NEW	96-11-045	388-160	PREP	96-05-057
388-76-675	NEW-P	96-06-040	388-110-120	NEW-P	96-04-084	388-160-050	PREP	96-05-057
388-76-680	NEW-P	96-06-040	388-110-120	NEW	96-11-045	388-160-080	PREP	96-05-057
388-76-685	NEW-P	96-06-040	388-110-140	NEW-P	96-04-084	388-160-090	AMD-C	96-03-105
388-76-690	NEW-P	96-06-040	388-110-140	NEW	96-11-045	388-160-090	AMD-S	96-05-061
388-76-695	NEW-P	96-06-040	388-110-150	NEW-P	96-04-084	388-160-090	RESCIND	96-05-067
388-76-700	NEW-P	96-06-040	388-110-150	NEW	96-11-045	388-160-090	AMD-E	96-05-068
388-76-705	NEW-P	96-06-040	388-110-170	NEW-P	96-04-084	388-160-090	AMD	96-10-043
388-76-710	NEW-P	96-06-040	388-110-170	NEW	96-11-045	388-160-090	AMD-E	96-10-054
388-76-715	NEW-P	96-06-040	388-110-180	NEW-P	96-04-084	388-160-120	AMD-S	96-05-061
388-76-720	NEW-P	96-06-040	388-110-180	NEW	96-11-045	388-160-120	AMD-E	96-05-068
388-76-725	NEW-P	96-06-040	388-110-190	NEW-P	96-04-084	388-160-120	AMD	96-10-043
388-76-730	NEW-P	96-06-040	388-110-190	NEW	96-11-045	388-160-120	AMD-E	96-10-054
388-76-735	NEW-P	96-06-040	388-110-200	NEW-P	96-04-084	388-160-430	PREP	96-05-057
388-76-740	NEW-P	96-06-040	388-110-200	NEW	96-11-045	388-160-460	PREP	96-05-057
388-76-745	NEW-P	96-06-040	388-110-210	NEW-P	96-04-084	388-160-480	PREP	96-05-057
388-76-750	NEW-P	96-06-040	388-110-210	NEW	96-11-045	388-160-490	PREP	96-05-057
388-76-755	NEW-P	96-06-040	388-110-220	NEW-P	96-04-084	388-160-500	PREP	96-05-057
388-76-760	NEW-P	96-06-040	388-110-220	NEW	96-11-045	388-200	PREP	96-07-041
388-76-765	NEW-P	96-06-040	388-110-230	NEW-P	96-04-084	388-200-1300	PREP	96-07-041
388-76-770	NEW-P	96-06-040	388-110-230	NEW	96-11-045	388-200-1350	PREP	96-07-041
388-76-775	NEW-P	96-06-040	388-110-240	NEW-P	96-04-084	388-201-200	AMD-P	96-04-034
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388-76-790	NEW-P	96-06-040	388-110-250	NEW	96-11-045	388-201-300	AMD	96-07-021
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388-201-410	AMD	96-07-021	388-513-1320	AMD	96-11-072	390-17-050	REP-P	96-05-073
388-201-420	AMD-P	96-04-034	388-513-1350	AMD-P	96-06-010	390-17-050	REP	96-09-016
388-201-420	AMD	96-07-021	388-513-1350	AMD-E	96-08-020	390-17-052	REP-P	96-05-073
388-201-430	AMD-P	96-04-034	388-513-1350	AMD	96-09-033	390-17-052	REP	96-09-016
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388-215-1390	AMD-E	96-04-001	388-517-1720	AMD-E	96-08-021	391-08-030	AMD-P	96-03-135
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388-250-1700	AMD-E	96-10-030	388-519-1930	PREP	96-04-056	391-25-011	NEW-P	96-03-135
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415-08-100	AMD	96-11-036	434-75-030	DECOD	96-03-141	434-75-280	DECOD	96-03-141
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415-104-108	AMD	96-03-100	434-75-060	AMD	96-03-141	434-75-310	DECOD	96-03-141
415-108-340	AMD	96-03-100	434-75-060	DECOD	96-03-141	434-75-320	AMD-E	96-03-140
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434-120-335	AMD	96-08-049	458-53-095	NEW	96-05-002	460-10A-205	NEW	96-11-026
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434-166-260	AMD	96-10-052	458-53-105	NEW	96-05-002	460-10A-210	NEW	96-11-026
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434-166-280	AMD	96-10-052	458-53-120	REP	96-05-002	460-16A-010	AMD-P	96-07-057
434-166-290	AMD-P	96-07-069	458-53-130	AMD	96-05-002	460-16A-010	AMD	96-11-023
434-166-290	AMD	96-10-052	458-53-135	NEW	96-05-002	460-16A-015	PREP	96-03-128
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434-219-030	RECOD	96-03-141	458-53-142	REP	96-05-002	460-16A-111	PREP	96-03-127
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434-219-050	RECOD	96-03-141	458-53-160	AMD	96-05-002	460-16A-111	AMD	96-11-020
434-219-060	RECOD	96-03-141	458-53-163	REP	96-05-002	460-16A-120	PREP	96-03-126
434-219-070	RECOD	96-03-141	458-53-165	REP	96-05-002	460-16A-120	AMD-P	96-07-062
434-219-080	RECOD	96-03-141	458-53-180	REP	96-05-002	460-16A-120	AMD	96-11-021
434-219-090	RECOD	96-03-141	458-53-200	AMD	96-05-002	460-16A-125	PREP	96-03-125
434-219-100	RECOD	96-03-141	458-53-210	AMD	96-05-002	460-16A-125	AMD-P	96-07-055
434-219-110	RECOD	96-03-141	460-10A	PREP	96-03-121	460-16A-125	AMD	96-11-024
434-219-120	RECOD	96-03-141	460-10A-035	REP-P	96-07-084	460-16A-150	PREP	96-03-125
434-219-130	RECOD	96-03-141	460-10A-035	REP	96-11-026	460-16A-150	AMD-P	96-07-055
434-219-140	RECOD	96-03-141	460-10A-050	AMD-P	96-07-084	460-16A-150	AMD	96-11-024
434-219-150	RECOD	96-03-141	460-10A-050	AMD	96-11-026	460-16A-205	PREP	96-03-130
434-219-160	RECOD	96-03-141	460-10A-055	REP-P	96-07-084	460-16A-205	AMD-P	96-07-061
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434-219-240	RECOD	96-03-141	460-10A-075	REP-P	96-07-084	460-17A	AMD-P	96-07-083
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