

Washington State Register

July 7, 1999

OLYMPIA, WASHINGTON

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filed not later than June 23, 1999

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) 786-6697.

REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month July 1999 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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John G. Schultz
Chair, Statute Law Committee

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Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **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.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

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. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. 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].

1998 - 1999

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
98 - 16	Jul 7, 98	Jul 21, 98	Aug 5, 98	Aug 18, 98	Sep 7, 98	Oct 2, 98
98 - 17	Jul 22, 98	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 22, 98	Oct 17, 98
98 - 18	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 16, 98	Oct 6, 98	Oct 31, 98
98 - 19	Aug 26, 98	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 27, 98	Nov 21, 98
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99 - 02	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 9, 99	Mar 6, 99
99 - 03	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 23, 99	Mar 20, 99
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99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Oct 30, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 20, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 4, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 18, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 1, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 15, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Jan 29, 00

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

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

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

⁴A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230, as amended by section 202, chapter 409, Laws of 1997.

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;

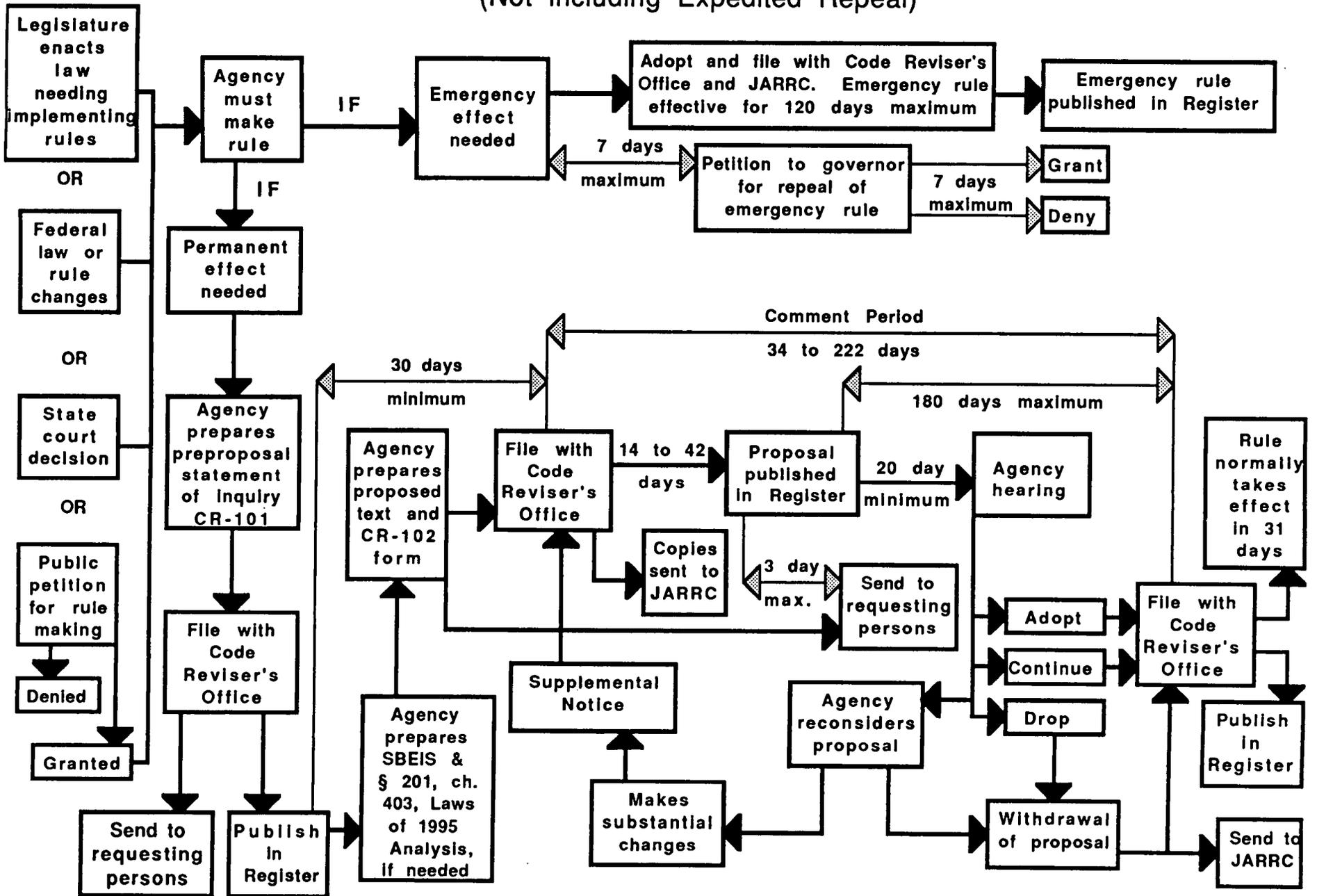
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 99-13-006**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed June 3, 1999, 1:42 p.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificate of title—Motor vehicles etc., to include but not limited to WAC 308-56A-150.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.12.040, 46.16.216.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting by mail Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

June 3, 1999

Deborah McCurley

Acting Administrator

Title and Registration Services

WSR 99-13-020**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

(Board of Osteopathic Medicine and Surgery)

[Filed June 7, 1999, 10:04 a.m.]

Subject of Possible Rule Making: To establish approved schools of osteopathic medicine.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.57.005, 18.57.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: State osteopathic boards have encountered applicants from foreign schools of osteopathy applying for licensure. Since some foreign schools are not equivalent to those in the United States, it is necessary to clarify which schools of osteopathic medicine are considered equivalent and approved by the board.

Process for Developing New Rule: Collaborative rule making is being accomplished by obtaining information from other state boards who have experienced problems pertaining to this issue, recommendations have been received from national professional organizations and the Washington Osteopathic Medical Association. Interested parties will be mailed information and given an opportunity to provide input in writing or by attending board meetings at which the issue will be reviewed.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Arlene Robertson, Program Manager, Board of Osteopathic Medicine and Surgery, P.O. Box 47870, Olympia, WA 98504-7870, phone (360) 236-4945, fax (360) 586-0745. The public and licensees may submit written comments or attend regular board meetings that this is on the agenda for discussion.

March 18, 1999

Robert J. Nicoloff

Executive Director

WSR 99-13-039**PREPROPOSAL STATEMENT OF INQUIRY
NOXIOUS WEED CONTROL BOARD**

[Filed June 7, 1999, 1:52 p.m.]

Subject of Possible Rule Making: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 17.10.080, 17.10.070, and 17.10.010(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The State Noxious Weed Control Board is charged with updating the state noxious weed list on an annual basis, to ensure it accurately reflects noxious weed control priorities and noxious weed distribution. The complete chapter is also being reviewed to ensure it is clear and readable, as well as consistent with statutory authority and current agency practices.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state agencies regulate this subject. Federal agencies are subject to federal noxious weed laws that require them to coordinate with state regulations. Federal agencies in Washington are invited to participate in all stages of noxious weed rule making.

Process for Developing New Rule: The State Noxious Weed Control Board (board) annually solicits suggestions from county programs, state and federal agencies, interest groups, and the general public by a series of extensive mailings. Comments are welcome in written or oral form. The Noxious Weed Committee of the board, which includes representation from the Washington Native Plant Society, county weed boards, the public interest, and several scientific advisors, meets at least twice to review and research the suggestions. These draft suggestions are sent out again for public comment before the Noxious Weed Committee drafts its final recommendation to the board. The board will then consider these recommendations and draft a final rule-making proposal. Public comment is welcome at all committee and board meetings. A press release and information mailing is prepared on the recommended changes and a public hearing is scheduled. The board makes its final decision after considering the public input received during the hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Lisa E. Lantz, Washington State Nox-

ious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031-7507, phone (253) 872-2972, fax (253) 872-6320. Contact Lisa for information on preparing a recommended change or for meeting dates and other participation opportunities.

June 7, 1999
Lisa E. Lantz
Executive Secretary

WSR 99-13-082

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed June 14, 1999, 9:06 a.m.]

Subject of Possible Rule Making: Chapter 246-790 WAC, Special supplemental nutrition program for women, infants and children (WIC). The USDA has released new federal regulations affecting the compliance part of the food delivery component of the WIC program and also the section regarding how program income must be used. The federal regulations spell out mandatory sanctions for specific violations, discusses what is and is not appealable under the new regulation, and changes the way money received by the program from civil money penalties or fines must be used. The state rule must be revised to comply with the new federal regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The federal regulations require the WIC program to impose sanctions for determined violations of program requirements. By state law, in order to be able to impose such sanctions, there must be a state rule in place. The intent is to make all consequences of violations well known and easily accessible to the retailers contracting with the department to accept WIC checks. By raising awareness, we would anticipate increased voluntary compliance.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture establishes the federal regulations governing the program.

Process for Developing New Rule: The WIC program plans to hold several meetings with groups such as the Washington Food Dealers and the Retail Advisory Committee, as well as mass mailings to all contracted retailers, their owners, and the WIC clinics who issue the checks to WIC clients to solicit input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Susan Evans, WIC Program, P.O. Box 47886, Olympia, WA 98504-7886, voice (360) 236-3636, fax (360) 586-3890, e-mail sme0303@doh.wa.gov.

June 11, 1999
M. C. Selecky
Secretary

WSR 99-13-121

**PREPROPOSAL STATEMENT OF INQUIRY
HUMAN RIGHTS COMMISSION**

[Filed June 16, 1999, 8:12 a.m.]

Subject of Possible Rule Making: Chapter 162-26 WAC, Public accommodations—Disability discrimination.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.60.120(3).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To provide further guidance on rights and responsibilities of places of public accommodation with respect to persons with disabilities, including guidance on accommodating the use of trained dog guides or service animals by a disabled person, clarifying the status of public agencies under RCW 49.60.215, and clarifying paratransit service requirements under chapter 49.60 RCW in light of the state Supreme Court decision in *Fell vs. Spokane Transit Authority*.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Justice enforces the federal Americans with Disabilities Act. The Washington State Departments of Health, Social and Health Services, the Rehabilitation Advisory Council, and the Governor's Committee on Disability Issues and Employment are involved in regulating this subject at the state level. These agencies have been invited to participate in the advisory workgroup that will help to develop possible rules.

Process for Developing New Rule: Advisory workgroups.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The commission encourages interested parties to take part in the advisory workgroup or submit written comments. Please contact Martin Casey, P.O. Box 42490, Olympia, WA 98504-2490, phone (360) 586-5765, fax (360) 586-2282.

June 15, 1999
Sue J. Jordan
Executive Director

WSR 99-13-139

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed June 18, 1999, 2:16 p.m.]

Subject of Possible Rule Making: Chapter 308-91 WAC, Reciprocity and proration etc., to include but not limited to WAC 308-91-010, 308-91-030, 308-91-040, 308-91-050, 308-91-060, 308-91-080, 308-91-090, 308-91-095, 308-91-120, 308-91-130, 308-91-140, 308-91-150, and 308-91-170.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.87.010.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be

required as a result of this review in accordance with Executive Order 97-02.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

June 16, 1999

Tom Brewer, Administrator
Prorate and Fuel Tax Services

WSR 99-13-149

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed June 21, 1999, 1:31 p.m.]

Subject of Possible Rule Making: Chapter 308-94 WAC, Snowmobiles and off-road and nonhighway vehicles, to include but not limited to WAC 308-94-170, 308-94-181, 308-94-191, 308-94-200, 308-94-210, 308-94-220, 308-94-240, 308-94-250, 308-94-261, 308-94-265, and 308-94-270.

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: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or, by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

June 18, 1999

Deborah McCurley
Acting Administrator
Title and Registration Services

WSR 99-13-158

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed June 21, 1999, 3:15 p.m.]

Subject of Possible Rule Making: Crab gear limitations. Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The coastal crab fishery is overcapitalized, and operates as a "pulse" fishery. This causes instability in the industry and reduces the season length. In order to provide for the economic well-being of the industry, it may be necessary to implement gear reduction rules to limit landings and extend the length of the season, thus providing a continuity of income stream for both fishers and processors.

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 Phil Anderson, Interjurisdictional Resources Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2720, fax (360) 902-2182.

Contact by November 2, 1999. Proposal filing expected to be November 3, 1999.

June 21, 1999

Evan Jacoby
Rules Coordinator

WSR 99-13-159

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF FISH AND WILDLIFE

[Filed June 21, 1999, 3:16 p.m.]

Subject of Possible Rule Making: Sale and importation of live fin fish for the restaurant market.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The live fish fishery for the restaurant market targets on plate-size, sub-adult fish, including many species that are currently overutilized, primarily rockfish. Harvest of these species in live market condition requires exploitation of the near shore habitat or other shallower waters, which have been closed to commercial fishing in order to maximize recreational opportunity. Rules may be necessary to regulate the live fish fishery and the importation for the restaurant trade.

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 Morris Barker, Marine Resources Program Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944.

Contact by November 2, 1999. Proposal filing expected to be November 3, 1999.

June 21, 1999
Evan Jacoby
Rules Coordinator

fax at (360) 902-2092, or e-mail at adminregs@agr.wa.gov. Comments should be made by 5:00 p.m., August 7, 1999.

For a copy of the review report contact Laurie Mauer- man, Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42560, Olympia, WA 98504-2560.

June 21, 1999
Bob Arrington
Assistant Director

WSR 99-13-162

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed June 22, 1999, 11:10 a.m.]

Subject of Possible Rule Making: Rules relating to restricted use herbicides in the following counties:

Spokane County, WAC 16-230-400 through 16-230-470.

Yakima County, WAC 16-231-200 through 16-231-235.
Adams County, WAC 16-231-300 through 16-231-340.

Columbia County, WAC 16-231-400 through 16-231-425.

Whitman County, WAC 16-231-500 through 16-231-530.

Klickitat County, WAC 16-231-600 through 16-231-620.

Okanogan County, WAC 16-231-620 through 16-231-720.

Douglas and Chelan counties, WAC 16-231-800 through 16-231-840.

Grant County, WAC 16-231-900 through 16-231-935.

Walla Walla County, WAC 16-232-001 through 16-232-038.

Lincoln County, WAC 16-232-100 through 16-232-120.

Garfield County, WAC 16-232-200 through 16-232-225.

Kittitas County, WAC 16-232-300 through 16-232-315.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.58.040 and 17.21.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a review of the above-mentioned rules under the provisions of the Governor's Executive Order 97-02 and has determined that the rules are necessary and should be retained to protect vineyards in listed counties from phenoxy type pesticide drift.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rules. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, or

WSR 99-13-163

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed June 22, 1999, 11:12 a.m.]

Subject of Possible Rule Making: Rules relating to desiccants and defoliant, WAC 16-230-150 through 16-230-190.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 15.58.040 and 17.21.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a review of the above-mentioned rules under the provisions of the Governor's Executive Order 97-02 and has determined that the rules are necessary and should be retained to protect rowcrops from damage as a result of pesticide (desiccant and defoliant) drift.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rules. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, or fax at (360) 902-2092, or e-mail at adminregs@agr.wa.gov. Comments should be made by 5:00 p.m., August 7, 1999.

For a copy of the review report contact Laurie Mauer- man, Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42560, Olympia, WA 98504-2560.

June 21, 1999
Bob Arrington
Assistant Director

WSR 99-13-170

**PREPROPOSAL STATEMENT OF INQUIRY
BOARD FOR**

VOLUNTEER FIREFIGHTERS

[Filed June 22, 1999, 2:46 p.m.]

Subject of Possible Rule Making: To amend chapter 491-02 WAC to adopt new actuarial tables for use in calculating joint survivors' option for pensions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.24.290(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1999 legislation allowing a pop-up provision for the joint survivor option necessitates recalculation of actuarial tables.

Process for Developing New Rule: Agency study; and calculation by the Office of the State Actuary.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Board for Volunteer Firefighters, P.O. Box 114, 605 East 11th Avenue #112, Olympia, WA 98507, phone (360) 753-7318, toll free (877) 753-7318, fax (360) 586-1987.

June 22, 1999

Joseph H. Faubion
Executive Secretary

WSR 99-13-173

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 99-09—Filed June 22, 1999, 4:46 p.m.]

Subject of Possible Rule Making: Acid rain regulation, chapter 173-406 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.94.331, 70.94.331(4), and 70.94.510.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Environmental Protection Agency has updated the federal acid rain program by adding the Federal Code of Regulations (40 C.F.R. parts 74 and 76). The Department of Ecology is considering updating chapter 173-406 WAC to incorporate these changes to the federal regulation in Washington's regulation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Acid rain is also regulated by the United States Environmental Protection Agency. Other federal agencies that may be interested in coordinating in the rule-making process include the United States Forest Service and the National Park Service. These and other groups will be contacted by telephone and mailed focus sheets at various points in the rule making.

Process for Developing New Rule: The rule will be based upon a model state rule developed by the Environmental Protection Agency. Drafts will be distributed to known interested parties and anyone else who requests and the documents related to this rule making will be posted on the Department of Ecology Internet web site. If requested, meetings of interested parties could be scheduled.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tom Todd, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA

98504-7600, phone (360) 407-7528, fax (360) 407-7534, e-mail ttod461@ecy.wa.gov.

June 15, 1999

Mary E. Burg
Program Manager

WSR 99-13-177

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 8:08 a.m.]

Subject of Possible Rule Making: WAC 16-129-050 Requirements for signs in theatres or other commercial food service establishments which prepare and sell popcorn for human consumption at point of sale.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.04.331 Intrastate commerce in food, drugs and cosmetics.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes requirements for label showing whether or not butter is used on the popcorn and the ingredients in the product used if it is not butter. As required under RCW 69.04.331.

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 has determined after review of this rule that it does not require any changes. It will be scheduled for review again in 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written comments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, or by phone (360) 902-1860, fax (360) 902-2087.

June 23, 1999

Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-178

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 8:08 a.m.]

Subject of Possible Rule Making: Chapter 16-720 WAC, Dietary supplements—Elemental iron.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 70.106 RCW, Washington Poison Prevention Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes requirements for childproof caps on iron supplements containing 250 Mg of iron or more per package. This prevents accidental poisoning of children from iron supplements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Food and Drug Administration and Consumer Product Safety Commission. Rule is consistent with requirements of these federal agencies.

Process for Developing New Rule: The department has determined after review of this rule that it does not require any changes. It will be scheduled for review again in 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written comments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, or by phone (360) 902-1860, fax (360) 902-2087.

June 23, 1999

Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-179

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed June 23, 1999, 8:09 a.m.]

Subject of Possible Rule Making: Chapter 16-145 WAC, Food storage warehouses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.10.055 Food storage warehouses.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes the renewal date for food storage warehouse licenses.

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 has determined after review of this rule that it does not require any changes. It will be scheduled for review again in 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written comments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, or by phone (360) 902-1860, fax (360) 902-2087.

June 23, 1999

Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-180

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed June 23, 1999, 8:09 a.m.]

Subject of Possible Rule Making: Chapter 16-24 WAC, Humane slaughter of livestock.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 16.50 RCW, Humane slaughter of livestock.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes humane slaughter methods for slaughter of meat food animals.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United State Department of Agriculture (USDA). Rule is consistent with requirements for humane slaughter under USDA regulations.

Process for Developing New Rule: The department has determined after review of this rule that it does not require any changes. It will be scheduled for review again in 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written comments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, or by phone (360) 902-1860, fax (360) 902-2087.

June 23, 1999

Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-181

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed June 23, 1999, 8:10 a.m.]

Subject of Possible Rule Making: Chapter 16-168 WAC, Independent sanitation consultants for food storage warehouses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.10.055 Food storage warehouses.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes minimum requirements for independent sanitation consultants for food storage warehouses.

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 has determined after review of this rule that it does not require any changes. It has already been written in the new clear rule format. It will be scheduled for review again in 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written com-

ments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, or by phone (360) 902-1860, fax (360) 902-2087.

June 23, 1999
Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-182
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 8:11 a.m.]

Subject of Possible Rule Making: Chapter 16-146 WAC, Food processors.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 69.07.040 Washington Food Processing Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule establishes the renewal date and late fee for renewal for food processor licenses.

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 has determined after review of this rule that it does not require any changes. It will be scheduled for review again in 2003.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Comments will be accepted for thirty days after the date of publication of this order. Please direct written comments to Verne E. Hedlund, Washington State Department of Agriculture, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, or by phone (360) 902-1860, fax (360) 902-2087.

June 23, 1999
Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-187
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 9:47 a.m.]

Subject of Possible Rule Making: Reduce the amount of days for qualifying winter pears as being certified as "controlled atmosphere storage" from ninety to sixty days.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provide to the consumer a better quality winter pear. Growers will realize a higher packout due to the lack of scuffing, belt burn, scald and shrivel because packers will be able to pack their winter pears earlier in the season. The earlier the packers can apply ethoxiquin and TBZ, the better the storage conditions are for the

long pull. The delay in packing (ninety days) contributes to scald. Decay, scuffing and shrivel which equates to a lower packout for the grower, more condition problems for the packers and receivers and less returns to the winter pear growers.

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 is at the request of the Upper Wenatchee River Valley Pear Growers. The department will be working with industry associations, stakeholders and other interested parties in the development of this rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Any comments relating to the development of this rule must be received no later than August 2, 1999. Please direct all comments to Jim Quigley, Program Manager, Washington State Department of Agriculture, Fruit and Vegetable Inspection Program, P.O. Box 43560, Olympia, WA 98504-2560, phone (360) 902-1833, fax (360) 902-2085.

June 23, 1999
Robert W. Gore
Assistant Director

WSR 99-13-188
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
ADMINISTRATIVE HEARINGS

[Filed June 23, 1999, 9:55 a.m.]

Subject of Possible Rule Making: Updates to the Office of Administrative Hearings (OAH) rules, including (1) updates to model rules of procedure, chapter 10-08 WAC; (2) updates to procedures for public access to OAH records, chapter 10-04 WAC; (3) clerical revisions to OAH rules on SEPA, chapter 10-12 WAC; and (4) new rules on procedures for filing complaints against administrative law judges.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.250, 34.12.030(6), 34.12.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Agency rules have not been reviewed for several years and need to be updated. The model rules of procedure are intended to provide guidance for other agencies and encourage more consistent procedures under the Administrative Procedure Act (APA) by different state agencies, see RCW 34.05.250. Complaint procedures are to provide guidance to the public if they have complaints about administrative law judges' conduct at hearing.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Other state agencies may develop their own rules, but OAH is responsible for promulgating model rules. For coordination, proposed model rules will be sent to rules coordinators for state agencies.

Process for Developing New Rule: Preliminary drafts of amendments to the model rules have been developed by an administrative law judge task force and circulated informally.

An informal meeting to discuss preliminary drafts will be held August 3, 1999. Proposed rules would be published September 1, 1999, with a hearing tentatively planned for September 21, 1999.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Art Wang, Chief Administrative Law Judge, Office of Administrative Hearings, P.O. Box 42488, Olympia, WA 98504-2488, (360) 664-8717, fax (360) 664-8721, awang@oah.wa.gov.

A meeting is tentatively planned to discuss amendments to the model rules at agency headquarters, 919 Lakeridge Way S.W., Olympia, WA, (360) 664-8717, at 1:30 p.m. on Tuesday, August 3, 1999, but please call to confirm.

June 18, 1999

Art Wang
Chief Administrative Law Judge

WSR 99-13-190
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed June 23, 1999, 10:03 a.m.]

Subject of Possible Rule Making: Repealing WAC 388-86-018 Coordinating community aids service alternatives (CCASA) program services and 388-87-048 Payment-coordinated community aids service alternatives (CCASA) program; and new WAC 388-539-0500 Community aids service alternative (CASA) program—Services and payment.

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: The department is establishing a new chapter to consolidate rules regarding community AIDS service alternatives and payment. The rules are also being rewritten to comply with the Governor's Executive Order 97-02 mandating clear writing.

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 invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting L. Mike Freeman, Regulatory Improvement Project, Medical Assistance Administration, Olympia, WA 98504-5530, phone (360) 586-0941, fax (360) 753-7315, TTY 1-800-848-5429, e-mail freemlm@dshs.wa.gov.

June 21, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-13-191

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed June 23, 1999, 10:03 a.m.]

Subject of Possible Rule Making: Amending WAC 388-86-100 Durable medical equipment and new chapter 388-546 WAC, Transportation services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.04.050, 74.04.055, 74.04.057 and 74.09.500; 42 C.F.R. 431.53, 441.62, and 440.170.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is establishing new chapter 388-546 WAC to consolidate rules regarding medically related transportation and payment, other than ambulance. The department intends to update and incorporate the policies regarding vehicle wheelchair lifts currently found in WAC 388-86-100(7) into the new chapter. These rules are also being rewritten to comply with the Governor's Executive Order 97-02, which mandates clear writing.

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 invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting L. Mike Freeman, Regulatory Improvement Project, Medical Assistance Administration, Olympia, Washington 98504-5530, phone (360) 586-0941, fax (360) 753-7315, TTY 1-800-848-5429, e-mail freemlm@dshs.wa.gov.

June 21, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-13-196

PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed June 23, 1999, 10:29 a.m.]

Subject of Possible Rule Making: Amendments to chapter 460-24A WAC, the rules regulating investment advisers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 21.20.450.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Housekeeping amendments are needed to reflect statutory renumbering that occurred in the 1998 amendments to the Securities Act, chapter 21.20 RCW; WAC 460-24A-050 needs to be amended to allow for the changes to the Series 65 examination which will occur on January 1, 2000; WAC 460-24A-150 needs to be amended to

reflect the adoption by the SEC of Release IA-1731, which amended its rule regarding performance-based compensation. In addition, the Securities Division will consider whether to amend WAC 460-24A-170 by adopting the NASAA model rules on net worth and bonding; and consider whether to amend WAC 460-24A-200 by adopting a NASAA model rule on record-keeping requirements for investment advisers.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Other agencies that regulate this subject are the federal Securities and Exchange Commission and, collectively through the North American Securities Administrators Association, the regulators of investment advisers from the other states. Adopting these proposed rule will foster uniformity with these regulators.

Process for Developing New Rule: The change to the Series 65 to a competency examination, and the model rules on net worth, bonding, and recordkeeping were developed through a national notice and comment process by NASAA. The SEC adopted Release IA-1731 through its rule-making procedure which provides for public notice and comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by addressing any comments to the attention of Nelda Shannon, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, phone (360) 902-8768, fax (360) 704-6968, e-mail nshannon@dfi.wa.gov.

June 22, 1999

Deborah R. Bortner
Assistant Director

WSR 99-13-197

PREPROPOSAL STATEMENT OF INQUIRY INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 99-6—Filed June 23, 1999, 10:56 a.m.]

Subject of Possible Rule Making: The Valuation of Life Insurance Policies Regulation adopted by the National Association of Insurance Commissioners. This regulation is also known as "Triple X" or "XXX."

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.74.030, 47.74.040, 47.74.070, and 48.74.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The National Association of Insurance Commissioners (NAIC) adopted a model regulation on the Valuation of Life Insurance Policies, known as "Triple X" or "XXX." The purpose of the model regulation is to provide a better method of ensuring adequate and realistic reserves for life insurance policies. Reserves are the funds set aside by the insurer for payment of claims.

The model regulation includes tables of select mortality factors and rules for their use; rules concerning a minimum standard for valuation of plans with nonlevel premiums or benefits; and rules concerning a minimum standard for the valuation of plans with secondary guarantees.

The commissioner will review the NAIC model regulation and determine if the regulation, all or in part, will benefit the consumers of the state of Washington.

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; and send comments by July 23, 1999, to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, fax (360) 664-2782, Internet KacyB@oic.wa.gov.

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) 664-3784, fax (360) 664-2782, Internet KacyB@oic.wa.gov.

June 23, 1999

Robert A. Harkins
Chief Deputy Commissioner

WSR 99-13-198

PREPROPOSAL STATEMENT OF INQUIRY INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 99-2—Filed June 23, 1999, 10:57 a.m.]

Subject of Possible Rule Making: The commissioner is considering the amendment of rules governing health plans and carriers under chapter 284-43 WAC and may also add provisions to correct or clarify existing provisions. Amendments to existing managed care rules may include changes to address inconsistencies between the current rules and the Health Insurance Portability and Accountability Act (HIPAA). Among the possible amendments or additions are technical changes to ease reporting requirements, clarification of insurer responsibility for the actions by their health care providers and provider administrators, and provisions addressing insurer responsibility for compliance with state and federal laws affecting health plans.

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 48.44.020, 48.46.060, and 48.46.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The primary purpose for considering new rules is to make corrections to chapter 284-43 WAC and address several issues related to the existing rules. Some provisions of chapter 284-43 WAC may need correction as a consequence of changes in federal and state laws. Finally, new problems have been raised by consumers, by the health care community, and by carriers relating to interpretation and implementation of the rules contained in chapter 284-43 WAC.

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, Ann Eddy, (360) 586-3111. The commissioner will form small groups comprised of affected parties to develop new 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) 664-3784, fax (360) 664-2782, Internet KacyB@oic.wa.gov. Deadline for comments July 23, 1999.

June 23, 1999

Robert A. Harkins

Chief Deputy Commissioner

WSR 99-13-199

PREPROPOSAL STATEMENT OF INQUIRY INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 99-1—Filed June 23, 1999, 10:57 a.m.]

Subject of Possible Rule Making: Annuity and deposit fund disclosure regulation, WAC 284-23-300 through 284-23-370.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.30.010, 48.30.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This regulation was selected for review in the commissioner's regulatory improvement program. The regulatory scheme has not been updated since 1980. The National Association of Insurance Commissioners recently adopted a new model regulation for annuity disclosure. The commissioner will review that model as well as other recent models and contemplate possible changes to better protect Washington consumers. Among the changes that will be considered are requiring that insurers provide an Annuity Buyer's Guide to prospective buyers and an annual statement of the performance of an annuity to purchasers.

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; and comments regarding this rule by July 23, 1999, to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3784, fax (360) 664-2782, Internet KacyB@oic.wa.gov.

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) 664-3784, fax (360) 664-2782, Internet KacyB@oic.wa.gov.

June 23, 1999

Robert A. Harkins

Chief Deputy Commissioner

WSR 99-13-203

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed June 23, 1999, 11:18 a.m.]

Subject of Possible Rule Making: During the past year labor and industries underwent a performance audit which was overseen by the Joint Legislative Audit Review Committee (JLARC). Included in the performance audit were several suggestions (recommendations) aimed at improving or enhancing the retrospective rating program administered by labor and industries.

In addition to the performance audit, the 1999 session of the legislature passed and the governor signed SB 6048 pertaining to the retrospective rating program. This bill adds new entrance and participation requirements to organizations that sponsor retrospective rating groups and establishes new rule making authority for the department.

Implementation of some of the performance audit recommendations and the legislative changes will require labor and industries to establish new administrative rules (WACs) as well as readopt some of the existing rules. Rules developed during this process will be adopted under the new rule-making authority contained in SB 6048.

Subjects of possible rule making include:

- Readoption of retrospective rating rules contained in chapter 296-17 WAC;
- Establishment of new underwriting guidelines;
- Prohibiting the direct payment of medical bills by state fund insured employers;
- Requirement of an annual report highlighting workplace safety accomplishments of group;
- Streamlining reenrollment process;
- Elimination of any bias in reevaluation of case reserves;
- Elimination of the pro rata distribution of occupational disease claims;
- Elimination of any bias that might exist in the retro premium formula including increasing the number of mandatory adjustments;
- Elimination of captive clauses in retro group contracts and capping administrative fees of sponsoring organizations; and
- Requiring the addition safety performance measurements as part of the retro premium formula.

If these changes are adopted they would be in the form of rules and would be codified in chapter 296-17 WAC, entitled "General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance."

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.020(1), 51.16.035 and SB 6048 (effective July 25, 1999).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The JLARC performance audit identified several areas that if adopted by labor and industries might improve or enhance the retrospective rating program. SB 6048 also contains a number of changes to the retrospective rating program including a requirement that the program conform to recognize principles of insurance. Any

change to the retrospective rating program has the potential of impacting roughly 46% of the state fund premium and the over 15,000 employers that pay this premium. Because these changes would have state-wide application and affect a large number of employers that participate in the retrospective rating program any change should be in the form of rule.

By establishing these policy changes as rules the public will have a greater opportunity to participate in their development. Labor and industries has minimal underwriting and safety measurements currently in place. None of the existing regulations however, address the depth of issues presented in the JLARC report or SB 6048.

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

Process for Developing New Rule: Labor and industries will begin the rule development process by working with the Retro Advisory Committee. Once the committee has been presented with the general ideas, labor and industries will mail proposed changes to affected organizations. Depending on feedback on the proposed rules the department may conduct a number of public meetings around the state in August 1999, to solicit additional input from customers that participate in the retrospective rating program.

Labor and industries will use this information and feedback to further modify the ideas and then make a presentation to the Retro Advisory Committee and the Workers' Compensation Advisory Committee. The director of labor and industries will take into consideration the recommendations of both committees prior to a formal rule filing tentatively scheduled for September 22, 1999.

Labor and industries may hold special work sessions with the committee or other retro groups to further address all of the ideas and put forth a comprehensive rule proposal. Labor and industries would like to have new rules in place by January 1, 2000.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A letter will be mailed to employers and groups that participate in the retro program in late June with the proposed changes. This letter will solicit input on the proposals and whether live public meetings are needed. If informal public meetings are requested they will be held in August. We will notify all affected organizations of any meetings in mid July by letter. This letter will disclose the date, time and location of these meetings. Informal meetings will not be scheduled until after a work session of the committee has taken place. Retro employers and other interested parties can call the department at (360) 902-4835 to obtain information on participation.

June 22, 1999
Gary Moore
Director

WSR 99-13-204
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 23, 1999, 11:19 a.m.]

Subject of Possible Rule Making: Provider reporting requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.04.020(4), establish and adopt rules governing the administration of this title; RCW 51.04.030, maintenance of records and payment of medical bills; and RCW 51.36.060, duties of attending physicians.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This is part of the department's work to comply with the governor's clear rule writing requirement. Currently department reporting requirements are scattered throughout chapter 296-20 WAC. This change will put reporting requirements in one easy to understand section to assist providers in complying.

Process for Developing New Rule: Internal project team, discussion with the Washington State Medical Association Workers' Compensation Advisory Committee and the Chiropractic Advisory Committee, communication with interested stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Linda Grant, Occupational Nurse Consultant, Health Services Analysis, P.O. Box 44322, Olympia, WA 98504-4322, (360) 902-6790, fax (360) 902-4249, Internet gran235@lni.wa.gov.

June 17, 1999
Gary Moore
Director



WSR 99-13-016
EXPEDITED REPEAL
DEPARTMENT OF REVENUE

[Filed June 4, 1999, 4:27 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-30-360 Correction of erroneous classification or reclassification.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Statute on which the rule was based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Kim M. Qually, Counsel, Legislation and Policy Division, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, e-mail kimq@dor.wa.gov, fax (360) 664-0693.

Reason the Expedited Repeal of the Rule is Appropriate: The statute (RCW 84.34.045) implemented by this rule expired on December 31, 1995, and when adopted, WAC 458-30-360 contained an expiration date of December 31, 1995. Therefore, WAC 458-30-360 needs to be repealed because the underlying statute, as well as the rule itself, have expired.

June 1, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

WSR 99-13-107
EXPEDITED REPEAL
EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 2:57 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-350 Interpretive regulation—Inclusion of farm labor contractor.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: We have revised existing rules and examined statutes. We have concluded after careful review that this rule is redundant and is not needed. Chapter 50.12 RCW handles this situation and new rules replace this one.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-350 should be repealed as unnecessary.

June 9, 1999
 Carver Gayton
 Commissioner

WSR 99-13-108
EXPEDITED REPEAL
EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 2:58 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-355 Interpretive regulation—Clarification of agricultural liability.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: We have revised existing rules and examined statutes. We have concluded after careful review that this rule is not needed. Chapter 50.12 RCW and the revision of our entire set of tax rules makes this one unnecessary.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-355 should be repealed.

June 9, 1999
 Carver Gayton
 Commissioner

WSR 99-13-109
EXPEDITED REPEAL
EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 2:58 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-380 Definitions relating to RCW 50.04.140.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration,

EXPEDITED REPEAL

Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: We have revised existing rules and examined statutes. We have concluded after careful review and analysis that this rule is redundant and confusing to staff and the public. Chapters 50.04 and 50.12 RCW and the revision of all tax rules makes this particular rule unnecessary.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-380 should be repealed.

June 9, 1999
Carver Gayton
Commissioner

WSR 99-13-175

EXPEDITED REPEAL

DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 8:06 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-124-001, 16-124-010, 16-124-020, 16-124-030, 16-124-040, 16-124-050, 16-124-060, 16-124-070, 16-124-080, 16-124-090, 16-124-100, 16-124-110, 16-124-120, 16-124-130, 16-124-140, 16-124-150, 16-124-160, 16-124-170, 16-124-180 and 16-124-190, Licensed testers, weighers, samplers and graders.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances; and other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Verne E. Hedlund, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1860, fax (360) 902-2087.

Reason the Expedited Repeal of the Rule is Appropriate: This rule is no longer necessary because there is no longer any need to spell out the requirements for Babcock testing in a rule, as they are well known and covered in other rules adopted by the department. The methods used for butterfat testing have changed since this rule was adopted in 1943.

June 23, 1999
Candace A. Jacobs, DVM
Assistant Director

WSR 99-13-176

EXPEDITED REPEAL

DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 8:07 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 16-101-690 Civil penalties—Substandard products.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Verne E. Hedlund, 1111 Washington Street, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1860, fax (360) 902-2087.

Reason the Expedited Repeal of the Rule is Appropriate: This rule is no longer necessary because the department no longer is able to test milk samples for the standards under this section on a regular basis. The rule establishes a method to calculate civil penalties for violations of milk fat or solids not fat standards. The rule is complicated, unclear and confusing. It has proven to be difficult to apply in practice and could result in inconsistent application of civil penalties for violations. The department prefers to apply other remedies available for penalties on these violations which are not considered high priority because they do not have public health implications.

June 23, 1999
Candace A. Jacobs, DVM
Assistant Director

EXPEDITED REPEAL

WSR 99-12-030
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Division of Vocational Rehabilitation)
 [Filed May 25, 1999, 3:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-081.

Title of Rule: New chapter 388-890 WAC, Rehabilitation services for individuals with disabilities, will replace the following rules which are being repealed: Repealing WAC 490-500-005 Definitions, 490-500-010 Application for services, 490-500-015 Initial interview, 490-500-022 Assessment for determining eligibility and vocational rehabilitation needs, 490-500-025 Eligibility for services, 490-500-030 Eligibility for services—Criteria, 490-500-050 Certification for decision of eligibility or ineligibility, 490-500-055 Notice to applicant, 490-500-065 Ineligibility—Review required, 490-500-070 Extended evaluation, 490-500-080 Extended evaluation—Plan, 490-500-170 Criteria for order of selection, 490-500-180 Economic need, 490-500-185 Economic need—Financial statement required, 490-500-190 Economic need—Standards for determining, 490-500-200 Economic need—Notification of decision, 490-500-205 Comprehensive assessment, 490-500-257 Individualized, written rehabilitation plan, 490-500-260 Individualized, written rehabilitation plan—Content, 490-500-270 Individualized, written rehabilitation plan—Participation, 490-500-275 Individualized, written rehabilitation plan—Review, 490-500-300 Vocational rehabilitation—Employment outcome, 490-500-325 Comparable services and benefits available from other agencies, 490-500-350 Vocational rehabilitation services, 490-500-380 Vocational rehabilitation services—Counseling, guidance, and work-related placement services, 490-500-385 Vocational rehabilitation services—Physical and mental restoration, 490-500-389 Vocational rehabilitation services—Telecommunications, sensory, and other technological aids and devices, 490-500-390 Vocational rehabilitation services—Training, 490-500-418 Vocational rehabilitation services—Rehabilitation assistive technology services, 490-500-420 Vocational rehabilitation services—Additional living expenses, 490-500-430 Vocational rehabilitation services—Occupational licenses, tools, equipment, and initial stocks and supplies, 490-500-435 Vocational rehabilitation services—Transportation, 490-500-437 Vocational rehabilitation services—Interpreter services and reader services, 490-500-445 Vocational rehabilitation services—Services to family members, 490-500-450 Vocational rehabilitation services—Other goods and services, 490-500-455 Vocational rehabilitation services—Post employment services, 490-500-460 Vocational rehabilitation services—Information and referral services, 490-500-465 Vocational rehabilitation services—Recruitment and training services, 490-500-470 Vocational rehabilitation services—Transition services, 490-500-475 Vocational rehabilitation services—Supported employment, 490-500-477 Vocational rehabilitation services—Independent living services, 490-500-480 Vocational rehabilitation services—On-the-job or other related personal

assistance, 490-500-485 Vocational rehabilitation services—Services to groups, 490-500-500 Purchase of services, 490-500-505 Purchase of services—Selection criteria—Schools or training organizations, 490-500-510 Purchase of services—Selection criteria—On-the-job training, 490-500-525 Termination of services under an individualized, written rehabilitation plan—Ineligible, 490-500-530 Termination of services under an individualized, written rehabilitation plan—For reasons other than ineligibility, 490-500-542 Termination of services under an individualized written rehabilitation plan—Rehabilitated, 490-500-545 Notification of termination, 490-500-555 Confidential information—Disclosure, 490-500-560 Administrative review, 490-500-580 Fair hearing—Adjudicative proceeding, 490-500-590 Client records, 490-500-600 Independent living program, 490-500-605 Independent living program—Eligibility/ineligibility, 490-500-615 Independent living program—Economic need and comparable services and benefits, 490-500-620 Independent living program—Written independent living plan, 490-500-622 Independent living program—Independent living services, 490-500-625 Independent living program—Termination, 490-500-627 Independent living program—Client records, 490-500-630 Statewide independent living council, and 490-500-635 State rehabilitation advisory council.

Purpose: To repeal old rehabilitation rules and adopt new rules to comply with the Rehabilitation Act of 1973 as amended in August, 1998 including the following Titles: I Vocational Rehabilitation Services; VI Employment Opportunities for Individuals with Disabilities; and VII Independent Living Services and Centers for Independent Living. These rules have been written to comply with the Governor's Executive Order 97-02, Regulatory Improvement.

Statutory Authority for Adoption: RCW 74.29.020, 74.08.090.

Statute Being Implemented: Chapter 74.29 RCW, Rehabilitation Act of 1973 as amended in August 1998.

Summary: The rules inform the public what rehabilitation services and/or benefits are provided by the Division of Vocational Rehabilitation (DVR) and under what conditions DVR provides the services and/or benefits.

Reasons Supporting Proposal: To comply with Rehabilitation Act of 1973 as amended in August 1998 and the Governor's Executive Order 97-02, Regulatory Improvement.

Name of Agency Personnel Responsible for Drafting: Phyllis Hansen, Kelly Boston, Division of Vocational Rehabilitation, P.O. Box 45340, Olympia, WA 98504-5340, (360) 438-8047, (360) 438-8000 V/TTY; Implementation and Enforcement: Don Kay, Division of Vocational Rehabilitation, P.O. Box 45340, Olympia, WA 98504-5340, (360) 438-8015.

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

Rule is necessary because of federal law, Rehabilitation Act of 1973 as amended in August 1998.

Explanation of Rule, its Purpose, and Anticipated Effects: The rules inform the public what rehabilitation services and/or benefits are provided by the Division of Vocational Rehabilitation (DVR) and under what conditions DVR provides the services and/or benefits. Major areas covered

include: Informed choice; application and eligibility; vocational rehabilitation program; supported employment program; independent living program; participant rights to appeal; confidentiality; access to DVR services for limited English speaking people; order of selection; and vocational rehabilitation services for groups of individuals with disabilities.

The rules are intended to increase the rights and responsibilities of DVR applicants and eligible individuals with disabilities, support full partnership between service participants and DVR, and support DVR's mission to help people with disabilities go to work. The new rules are organized for ease in use and simplified for clear understanding.

Proposal Changes the Following Existing Rules: DVR is repealing the old program rules in chapter 490-500 WAC and replacing them with new easier to read rules in new chapter 388-890 WAC. Major content changes include adding and changing definitions, adding options for applicants and eligible individuals to make informed choices, changing elements of eligibility, extending the period of time to close a case service record after a participant becomes employed, changing from an individualized written rehabilitation plan to an individualized plan for employment, changes to the appeals process, changes to the use of comparable services and benefits, and changes to economic need and financial participation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not regulate any businesses. The proposed rules regulate DVR in the provision of rehabilitation services and anyone interested in receiving rehabilitation services from DVR.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule" and a cost benefit analysis has been prepared. To obtain a copy, contact Phyllis Hansen or Kelly Boston, DVR Program Administrators, P.O. Box 45340, Olympia, WA 98504-5340, phone (360) 438-8000 V/TTY, (Phyllis) e-mail hansepa@dshs.wa.gov, (Kelly) e-mail bostok@dshs.wa.gov.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on July 27, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by July 16, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by July 27, 1999.

Date of Intended Adoption: August 27, 1999.

May 24, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Chapter 388-890 WAC

REHABILITATION SERVICES FOR INDIVIDUALS WITH DISABILITIES

PURPOSE AND DEFINITIONS

NEW SECTION

WAC 388-890-0005 What is the purpose of this chapter? This chapter explains the types of vocational rehabilitation services (referred to as "VR services" in this chapter) and independent living (IL) services available to individuals who are eligible through the department of social and health services (DSHS), division of vocational rehabilitation (DVR).

VR services are offered to assist individuals with disabilities to prepare for, get and keep jobs that are consistent with their abilities, capabilities, and interests. This chapter is consistent with the laws included under the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1998 and codified in 34 Code of Federal Regulations, Parts 361, 363 and 364.

NEW SECTION

WAC 388-890-0010 What definitions apply to this chapter? Client assistance program is a program that offers free advice and information about your rights when you are receiving services from DVR.

DSHS means the Washington state department of social and health services.

DVR means the DSHS division of vocational rehabilitation.

IL counselor means an independent living counselor employed by the DSHS division of vocational rehabilitation.

Impediment to employment means the physical or mental limitations resulting from a disability that hinder your ability to prepare for a job, find a job, or keep a job that matches your abilities and potential.

Integrated setting:

(1) for the purpose of receiving services, means a setting commonly found in the community where you would interact with nondisabled people, other than people who are providing VR services to you.

(2) for the purpose of employment, means a setting commonly found in the community in which you interact with nondisabled people to the same extent that a nondisabled person in the same type of job interacts with others.

VR counselor means a vocational rehabilitation counselor employed by the DSHS division of vocational rehabilitation.

You, as used in this chapter, includes your representative or guardian, if a representative or guardian is acting on your behalf or assisting you to make informed decisions about VR or IL program services.

INFORMED CHOICE**NEW SECTION****WAC 388-890-0015 What is informed choice?**

Informed choice is a way to make decisions by comparing the meaningful options available to you and choosing one that matches your strengths, needs, capabilities and interests.

NEW SECTION

WAC 388-890-0020 How does DVR support the informed choice process? DVR supports the informed choice process by:

- (1) Helping you understand the options available to you;
- (2) Sharing information to help you make decisions that match your strengths, needs, capabilities, and interests; and
- (3) Discussing the information provided and offering advice.

NEW SECTION

WAC 388-890-0025 What decisions can I make using informed choice? (1) You have the right to make informed choices throughout the rehabilitation process.

- (2) Your informed choices include, but are not limited to:
- (a) Your employment goal;
 - (b) VR services you need to reach your employment goal;
 - (c) Service provider(s) for each VR service;
 - (d) Whether to get services in an integrated or nonintegrated setting.

NEW SECTION

WAC 388-890-0030 What if I don't know how to use the informed choice decision making process? DVR explains to you how to make informed choices in the vocational rehabilitation process, including:

- (1) Any conditions that limit your choices; and
- (2) Support and assistance if the type of disability you have makes it difficult for you to understand and use informed choice to make decisions.

ELIGIBILITY FOR VR SERVICES**NEW SECTION**

WAC 388-890-0035 Who is eligible to receive VR services? You are eligible for VR services if you meet all of the following conditions:

- (1) You have a physical, mental, or sensory limitation resulting from a disability that hinders your ability to prepare for, get, or keep a job that matches your abilities and potential;
- (2) You intend to and can work after receiving VR services; and
- (3) You require VR services to prepare for, get or keep a job.

NEW SECTION

WAC 388-890-0040 How does DVR determine whether VR services will enable me to work? (1) In making an eligibility decision, DVR presumes that VR services will enable you to work, unless, because of the significance of your disability, a VR counselor cannot make such a presumption.

(2) If a VR counselor cannot presume that VR services will enable you to work because of the significance of your disability, you may complete a trial work experience as outlined under WAC 388-890-670 through WAC 388-890-705 before an eligibility decision is made.

NEW SECTION

WAC 388-890-0045 Am I eligible for VR services if I receive Social Security disability benefits? (1) If you are eligible for disability benefits under Title II or Title XVI of the Social Security Act and intend to work, DVR presumes that you are eligible, unless, because of the significance of your disability, a VR counselor cannot presume that VR services will enable you to work.

(2) If it cannot be presumed that VR services will enable you to work because of the significance of your disability, you may complete a trial work experience as outlined in WAC 388-890-670 through WAC 388-890-705.

NEW SECTION

WAC 388-890-0050 What criteria are not considered in the eligibility decision? DVR does not base an eligibility decision on your:

- (1) Type of disability;
- (2) Age, gender, race, color, creed, national origin, or sexual orientation;
- (3) Rehabilitation needs;
- (4) Cost of services; or
- (5) Income level.

NEW SECTION

WAC 388-890-0055 What information does DVR use to make an eligibility decision? (1) To determine whether you are eligible for VR services, a VR counselor reviews existing, current records about your disability.

(2) Information may be provided to DVR by you, your family, or other service providers who have information about your disability, such as your doctor, schools you attended, or the Social Security Administration.

(3) If existing information does not verify whether you are eligible, DVR explains what additional information is needed and the options for getting the information.

(4) DVR provides or pays for any medical evaluations, tests, or other services needed to document that you are eligible for VR services.

(5) When enough information is available, a VR counselor reviews the information and makes an eligibility decision.

NEW SECTION

WAC 388-890-0060 After I submit my application to DVR, how long does it take DVR to make an eligibility decision? DVR makes an eligibility decision as soon as enough information is available, but no longer than sixty days after you complete the application requirements under WAC 388-890-105.

(1) If DVR does not have enough information to determine your eligibility within sixty days, you and a VR counselor must:

(a) Discuss the reason for the delay and whether other methods to get the information are needed;

(b) Extend the eligibility period, if you agree; or

(c) Begin a trial work experience as outlined under WAC 388-890-670 through 388-890-705.

(2) If you do not agree to extend the eligibility determination period, DVR must close your case service record.

NEW SECTION

WAC 388-890-0065 What happens if DVR determines that I am not eligible? (1) Before making a decision that you are not eligible for VR services, a VR counselor consults with you and gives you an opportunity to discuss the decision.

(2) DVR sends you a notice of ineligibility in writing, or using another method of communication, if needed. The written notice includes:

(a) An explanation of the reasons you are not eligible;

(b) Your rights to appeal the decision as outlined under WAC 388-890-1180.

(c) An explanation of the services available from the client assistance program as outlined in WAC 388-890-1185.

NEW SECTION

WAC 388-890-0070 If I am not eligible for VR services, can DVR help me find other services and programs to meet my needs? If DVR determines that you are not eligible for VR services, DVR provides you with information and refers you to other agencies or organizations that may provide services to meet your needs.

APPLICATION REQUIREMENTSNEW SECTION

WAC 388-890-0075 Who can apply for vocational rehabilitation services? Any individual has the right to apply for VR services, including individuals who:

(1) Applied before, were determined eligible and received VR services; or

(2) Were previously determined ineligible or were denied VR services for other reasons.

NEW SECTION

WAC 388-890-0080 Can I receive VR services if I am not a United States citizen? DVR serves individuals who are not United States citizens.

NEW SECTION

WAC 388-890-0085 Am I required to provide proof of my identity and work status? If you apply for VR services, you must provide copies of legal documents requested by DVR that verify your identity and that verify you can legally work in the United States before DVR can offer you VR services.

NEW SECTION

WAC 388-890-0090 If I don't live in Washington, can I receive VR or IL program services? (1) The state in which you live has the primary responsibility to provide VR services to you.

(2) You may receive services from DVR if you are present or intend to be present in Washington in a way that you would be counted for census purposes, including but not limited to:

(a) You pay income taxes,

(b) You maintain a home, or

(c) You are registered to vote.

(3) To receive IL program services, you must be able to receive the services at a DVR office where IL program services are offered.

NEW SECTION

WAC 388-890-0095 Can I receive VR services if I am legally blind? Under an interagency agreement with DSHS, the department of services for the blind provides vocational rehabilitation services to individuals if blindness or a visual impairment results in an impediment to employment.

NEW SECTION

WAC 388-890-0100 Can I receive VR or IL program services if I am Native American? DVR serves eligible Native Americans, including Native Americans who belong to an Indian tribe. If you live on an Indian reservation that operates a vocational rehabilitation program, you may apply for VR services from the tribe or from DVR.

NEW SECTION

WAC 388-890-0105 How do I apply for VR services? To complete the application process:

(1) Sign an application form provided by DVR or provide a written request that includes the following information:

(a) Your name and address;

(b) The nature of your disability;

(c) Your age and sex;

(d) The date of application; and

(e) Your social security number.

(2) Meet with a DVR representative to:

(a) Learn about VR services and processes; and

(b) Provide information needed to begin an assessment of your eligibility and VR service needs.

GENERAL CONDITIONS FOR RECEIVING VOCATIONAL REHABILITATION SERVICES

NEW SECTION

WAC 388-890-0110 Under what general conditions does DVR provide individual vocational rehabilitation services? (1) DVR provides individual VR services under the following general conditions.

- (a) The services are needed to:
 - (i) Get and keep a job or advance in employment;
 - (ii) Determine your eligibility for services;
 - (iii) Identify your vocational rehabilitation needs; or
 - (iv) Develop or complete your individual plan for employment (IPE).
- (b) You have an open case service record and DVR authorizes the services before the services begin;
- (c) The services are provided directly by a VR counselor or purchased by DVR from a service provider who meets local, state and/or national standards required to practice in the field and/or do business in the state;
- (d) The services are provided in accordance with payment for services requirements under WAC 490-690-1100 through 490-690-1175; and
- (e) The services are consistent with your informed choice, including whether to receive services in an integrated or nonintegrated setting.

(2) Unique or additional conditions that apply to a specific service are outlined under WAC 388-890-150 to 388-890-450.

NEW SECTION

WAC 388-890-0115 Can I ask for an exception to a rule or a condition relating to VR services? You or a VR Counselor may request an exception to any rule or condition relating to VR services in this chapter if the exception is needed to:

- (1) Complete an assessment to determine eligibility;
- (2) Identify the VR services you need; or
- (3) Achieve your employment goal.

NEW SECTION

WAC 388-890-0120 How do I ask for an exception to a rule or condition in this chapter? (1) A request for exception to a rule or condition in this chapter is submitted to the regional administrator in writing, and must include:

- (a) A description of the exception being requested;
 - (b) The reason for the exception; and
 - (c) The duration of the exception, if applicable.
- (2) An exception requesting a medical service that is otherwise not provided by DVR may only be requested on a trial basis or for a short duration to be specified in the request.
- (3) After getting your request for an exception, the regional administrator considers:
- (a) The impact of the exception on accountability, efficiency, choice, satisfaction, and quality of services;
 - (b) The degree to which your request varies from the rule or condition; and

(c) Whether the rule or condition is a federal rule or regulation that cannot be waived.

(4) The regional administrator responds to the request for an exception within ten working days of receipt of the request.

(a) If the request is approved, the regional administrator will provide a written approval that includes:

- (i) The specific WAC for which an exception is approved;
- (ii) Any conditions of approval;
- (iii) Duration of the exception.

(b) If the request is denied, the regional administrator will provide a written explanation of the reasons for the denial.

(5) If the regional administrator makes a decision that you do not agree with, you have the right to appeal the decision as outlined under WAC 388-890-1180.

NEW SECTION

WAC 388-890-0125 What happens if the service I want exceeds what I need or is more expensive than a comparable service? (1) DVR pays for services at the level required to meet your needs at the lowest cost possible.

(2) You may select the following service providers without regard to the fees charged:

- (a) Assistive technology service providers;
- (b) Community rehabilitation program service providers; and
- (c) Independent living service providers.

(3) If you and a VR Counselor cannot agree on the type or level of services you need, you may ask for a review of the decision as outlined under WAC 388-890-1180.

NEW SECTION

WAC 388-890-0130 Can a guardian or another representative act on my behalf? (1) You may select another person as your representative during the VR or IL program.

(2) If you have a legal guardian or a court-appointed representative, he or she must act as your representative.

(a) A legal guardian or court-appointed representative must provide DVR with documentation of guardianship.

(b) Your legal guardian or court-appointed representative must sign the application and other documents that require your signature.

VOCATIONAL REHABILITATION SERVICES

NEW SECTION

WAC 388-890-0135 What are individual vocational rehabilitation (VR) services? Individual VR services are services provided to you to meet your specific needs to prepare for, get, and keep a job, or to advance in employment if you are working. Individual vocational rehabilitation services include services listed in WAC 388-890-145.

PROPOSED

NEW SECTION

WAC 388-890-0140 How do I know which VR services are right for me? DVR explains how the different individual VR services are used and gives you the information and support you need to make decisions about the services you need.

NEW SECTION

WAC 388-890-0145 What individual vocational rehabilitation services are available from DVR? The following individual VR services are available from DVR:

- (1) Assessment services;
- (2) Assistive technology devices;
- (3) Assistive technology services;
- (4) Counseling and guidance services;
- (5) Independent living services;
- (6) Interpreter services;
- (7) Job placement and job retention services;
- (8) Maintenance services;
- (9) Occupational licenses;
- (10) Other goods and services;
- (11) Personal assistance services;
- (12) Physical and mental restoration services;
- (13) Post-employment services;
- (14) Reader services;
- (15) Referral services;
- (16) Rehabilitation engineering services;
- (17) Self-employment services;
- (18) Services to family members;
- (19) Supported employment services;
- (20) Tools, equipment, initial stocks, and supplies;
- (21) Training services;
- (22) Transition services;
- (23) Transportation services.

NEW SECTION

WAC 388-890-0150 What are assessment services?

- (1) Assessment services are used to collect information about you:
 - (a) Disability and how it keeps you from working;
 - (b) Strengths;
 - (c) Resources;
 - (d) Priorities;
 - (e) Concerns,
 - (f) Abilities;
 - (g) Capabilities;
 - (h) Interests; and
 - (i) Needs, including your need for supported employment.
- (2) Assessment services include the individual VR services listed under WAC 388-890-145.

NEW SECTION

WAC 388-890-0155 To determine whether I am eligible for VR services, who decides what assessment services I need and where to get the assessment services? If

enough information is not available to determine whether you are eligible for VR services:

- (1) DVR decides what assessment services are needed; and
- (2) You use informed choice to choose service providers for assessment services you need.

NEW SECTION

WAC 388-890-0160 If I need assessment services to help me choose an employment goal and what VR services I need, who decides what assessment services I need and where to get the assessment services? If you need assessment services to determine your vocational rehabilitation needs or to develop your individualized plan for employment (IPE), you use informed choice to select the:

- (1) Assessment services; and
- (2) Service providers.

NEW SECTION

WAC 388-890-0165 What if I already have assessment information to help me and DVR make the decisions we need to make? No assessment services are needed if the information you already have is complete and current enough:

- (1) For a VR counselor to make a decision about your eligibility; and
- (2) To help you make decisions about your vocational rehabilitation needs and the VR services you need on your IPE.

NEW SECTION

WAC 388-890-0170 How do I provide needed assessment information to DVR? You may give information needed for an assessment directly to DVR or you may give written consent to DVR to get the information from other sources including, but not limited to:

- (1) Doctors or other medical service providers;
- (2) Community programs or organizations that have provided services to you; and
- (3) Schools you attended.

NEW SECTION

WAC 388-890-0175 What is an assistive technology device? An assistive technology device is any item, piece of equipment or product, either commercially available or custom-designed that is used to increase, maintain or improve your functional capacities. Assistive technology devices include, but are not limited to:

- (1) Telecommunications devices;
- (2) Sensory aids and devices including hearing aids, telephone amplifiers and other hearing devices, captioned videos, taped text;
- (3) Eyeglasses, contact lenses, microscopic lenses, Brailled and large print materials; electronic formats; graphics and other special visual aids;
- (4) Simple language materials;

- (5) Vehicle modifications;
- (6) Computer and computer-related hardware and software; and
- (7) Other technological aids and devices.

NEW SECTION

WAC 388-890-0180 Under what conditions does DVR provide and issue assistive technology devices? (1) DVR provides assistive technology devices to you under conditions specified in WAC 388-890-110;

- (2) DVR issues assistive technology devices to you under conditions specified in WAC 388-890-455 through 388-890-480.

NEW SECTION

WAC 388-890-0185 Under what conditions does DVR provide vehicle modifications? DVR provides vehicle modifications to you under conditions specified in WAC 388-890-110, and:

- (1) If a used vehicle is to be modified, an inspection from a certified or journey level auto mechanic must be performed and documented to ensure the vehicle is in good condition and capable of being modified;
- (2) You, your spouse, or other family member is the registered and/or legal owner of the vehicle;
- (3) You agree to pay for and have driver insurance and vehicle insurance adequate to cover the cost of replacement for loss or damage at the time of modification;
- (4) A specialist in evaluation and modification of vehicles for individuals with disabilities prescribes and inspects the modification, except prescriptions are not required for:
 - (a) Placement of a wheelchair lift, ramp, or scooter lift and tie downs for passenger access only;
 - (b) Replacement of hand controls;
 - (c) Wheelchair carriers; and
 - (d) Other minor driving aids.
- (5) If you operate the vehicle:
 - (a) Your disability must be stable or slowly progressive and not likely to impair your driving ability in the future;
 - (b) You agree to pay for and have a current driver's license and vehicle license with required endorsements;
 - (c) Following modification, you are adequately trained to operate the vehicle as modified; and
 - (d) You demonstrate that you can safely operate the vehicle as modified.
- (6) If someone else operates the vehicle for you, you agree to pay for and have a current vehicle license with required endorsements.

NEW SECTION

WAC 388-890-0190 What are assistive technology services? Assistive technology services help you to select, get or use an assistive technology device. Assistive technology services include, but are not limited to services that:

- (1) Evaluate your needs and how you perform activities in your daily environment;

- (2) Select, design, fit, customize, adapt, apply, maintain, repair, or replace an assistive technology device;

- (3) Coordinate and use other therapies or services which have assistive technology devices such as existing education and rehabilitation plans and programs;

- (4) Train or give technical assistance on the use of assistive technology to you or your family members, guardians, advocates or authorized representatives; and

- (5) Train or give technical assistance to professionals, employers, or others who provide services to you, hire you, or are involved in your major life activities if they need training on the use of assistive technology to help you get or keep a job.

NEW SECTION

WAC 388-890-0195 Under what conditions does DVR provide assistive technology services? DVR provides assistive technology services under the conditions outlined in WAC 388-890-110.

NEW SECTION

WAC 388-890-0200 What are counseling and guidance services? Counseling and guidance services are information and support services provided by a VR counselor to assist you to make informed decisions about your VR services. Counseling and guidance services include, but are not limited to:

- (1) Explaining your responsibilities in a VR program;
- (2) Explaining the nature and scope of VR services;
- (3) Explaining the use of services and resources available from other programs as comparable services and benefits;
- (4) Explaining information about your strengths, resources, priorities, interests, and rehabilitation needs;
- (5) Explaining your opportunities to make informed choices;
- (6) Helping you collect and understand information needed to decide on a employment goal;
- (7) Providing you information and support to decide which services and activities you need to reach your employment goal;
- (8) Providing support and information to you and someone you choose to develop all or part of your individualized plan for employment;
- (9) Explaining how to use services to reach your employment goal;
- (10) Providing you support and advice when issues arise during your VR program that relate to health, family, finances, interpersonal relationships, appearance, and other issues that could impact your vocational rehabilitation; and
- (11) Providing information and support, with your permission, to employers, family members, relatives or others to help you get or keep a job.

NEW SECTION

WAC 388-890-0210 Under what conditions does DVR provide counseling and guidance services? A VR

counselor provides counseling and guidance services as needed throughout the rehabilitation process.

NEW SECTION

WAC 388-890-0220 What are independent living services? Independent living services help you deal with life issues that may prevent you from getting and keeping a job. Independent living services include, but are not limited to:

- (1) An evaluation to help you find out about the:
 - (a) Issues in your life that may present problems for you in vocational rehabilitation and in work;
 - (b) Ways to deal with life issues that present problems for you; and
 - (c) Services you need to help you deal with the issues.
- (2) Self-advocacy to help you find out about and manage the services you need to live independently and to help you find out about benefit rights and responsibilities;
- (3) Independent living counseling to help you set personal goals, learn how to make decisions that relate to life issues and employment and to help your family with issues related to your disability and independence;
- (4) Independent living skills training to help you get skills to manage and balance your life in areas including, but not limited to budgeting, meal preparation and nutrition, shopping, hygiene, time management, recreation, necessary community resources, and attendant management; and
- (5) Living arrangement counseling, including helping you to:
 - (a) Find out about housing resources and the qualifications for applying for housing;
 - (b) Make decisions about the living arrangements you want and need; and
 - (c) Make decisions about changing to a more independent living arrangement.

NEW SECTION

WAC 388-890-0225 Under what conditions does DVR provide independent living services? DVR provides independent living services under the conditions outlined in WAC 388-890-110 and DVR does not pay your family members to provide independent living services.

NEW SECTION

WAC 388-890-0230 What are interpreter services? Interpreter services are services to assist deaf, deaf-blind, and hard of hearing individuals who use sign language or another form of communication to express and receive information with other individuals who use speech and hearing to communicate. An example of interpreter services is the use of an interpreter by a deaf person who communicates in American Sign Language to express and receive information with a person who speaks English. Interpreter services include:

- (1) Oral interpreting, in which the interpreter mouths (without voice) what the speaker says, using some natural facial expressions.
- (2) Sign interpreting, in which the interpreter signs what the speaker says.

(3) Tactile interpreting, in which a hands-on interpreting method is used with people who are deaf-blind. The interpreter communicates what the speaker says by signing and/or fingerspelling into the hands of the deaf-blind person.

(4) Voice interpreting, in which the interpreter speaks what a deaf person is mouthing or signing.

NEW SECTION

WAC 388-890-0235 Under what conditions can I receive interpreter services? DVR provides interpreter services under the conditions outlined in WAC 388-890-110.

NEW SECTION

WAC 388-890-0240 What are job placement and job retention services? Job placement and job retention services help you get or keep a job that meets your employment goal.

- (1) Job placement includes job search to help you look for and find a job.
- (2) Job retention includes follow-up and follow-along services to help you keep a job once you are working.

NEW SECTION

WAC 388-890-0245 Under what conditions can I receive job placement and job retention services? DVR provides job placement and job retention services to you under the conditions listed in WAC 388-890-110, and:

- (1) A VR counselor provides job placement services to help you conduct a self-directed job search; or
- (2) DVR purchases job placement services only if:
 - (a) You and your VR counselor agree that you are unable to conduct a self-directed job search because of the significance of your disability; or
 - (b) You have tried to conduct a self-directed job search without success.

NEW SECTION

WAC 388-890-0250 What are maintenance services? Maintenance services include financial assistance for food, shelter, and/or clothing expenses that occur in excess of your usual living expenses in order for you to participate in another VR service. The following examples include, but are not limited to, the ways maintenance may be used:

- (1) A uniform or other suitable clothing required to look for or get a job;
- (2) Short-term lodging and meals required to participate in assessment or training services not within commuting distance of your home;
- (3) A security deposit or utility hook-ups on housing you need to relocate for a job.

NEW SECTION

WAC 388-890-0255 Under what conditions does DVR provide maintenance services? DVR provides maintenance services under the conditions in WAC 388-890-110,

and if you and your VR counselor agree that you need maintenance services to participate in another VR service.

NEW SECTION

WAC 388-890-0260 What are occupational licenses?

Occupational licenses are licenses, permits or certificates showing you meet certain standards or have accomplished certain achievements and/or have paid dues, fees or otherwise qualify to engage in a business, a specific occupation or trade, or other work related activity.

NEW SECTION

WAC 388-890-0265 Under what conditions can I get an occupational license? DVR pays fees for occupational licenses under the conditions listed in WAC 388-890-110 and if you meet the requirements to hold the occupational license as established by the licenser.

NEW SECTION

WAC 388-890-0270 What other goods and services does DVR provide? DVR provides other miscellaneous goods and services to meet your specific needs for vocational rehabilitation and employment.

NEW SECTION

WAC 388-890-0275 Under what conditions does DVR provide and issue other goods and services? (1) DVR provides other goods and services to you under conditions specified in WAC 388-890-110.

(2) DVR issues other goods and services to you as outlined under WAC 388-890-455 through 388-890-480.

NEW SECTION

WAC 388-890-0280 What are personal assistance services? Personal assistance services increase your ability to perform daily living activities on or off the job to help you get or keep a job. Personal assistance services include, but are not limited to, bathing, dressing, cooking, eating, and helping you move around.

NEW SECTION

WAC 388-890-0285 Under what conditions does DVR provide or pay for personal assistance services? DVR provides personal assistance services under the conditions listed in WAC 388-890-110, and:

- (1) If needed to help you participate in another VR service;
- (2) Your family members cannot be paid to provide personal assistance services.

NEW SECTION

WAC 388-890-0290 What are the physical and mental restoration services DVR provides? Physical and mental restoration services are used to diagnose and treat physical

and mental impairments for the purposes of correcting, improving, modifying or accommodating a physical or mental condition. Physical and mental restoration services include:

- (1) Cognitive rehabilitation services;
- (2) Corrective surgery or therapy;
- (3) Diagnosis and treatment of mental or emotional disorders by licensed individuals;
- (4) Dental treatment if the treatment is directly related to an employment outcome, or in emergency situations involving pain, acute infections, or injury;
- (5) Nursing services;
- (6) Hospitalization, including surgery or treatment, and clinic services;
- (7) Drugs and supplies;
- (8) Prosthetic and orthotic devices;
- (9) Visual examinations and visual training;
- (10) Podiatry;
- (11) Physical therapy;
- (12) Occupational therapy;
- (13) Speech or hearing therapy;
- (14) Treatment of acute or chronic medical conditions and emergencies that occur when providing physical and mental-restoration services, or that are related to the condition being treated;
- (15) Special services for the treatment of end-stage renal disease, which includes dialysis, kidney transplants, artificial kidneys, and supplies; and
- (16) Other medical or medically-related rehabilitation services.

NEW SECTION

WAC 388-890-0295 Under what conditions does DVR provide physical and mental restoration services? DVR provides physical and mental restoration services under the conditions in WAC 388-890-110, and if:

- (1) Your disabling condition is stable or slowly progressive; and
- (2) The service is expected to substantially modify, correct, or improve a physical or mental impairment that is a substantial impediment to employment for you within a reasonable length of time.

NEW SECTION

WAC 388-890-0300 What are the medical treatments DVR does not pay for? DVR does not pay for the following medical treatments:

- (1) Maintenance of your general health including, but not limited to, vitamins, in-patient hospital based weight loss programs or for-profit weight loss programs, exercise programs, health spas, swim programs and athletic fitness clubs;
- (2) Facelifts, liposuction, cellulite removal;
- (3) Maternity care;
- (4) Hysterectomies, elective abortions, sterilization, and contraceptive services as independent procedures;
- (5) Drugs not approved by the Federal Drug Administration for general use or by state law;
- (6) Life support systems, services, and hospice care;

(7) Transgender services including surgery and medication management;

(8) Homeopathic and herbalist services, Christian Science practitioners or theological healers;

(9) Treatment which is experimental, obsolete, investigational, or otherwise not established as effective medical treatment.

NEW SECTION

WAC 388-890-0305 What are post-employment services? Post employment services are one or more of the individual vocational rehabilitation services listed in WAC 388-890-145, provided after you are working and you need additional services to help you keep, regain or advance in employment.

NEW SECTION

WAC 388-890-0310 Under what conditions does DVR provide post-employment services? Post-employment services are provided under the conditions listed in WAC 388-890-110, and if:

(1) You received VR services that helped you get a job and you were working in that job for at least ninety days when your case was closed;

(2) Your VR case service record has been closed less than three years; and

(3) The impediments to employment related to your disability have not changed to the extent that you require more than short term intervention to keep, regain, or advance in employment within the same or closely related occupation.

NEW SECTION

WAC 388-890-0315 What are reader services? Reader services help you get information from printed text if your disability impairs or prevents you from getting information from printed text. An example of reader services is the use of a person to read print materials such as job announcements and letters from possible employers to an individual with dyslexia or an individual who is blind.

NEW SECTION

WAC 388-890-0320 Under what conditions does DVR provide reader services? DVR provides reader services under the conditions listed in WAC 388-890-110.

NEW SECTION

WAC 388-890-0325 What are referral services? Referral services help you find and get services or benefits from other programs or agencies.

NEW SECTION

WAC 388-890-0330 Under what conditions does DVR provide referral services? DVR provides referral services under the conditions listed in WAC 388-890-110, and if:

(1) A VR counselor determines you are not eligible for DVR services; or

(2) You and a VR counselor identify services or benefits available to you from another agency or organization and you agree to be referred.

NEW SECTION

WAC 388-890-0335 What is rehabilitation engineering? Rehabilitation engineering is a type of rehabilitation technology service. Rehabilitation engineering uses engineering sciences to design, develop, adapt, test, evaluate, and implement new and unique products to help you maintain or improve your ability to move around, communicate, hear, see, and understand things.

NEW SECTION

WAC 388-890-0340 Under what conditions does DVR provide rehabilitation engineering? DVR provides rehabilitation engineering services under the conditions listed in WAC 388-890-110.

NEW SECTION

WAC 388-890-0345 What are self-employment services? Self-employment services include:

(1) Consultation and technical assistance to help you conduct market analyses, develop business plans, and use other resources to pursue self-employment, to telecommute or to establish a small business to become self-employed;

(2) All services required to help you in self-employment including, but not limited to:

- (a) Planning,
- (b) Consultation,
- (c) Initial stocks and supplies,
- (d) Tools,
- (e) Equipment,
- (f) Business licenses, and
- (g) Fees.

NEW SECTION

WAC 388-890-0350 Under what conditions does DVR provide self-employment services and issue items for self-employment? (1) DVR provides self-employment services under the conditions listed in WAC 388-890-110;

(2) DVR issues items for self employment under WAC 388-890-455 through 388-890-480;

(3) Before DVR supports a self-employment goal, you must complete a business plan that demonstrates that the self-employment you are considering is feasible, sustainable, and results in employment;

(4) DVR does not support hobbies or activities that do not result in an income-producing self-employment outcome.

NEW SECTION

WAC 388-890-0355 What are services to family members? Services to family members are provided to a

family member, guardian, or household member with whom you have a close interpersonal relationship. Services to family members include, but are not limited to:

- (1) Homemaker services to prepare a family member to assist you in a program of independent living skills and to help you change to new or different methods of home management;
- (2) Family or marital counseling;
- (3) Information and referral services to family members as appropriate; and
- (4) Child care.

NEW SECTION

WAC 388-890-0360 Under what conditions does DVR provide services to my family members? DVR provides services to family members under the conditions listed in WAC 388-890-110 and the following additional conditions for child care:

- (1) DVR pays for child care regulated by department of social and health services child care licensing requirements for:
 - (a) Child day care centers according to WAC 388-189020;
 - (b) Family child day care homes according to WAC 388-155-020;
 - (b) School-age child care centers according to WAC 388-151-020; and
 - (d) In home/relative child care according to WAC 388-15-176.
- (2) DVR pays for child care directly to the child care provider.

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 388-890-0365 What are supported employment services? See WAC 388-890-570 through 388-890-665 for supported employment program and services.

NEW SECTION

WAC 388-890-0370 What are tools, equipment, initial stocks and supplies? Tools, equipment, initial stocks and supplies are materials and hardware required to carry out the duties of a job.

NEW SECTION

WAC 388-890-0375 Under what conditions does DVR provide and issue tools, equipment, initial stocks and supplies? (1) DVR provides tools, equipment, initial stocks and supplies under the conditions listed in WAC 388-890-110.

(2) DVR issues tools, equipment, initial stocks and supplies under WAC 388-890-455 through 388-890-480.

NEW SECTION

WAC 388-890-0380 What are training services? Training services assist you to gain knowledge, skills and abilities needed for employment. Training services, include, but are not limited to:

- (1) Training to develop work habits, work behaviors, and work skills;
- (2) On-the-job training;
- (3) Vocational, technical, trade or business training;
- (4) Post-secondary academic training;
- (5) Books, tools, fees, and other training supplies;
- (6) Independent living training;
- (7) Tutoring that supports another training service you are receiving; and
- (8) Other types of training that strengthen your knowledge, skills and abilities.

NEW SECTION

WAC 388-890-0385 What is on-the-job training? On-the-job training is a way to gain work skills needed for a specific job after being placed in that job. After you start a job, the employer or the employer's designee provides individualized training to teach you the skills you need to perform the job. DVR may reimburse an employer for training costs that exceed the employer's usual costs to train a new employee.

NEW SECTION

WAC 388-890-0390 Under what conditions does DVR provide on-the-job training? DVR provides on-the-job training as a training service under the conditions in WAC 388-890-110 and if:

- (1) An employer has hired you;
- (2) The employer or employer's designee has the skills to provide the training you need to learn the job;
- (3) The employer signs an agreement to include at a minimum:
 - (a) Training to be provided by the employer or designee;
 - (b) Duration or number of hours of training to be provided;
 - (c) How the employer will evaluate and report your progress to DVR;
 - (d) Employer's cost to provide the training; and
 - (e) Agreed-upon fee, including payment criteria.

NEW SECTION

WAC 388-890-0395 Under what conditions does DVR provide training services and issue items for training? (1) DVR provides training services under the conditions listed in WAC 388-890-110;

- (2) DVR issues devices, tools, equipment or other items used for training under WAC 388-890-455 through 388-890-480;
- (3) Training at an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) is provided only after you and a VR counselor have made every

effort to get and use grant funding, in whole or in part, from other sources to pay for the training;

(4) You must give DVR a copy of your grant funding award or denial form when it is available.

NEW SECTION

WAC 388-890-0400 Do I have to apply for a student loan to pay for training services? You are not required to apply for a student loan to pay for training services.

NEW SECTION

WAC 388-890-0405 Can I receive training services from a private school, an out-of-state training agency or an out-of-state college? If you choose training services from a private school, an out-of-state training agency or an out-of-state college when an in-state or public program is available and adequate to meet your needs, the following conditions apply:

(1) The private school, out-of-state training agency or out-of-state college must meet DVR standards; and

(2) You are responsible for any costs related to the training in excess of what DVR would pay for the training service from a public school or in-state training agency.

NEW SECTION

WAC 388-890-0410 What are transition services? (1) Transition services are work-related activities you begin while you are in high school that are coordinated with VR services to help you prepare for and go to work in the community after you leave high school.

(2) Transition services may include any of the VR services listed under WAC 388-890-145.

NEW SECTION

WAC 388-890-0415 Under what conditions does DVR provide transition services? DVR provides transition services under the conditions listed in WAC 388-890-110, and if you:

(1) Are a high school student with a disability; and
(2) Will complete high school during the next twelve months.

NEW SECTION

WAC 388-890-0420 How does DVR coordinate with public high schools to provide transition services? VR counselors work with teachers and other staff in public high schools to coordinate and provide transition services as outlined under an interagency agreement between DVR and the office of superintendent of public instruction.

NEW SECTION

WAC 388-890-0425 How does DVR help me plan transition services? DVR offers counseling and guidance to help you to make informed choices about what VR services and activities you need to:

- (1) Assess your rehabilitation needs, including your need to move to a more independent living arrangement;
- (2) Decide on an employment goal;
- (3) Decide what VR services are needed to reach your employment goal.

NEW SECTION

WAC 388-890-0430 Who decides what transition services I get from DVR? With support from a VR counselor, you use informed choice to make decisions about which activities and VR services to use based on your individual needs, preferences and interests.

NEW SECTION

WAC 388-890-0435 What activities does DVR support after I leave high school? DVR supports activities that help you select and reach your employment goal, including but not limited to:

- (1) Employment, including supported employment;
- (2) Training at a vocational school, technical school, on-the-job training, or other training agency;
- (3) Continuing education at a college, community college, or other post-secondary school; or
- (4) Referral to other community services or organizations that offer services to adults to live more independently and to get or keep a job.

NEW SECTION

WAC 388-890-0440 What are transportation services? Transportation services help you get around in the community to participate in VR services or to get or keep a job. Transportation services include, but are not limited to:

- (1) Public transportation fares or passes;
- (2) Estimated cost of gasoline;
- (3) Vehicle repair and maintenance;
- (4) Attendant fees and travel costs while in travel status;
- (4) Purchase of vehicles.

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 388-890-0445 Under what conditions does DVR provide transportation services? DVR provides transportation services to you under conditions specified in WAC 388-890-110 and if provided in connection with another VR service.

NEW SECTION

WAC 388-890-0450 Under what conditions does DVR provide and issue a vehicle? (1) DVR provides a vehicle under the conditions outlined under WAC 388-890-110;

(2) DVR issues a vehicle under WAC 388-890-455 through 388-890-480;

(3) Your disability is stable or slowly progressive, and is not likely to impair your ability to drive in the future;

(4) You and a VR counselor agree it is a necessary service under your individualized plan for employment (IPE) because:

(a) No other transportation options are available and it is not feasible for you to relocate to live closer to employment or other transportation options; or

(b) A vehicle is required as a condition of employment before you can get or keep a job.

(5) The vehicle is provided in support of another VR service;

(6) You do not have a vehicle or your vehicle cannot be modified or repaired to the extent that you can drive it; and

(7) You agree to:

(a) Be the registered owner of the vehicle;

(b) Pay for and have a current driver's license, vehicle license, and vehicle registration; and

(c) Pay for and have driver insurance and vehicle insurance adequate to cover the cost of replacement for loss or damage at the time the vehicle is issued to you.

ISSUING AND RETURNING EQUIPMENT AND DEVICES FOR PARTICIPANT USE

NEW SECTION

WAC 388-890-0455 Under what conditions does DVR issue a device, tool, piece of equipment or other item I need to participate in VR services or to get a job? If you need a device, tool, piece of equipment or other item to participate in VR services or to go to work, DVR provides the item under the conditions listed in WAC 388-890-110 and if the item meets applicable local, state and national engineering safety, and, health standards.

NEW SECTION

WAC 388-890-0460 What conditions apply to the use of a device, tool, piece of equipment or other item that is issued to me? If DVR determines an item may be re-used by another person if it is returned, you must sign a statement agreeing to the following before DVR issues the item to you:

(1) DVR has ownership of the item issued to you, and you understand permission for use may be taken away by DVR at any time;

(2) You agree to immediately return the item if DVR requests you to do so;

(3) You agree to maintain the item according to manufacturer's guidelines, if applicable, and keep it secure from damage, loss or theft;

(4) You agree to engrave an identification number on all or part of the item, if requested to do so by DVR.

NEW SECTION

WAC 388-890-0465 What types of devices, tools, pieces of equipment or other items can DVR issue to me? DVR issues devices, tools, equipment, or other items that you need to participate in VR services or to get a job, including but not limited to:

(1) Assistive technology devices as outlined under WAC 388-890-175.

(2) Equipment, supplies or other items needed for self-employment as outlined under WAC 388-890-345.

(3) Tools, equipment, initial stocks or supplies as outlined under WAC 388-890-370.

(4) A vehicle as outlined under WAC 388-890-440.

(5) Tools and other training supplies as outlined under WAC 388-890-380.

NEW SECTION

WAC 388-890-0470 Does DVR issue new or used devices, tools, pieces or equipment, or other items? (1) If an item is readily available from DVR's inventory that is appropriate and adequate to meet your specific needs, DVR issues the item to you.

(2) If the item is not available from DVR's inventory, DVR locates the item for issue to you from another source.

NEW SECTION

WAC 388-890-0475 What happens if I fail to return a device, tool, piece or equipment or other item if requested by DVR? If DVR directs you to return any item issued to you but owned by DVR and you do not immediately return it, DVR reports the loss to the DSHS office of financial recovery (OFR). The OFR attempts to recover the item from you. If the OFR cannot recover the item(s), the OFR reports the loss to the local county prosecutor for legal action.

NEW SECTION

WAC 388-890-0480 What happens to a device, tool, piece of equipment or other item if I need it when my DVR case service record is closed? DVR transfers ownership of the device, tool, piece of equipment or other item to you at the time DVR closes your case if you:

(1) Are working in a job that requires the item; and

(2) Do not need additional VR services.

INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

NEW SECTION

WAC 388-890-0485 What is an individualized plan for employment (IPE)? (1) An individualized plan for employment (IPE) is a written document prepared on forms provided by DVR.

(2) An IPE is an agreement that records the decisions and commitments you and a VR counselor make about VR services and activities.

(3) The IPE documents the VR services you will use to prepare for, get or keep a job.

NEW SECTION

WAC 388-890-0490 How do I develop an IPE? (1) You have three options for developing an IPE. You may:

- (a) Develop all or part of the IPE with assistance and support from a VR counselor;
 - (b) Develop the IPE on your own; or
 - (c) Develop the IPE with a representative, family member, advocate, or other individual of your choice.
- (2) If you choose someone other than a VR counselor to help you develop the IPE, DVR does not pay for any related costs or fees charged by other parties.

NEW SECTION

WAC 388-890-0495 What information does DVR give me to develop my IPE? DVR gives you the following information in writing about how to develop an IPE:

- (1) A description of the information that must be included on an IPE;
- (2) Financial conditions or restrictions that relate to the IPE;
- (3) Other information you request;
- (4) Where to get help to fill out forms required by DVR;
- (5) Your rights if you disagree with DVR about a decision relating to the IPE;
- (6) Information about the client assistance program (CAP) and how to contact the program.

NEW SECTION

WAC 388-890-0500 Who makes decisions about what to include on my IPE? You use informed choice to make decisions about what to include on your IPE. You have the right to make decisions that are consistent with your strengths, abilities, capabilities, and interests, including but not limited to:

- (1) The type of job you want;
- (2) What VR services you need to help you reach your employment goal;
- (3) What service provider to use.

NEW SECTION

WAC 388-890-0505 Can I include any VR services I want on my IPE? DVR provides only those VR services that you and a VR counselor agree are:

- (1) Consistent with your strengths, abilities, capabilities, and interests; and
- (2) Needed to achieve the employment goal listed on your IPE.

NEW SECTION

WAC 388-890-0510 What if the employment goal I choose is religious in nature? DVR is prohibited from supporting an employment goal that is religious in nature under the Washington State Constitution, Article 1, subsection 11.

NEW SECTION

WAC 388-890-0515 What must be included on my IPE? (1) An IPE must include all of the following items, at a minimum:

- (a) Your employment goal;
- (b) The VR services you plan to use;
- (c) The date VR services included on the plan begin;
- (d) When you expect to begin working;
- (e) The name of the person or organization providing each service included on the IPE;
- (f) What criteria you will use to evaluate whether you are making progress toward your employment goal;
- (g) Terms and conditions, including:
 - (i) A description of what DVR has agreed to do to support your IPE;
 - (ii) A description of what you have agreed to do to reach your employment goal, including:
 - (A) Steps you will take to achieve your employment goal;
 - (B) What services you agree to help pay for, and how much you will pay;
 - (C) What services you agree to apply for as comparable services and benefits.
 - (h) What services will be provided by another organization as a comparable service or benefit;
 - (i) The expected need for post-employment services.
- (2) An IPE that includes a supported employment outcome must also document:
 - (a) The extended services or natural supports you need;
 - (b) The name of the person or organization paying for the extended services, if extended services are used;
 - (c) If it is not known who will pay for extended services or natural supports when the IPE is developed, the IPE includes a statement explaining the expected source of extended service or a plan to identify a source of extended services;
 - (d) A goal for the number of hours per week you are going to work based on your strengths, abilities, capabilities, interest and informed choice;
 - (e) A description of how the services on your IPE are coordinated with other federal or state services you get under another individualized plan.

NEW SECTION

WAC 388-890-0520 Who signs the IPE? You and a VR counselor must agree to and sign your IPE. DVR gives you a copy of the signed IPE, in writing or in another method of communication, if needed.

NEW SECTION

WAC 388-890-0525 Is the IPE reviewed and updated? You and a VR counselor review the IPE at least once a year, or more often if needed.

- (1) You and a VR counselor amend the IPE if there are major changes in the employment goal, the VR services to be used, or the service provider to be used.
- (2) Changes to an IPE take effect when you and a VR counselor sign the updated IPE.

CLOSING A CASE SERVICE RECORD AND ANNUAL REVIEWS

NEW SECTION

WAC 388-890-0530 Why does DVR close a case service record? A VR counselor closes your case service record for any of the following reasons:

- (1) You are working and no longer need VR services;
- (2) You decline VR services;
- (3) Anytime DVR determines that you are not eligible or no longer eligible;
- (4) You are no longer available to participate in services;
- (5) You cannot be located;
- (6) You ask DVR to close your case service record; or
- (7) You refuse to cooperate in required or agreed upon services

NEW SECTION

WAC 388-890-0535 Under what conditions does DVR determine that I am working and no longer need VR services? DVR determines that you are working and no longer need VR services if:

- (1) You received services under an IPE that helped you get a job;
- (2) Your job matches your strengths, needs, abilities, interests and choices;
- (3) You have been working for at least ninety days; and
- (4) You and a VR counselor agree the job is satisfactory and that you are performing the job well; and
- (5) You are working in an integrated setting or in a non-integrated setting of your choice.

NEW SECTION

WAC 388-890-0540 Am I involved in the decision to close my case? (1) Before closing your case service record, a VR counselor gives you an opportunity to discuss the decision.

- (2) DVR notifies you in writing, or another method of communication, if needed, about the reason your case service record is being closed and your rights if you disagree with the decision as outlined under WAC 388-890-1180.

NEW SECTION

WAC 388-890-0545 What is competitive employment? Competitive employment is work in the competitive labor market that you perform on a full-time or part-time basis in an integrated setting for which you earn a wage at or above the minimum wage, but not less than the usual wage and level of benefits your employer pays to nondisabled employees who do the same or similar work as you.

NEW SECTION

WAC 388-890-0550 What is extended employment? Extended employment is:

(1) Work in a nonintegrated setting for a public or non-profit agency or organization which provides support services to you to continue to train or prepare for competitive employment unless you choose to remain in extended employment; and

(2) Work for which you earn a wage according to special certificate provisions of 14 (c) of the U. S. Department of Labor Fair Labor Standards Act (29 U.S.C. 214 (c)).

NEW SECTION

WAC 388-890-0555 If the job I get is in extended employment, what follow-up does DVR provide? (1) If you go to work in extended employment, DVR reviews your status annually:

(a) Determine your interest and need to move to competitive employment;

(b) Determine your interest and need to receive training for competitive employment; and

(c) Evaluate whether there are VR services or other services that would assist you to move to competitive employment.

(2) DVR provides an opportunity for you to give input during the annual review.

(3) DVR reviews your status annually for two years following the date you go to work.

(4) After two years, you may request that DVR continue to review your status annually.

NEW SECTION

WAC 388-890-0560 Under what conditions does DVR follow up with me if I am determined ineligible for VR services? (1) If DVR determines you are ineligible because you are too significantly disabled to benefit from VR services in terms of employment under any of the following conditions, DVR contacts you within twelve months of the date determined ineligible to review whether anything has changed to affect your eligibility:

(a) You are too significantly disabled to participate in a trial work experience;

(b) You decline a trial work experience and you and your VR counselor agree that you are too significantly disabled to benefit from VR services in terms of employment;

(c) You participate in a trial work experience as outlined under WAC 388-890-670 through 388-890-705 and are determined too significantly disabled to benefit from services in terms of employment; or

(d) You and your VR counselor cannot find a source for extended services and/or cannot establish natural supports during the initial eighteen months of your individualized plan for supported employment.

(2) After DVR completes the initial twelve month review, you or your representative may request subsequent reviews.

SUPPORTED EMPLOYMENT PROGRAM

NEW SECTION

WAC 388-890-0570 What is supported employment?

(1) Supported employment is:

- (a) Competitive work; or
- (b) Work in an integrated setting while you work toward competitive work consistent with your strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice; or
- (c) Transitional employment for an individual with a most significant disability due to chronic mental illness.

(2) Supported employment is for an individual with a most significant disability who:

- (a) Has not traditionally worked in competitive employment; or
- (b) Has worked in competitive employment, but the disability has caused the individual to stop working, or work off and on; and
- (c) Needs intensive supported employment services and extended services to work because of the nature and significance of the disability.

NEW SECTION

WAC 388-890-0575 Who is eligible for supported employment? You are eligible for supported employment services if:

- (1) You are eligible for vocational rehabilitation services under WAC 388-890-035;
- (2) You are an individual with a most significant disability under WAC 388-890-755 category one; and
- (3) Supported employment is appropriate for you based on a comprehensive assessment of your needs, including an evaluation of your rehabilitation, career and job needs.

NEW SECTION

WAC 388-890-0580 Who decides if I am eligible for supported employment? DVR decides if you are eligible for supported employment services.

NEW SECTION

WAC 388-890-0585 What is competitive work in supported employment? Competitive work, as used in supported employment, is:

- (1) Work in the competitive labor market that you perform on a full-time or part-time basis in an integrated setting; and
- (2) Work for which you are paid at or above the minimum wage, but not less than the usual wage your employer pays to nondisabled employees who do the same or similar work as you.

NEW SECTION

WAC 388-890-0590 What is an integrated setting in supported employment? An integrated setting in supported

employment is a work setting commonly found in the community in which you interact with nondisabled people to the same extent that a nondisabled person in the same type of job interacts with other persons.

NEW SECTION

WAC 388-890-0595 Is my work setting integrated if my interactions at the work site are with nondisabled supported employment service providers? Interactions at your work site between you and a nondisabled supported employment service provider do not meet the requirement for an integrated setting.

NEW SECTION

WAC 388-890-0600 What is transitional employment? Transitional employment is a work model using a series of consecutive jobs in competitive employment for individuals with the most significant disabilities due to mental illness.

NEW SECTION

WAC 388-890-0605 What are supported employment services? Supported employment services are:

- (1) Ongoing support services as described in WAC 388-890-610; and
- (2) Individualized vocational rehabilitation services listed in WAC 388-890-145.

NEW SECTION

WAC 388-890-0610 What are ongoing support services? Ongoing support is a type of supported employment service to help you get and keep a job. Ongoing support services include:

- (1) An assessment of your employment situation at least twice a month, or under special circumstances and especially at your request, an assessment regarding your employment situation that takes place away from your worksite at least twice a month to:
 - (a) Determine what is needed to maintain job stability; and
 - (b) Coordinate services or provide specific intensive services that are needed at or away from your worksite to help you maintain job stability.
- (2) Intensive job skill training for you at your job site by skilled job trainers;
- (3) Job development, job placement and job retention services;
- (4) Social skills training;
- (5) Regular observation or supervision;
- (6) Follow-up services such as regular contact with your employer, you, your representatives, and other appropriate individuals to help strengthen and stabilize the job placement;
- (7) Facilitation of natural supports at the worksite;
- (8) Other services similar to services described in subsections (1) through (7) above; and

(9) Any other individualized vocational rehabilitation service described in WAC 388-890-145 through 388-890-450.

NEW SECTION

WAC 388-890-0615 Under what conditions does DVR provide supported employment services? DVR provides supported employment services under the conditions in WAC 388-890-110 and if you are an individual with a most significant disability as described in category one, WAC 388-890-755.

NEW SECTION

WAC 388-890-0620 What is included on my individualized plan for supported employment? Your individualized plan for supported employment includes the information specified in WAC 388-890-515.

NEW SECTION

WAC 388-890-0625 What are extended services? Extended services help you keep your job after DVR stops providing supported employment services.

NEW SECTION

WAC 388-890-0630 Does DVR provide extended services? DVR does not provide extended services.

NEW SECTION

WAC 388-890-0635 Who provides the extended services I need? Extended services are provided by nonprofit private organizations such as community rehabilitation programs, state and local public agencies, employers, or any other appropriate resources.

NEW SECTION

WAC 388-890-0640 What is natural support? Natural support is a method used to help you keep your job after DVR stops providing supported employment services. Natural support uses the people who you ordinarily come into contact with at work and/or at home to help you with work routines and social interactions at the work site.

NEW SECTION

WAC 388-890-0645 Are supported employment services time-limited? DVR provides supported employment services as part of your individualized plan for employment for a period not to exceed eighteen months, unless under special circumstances you and your VR counselor jointly agree to extend the time in order to achieve the employment goals in your individualized plan for employment.

NEW SECTION

WAC 388-890-0650 What is required for me to change from supported employment services to extended services? Prior to helping you change from supported employment services to extended services, DVR must ensure the following:

- (1) You have made substantial progress toward meeting the number of work hours per week you want to work as documented on your individualized plan for employment;
- (2) You are stabilized in the job; and
- (3) Extended services are readily available and can be provided to you without an interruption in services.

NEW SECTION

WAC 388-890-0655 What happens if my VR counselor and I do not find a source for extended services and/or we cannot establish natural supports during the initial eighteen months of my individualized plan for employment? If you and your VR counselor do not find a source for extended services and/or cannot establish natural supports during the initial eighteen months of your individualized plan for employment, DVR must determine that you are no longer eligible for VR services under WAC 388-890-065.

NEW SECTION

WAC 388-890-0660 Under what conditions does DVR close my case service record for supported employment? DVR closes your case service record for supported employment under WAC 388-890-530 through 388-890-540, except if DVR is closing your case service record because you are successfully employed, DVR must wait at least ninety days after helping you change from supported employment services to extended services before DVR closes your case service record.

NEW SECTION

WAC 388-890-0665 Under what conditions does DVR provide supported employment services as post-employment services? DVR provides supported employment services to you as post-employment services following the change from supported employment services to extended services if:

- (1) Your extended service provider cannot provide the services; and
- (2) You need such services as job station redesign, repair and maintenance of assistive technology devices and replacement of prosthetic and orthotic devices to keep your job.

TRIAL WORK EXPERIENCE

NEW SECTION

WAC 388-890-0670 What is a trial work experience? A trial work experience is a method of assessment used by DVR to determine eligibility for VR services:

(1) Only if a VR counselor cannot presume that VR services will enable you to work because of the significance of your disability;

(2) After you have applied for VR services and before an individualized plan for employment is developed.

NEW SECTION

WAC 388-890-0675 What happens during a trial work experience? (1) During a trial work experience, you are placed in a sufficient variety of work or work-like settings and provided with VR services to assess how you perform.

(2) The trial work experience continues long enough to provide sufficient information for a VR counselor to determine whether:

(a) VR services will enable you to work and that you are eligible for VR services; or

(b) VR services will not enable you to work, because of the significance of your disability; and/or

(c) Service providers are able to meet your VR service needs.

NEW SECTION

WAC 388-890-0680 Who decides if a trial work experience is needed to determine if I am eligible for DVR services? DVR determines whether a trial work experience is needed to determine your eligibility for VR services.

NEW SECTION

WAC 388-890-0685 What services does DVR provide during a trial work experience? DVR may use the individual VR services listed under WAC 388-890-145 through 388-890-450 during a trial work experience.

NEW SECTION

WAC 388-890-0690 What if I am too significantly disabled to participate in a trial work experience? If DVR is unable to identify VR services or service providers that would enable you to perform a trial work experience because of the significance of your disability, DVR follows the procedures outlined under WAC 388-890-065 to determine that you are not eligible for VR services.

NEW SECTION

WAC 388-890-0695 What choices can I make about the trial work experience? If a trial work experience is needed to decide if you are eligible for VR services, DVR provides information and support to help you make informed choices that include but are not limited to:

(1) What type of work setting to use; and

(2) What service providers to use.

NEW SECTION

WAC 388-890-0700 Am I evaluated during the trial work experience? DVR evaluates your progress in a trial

work experience as often as needed, but at least every ninety days.

NEW SECTION

WAC 388-890-0705 When does DVR make an eligibility decision when I am in a trial work experience?

There is no time limit for a trial work experience. As soon as DVR has enough information to decide whether VR services will enable you to get or keep a job, DVR must:

(1) Make an eligibility decision;

(2) Document the basis for eligibility or ineligibility; and

(3) Discontinue trial work experience.

VOCATIONAL REHABILITATION SERVICES FOR GROUPS OF INDIVIDUALS

NEW SECTION

WAC 388-890-0710 Are there any vocational rehabilitation services that can be provided to a group of individuals with disabilities? The following vocational rehabilitation services may be provided to a group of individuals with disabilities:

(1) Services to establish, develop, or improve a community rehabilitation program may be provided to a group of individuals with disabilities who are currently not being served or whose service needs are not being met by DVR.

(2) Services may be provided to an identified group of individuals with disabilities if the VR services:

(a) Are likely to contribute to the rehabilitation of those in the group; and

(b) Cannot be purchased on an individual basis.

(3) Consulting and/or technical assistance services may be provided to support planning the development of school programs to meet the long-term employment needs of a group of students with disabilities.

NEW SECTION

WAC 388-890-0715 Under what conditions does DVR provide services to a group of individuals with disabilities to establish, develop or improve a community rehabilitation program? (1) DVR may provide services to a group of individuals with disabilities to establish, develop, or improve a community rehabilitation program if:

(a) DVR has identified a group of individuals with disabilities who are not being served or whose service needs are not being met by DVR because of limited staff resources;

(b) Services of a community rehabilitation are needed in a geographic area;

(c) DVR has evaluated the community rehabilitation program services and determined that VR services to groups are needed and are likely to meet the service needs of the group.

(2) DVR does not pay for the cost of construction related to establishing or developing a community rehabilitation program.

NEW SECTION

WAC 388-890-0720 Under what conditions does DVR provide services to a group of individuals with disabilities that cannot be purchased under an individual IPE? (1) DVR may provide services to a group of individuals with disabilities if the services are likely to contribute to the rehabilitation of those in the group, but cannot be purchased under an individualized plan for employment of any one person within the group because:

(a) The services are needed by the individuals in the group to apply for DVR services when a barrier exists that hinders access to VR services for a group of individuals with disabilities.

(b) The services needed by the group are not designated by a unit or per person cost and/or cannot be prorated equitably to the IPE's of those in the group.

(2) DVR does not purchase equipment in excess of five thousand dollars as a service to groups of individuals with disabilities.

NEW SECTION

WAC 388-890-0725 Under what conditions does DVR provide consulting and/or technical assistance to plan for the transition of students with disabilities? (1) DVR may purchase consulting and/or technical assistance for schools to plan for the transition of students with disabilities if:

(a) DVR has determined that the school needs consulting or technical assistance services to plan for the transition of students with disabilities;

(b) The school has expressed a commitment to provide the resources needed to implement a plan for the transition of students with disabilities;

(c) DVR has determined the services are likely to result in increased capacity within the school system to assist students with disabilities to transition from school to work;

(d) DVR does not have adequate staff resources to provide the needed consulting or technical assistance.

(2) DVR does not pay for:

(a) The cost to implement a plan; or

(b) Individual VR services to students with disabilities as a service to groups.

ORDER OF SELECTIONNEW SECTION

WAC 388-890-0730 What if DVR does not have funding to serve all eligible individuals? (1) When funds or other resources are not available to serve all eligible individuals, DVR establishes an order to select eligible individuals for services.

(2) When the selection order is in effect and you are eligible for services, DVR assigns your name to one of three selection categories.

(3) You are accepted for services based on:

(a) The priority of the selection category you are in; and

(b) The order in which you applied for DVR services as indicated by the date on your application. If you are a public safety officer with a disability that was acquired while acting in the line of duty you are placed first within a category, regardless of the date on your application.

(4) When the selection order is in effect and you are eligible for DVR services, but do not meet the criteria for selection category one, DVR provides you with vocational rehabilitation information, guidance, and referral services to access other federal and state programs suited to address specific employment needs of individuals with disabilities.

NEW SECTION

WAC 388-890-0735 What criteria is used to determine the selection category? The selection categories are based on the significance of your disability and the limitations your disability presents in terms of getting or keeping a job.

NEW SECTION

WAC 388-890-0740 What disabilities does DVR consider to determine my eligibility or to determine the category for the order in which to serve me if an order of selection is in effect? DVR considers physical, mental or sensory disabilities to determine your eligibility for VR services or to determine the category for the order in which to serve you if the disabilities result from:

- (1) Amputation;
- (2) Arthritis;
- (3) Autism;
- (4) Blindness;
- (5) Burn injury;
- (6) Cancer;
- (7) Cerebral palsy;
- (8) Cystic fibrosis;
- (9) Deafness;
- (10) Head injury;
- (11) Heart disease;
- (12) Hemiplegia;
- (13) Hemophilia;
- (14) Respiratory or pulmonary dysfunction;
- (15) Mental retardation;
- (16) Mental illness;
- (17) Multiple sclerosis;
- (18) Muscular dystrophy;
- (19) Musculo-skeletal disorders;
- (20) Neurological disorders (including stroke and epilepsy);
- (21) Paraplegia;
- (22) Quadriplegia;
- (23) Other spinal cord conditions;
- (24) Sickle cell anemia;
- (25) Specific learning disability;
- (26) End stage renal disease; or
- (27) Other disability or combination of disabilities to cause comparable substantial functional limitation as identified by an assessment for determining eligibility and vocational rehabilitation needs.

PROPOSED

NEW SECTION

WAC 388-890-0745 If DVR has to decide in what order to serve me, who decides what assessment services I need and where to get the assessment services? If DVR has to decide in what order to serve you because funds or other resources are not available to service all eligible individuals:

- (1) DVR decides what assessment services are needed to determine the order in which to serve you; and
- (2) You choose the service providers for the assessment services you need based on informed choice.

NEW SECTION

WAC 388-890-0750 What categories are used by DVR to determine the priority by which eligible individuals are served and in what order are the categories prioritized? (1) DVR uses the following categories to determine the priority by which to serve you if you are eligible for VR services:

- (a) Category one—First priority, individuals with the most significant disabilities;
 - (b) Category two—Second priority, individuals with significant disabilities; and
 - (c) Category three—Third priority, individuals with disabilities.
- (2) The categories are prioritized to accept eligible individuals with the most significant disabilities first, individuals with significant disabilities second and individuals with disabilities third.

NEW SECTION

WAC 388-890-0755 What information does DVR use to determine whether I am in category one? DVR uses the following information to determine if you are in category one—first priority, individuals with the most significant disabilities:

- (1) You have one or more physical, mental or sensory disabilities listed in WAC 388-890-740;
- (2) You have one or more physical, mental, or sensory impairments that constitute or result in a substantial impediment to employment for you and cause you to experience serious limitations in four or more of the following areas in terms of an employment outcome:
 - (a) Mobility,
 - (b) Communication,
 - (c) Self-care,
 - (d) Self-direction,
 - (e) Interpersonal skills,
 - (f) Work tolerance,
 - (g) Work skills in terms of an employment outcome.
- (3) Your vocational rehabilitation is expected to require multiple vocational rehabilitation services over an extended period of time;
- (4) With VR services, you can get or keep a job; and
- (5) You require extended services in order to work.

NEW SECTION

WAC 388-890-0760 What information does DVR use to determine whether I am in category two? DVR uses the following information to determine if you are in category two—second priority, individuals with significant disabilities:

- (1) You have one or more physical, mental or sensory disabilities listed in WAC 388-890-740;
- (2) You have one or more physical, mental, or sensory impairments that constitute or result in a substantial impediment to employment for you and cause you to experience serious limitations in one or more of the following areas in terms of an employment outcome:
 - (a) Mobility,
 - (b) Communication,
 - (c) Self-care,
 - (d) Self-direction,
 - (e) Interpersonal skills,
 - (f) Work tolerance,
 - (g) Work skills in terms of an employment outcome.
- (3) Your vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- (4) With VR services, you can get or keep a job.

NEW SECTION

WAC 388-890-0765 What information does DVR use to determine whether I am in category three? DVR uses the following information to determine if you are in category three—third priority, individuals with disabilities:

- (1) You have one or more physical, mental or sensory disabilities listed in WAC 388-890-740;
- (2) You have one or more physical, mental, or sensory impairments which constitute or result in a substantial impediment to employment for you; and
- (3) With VR services, you can get or keep a job.

INDEPENDENT LIVING PROGRAM — TITLE VIINEW SECTION

WAC 388-890-0780 What is the independent living (IL) program? (1) The independent living (IL) program is authorized by the department of social and health services, division of vocational rehabilitation under Title VII of the Rehabilitation Act, as amended.

(2) Independent living (IL) is a program of services that assists adults and emancipated minors with significant disabilities to live more independently in their families and communities. IL program services are not offered in all DVR offices. Individuals interested in IL program services must be able to get the services at a DVR office where IL program services are offered.

(3) In addition to the rules in sections WAC 388-890-780 through 388-890-1095 covering independent living program services, the following vocational rehabilitation rules apply:

- (a) Payment for VR and IL program services, WAC 388-890-1100 through 388-890-1175;

(b) Confidentiality of personal information, WAC 388-890-1265 through 388-890-1295; and

(c) How to contact DVR if you don't speak English, WAC 388-890-1300 through 388-890-1310.

NEW SECTION

WAC 388-890-0785 What types of services does the IL program offer? If you are eligible, the IL program can help you get the following types of services, as needed, to reach your IL goals:

- (1) Advocacy services,
- (2) Rehabilitation technology services,
- (3) Communications services,
- (4) IL counseling services,
- (5) Housing services,
- (6) IL skills training,
- (7) Information and referral services,
- (8) Mobility training,
- (9) Peer counseling services,
- (10) Personal assistance services,
- (11) Physical rehabilitation services,
- (12) Preventative services,
- (13) Recreational services,
- (14) Services to family members,
- (15) Therapeutic treatment services,
- (16) Transportation services,
- (17) Other IL program services.

NEW SECTION

WAC 388-890-0790 Who is eligible for Title VII IL program services? (1) You are eligible for IL program services under Title VII if you are an adult or emancipated minor and you:

- (a) Have a significant disability, as defined under WAC 388-890-795;
 - (b) Are not currently eligible for VR services; and
 - (c) Can get and benefit from IL program services in a community that offers the services.
- (2) Eligibility is not based on your age, color, creed, gender, sexual orientation, national origin, race, religion, or type of disability.

NEW SECTION

WAC 388-890-0795 What is a significant disability? In the Title VII IL program, you have a significant disability if:

- (1) you have a physical, mental, cognitive or sensory impairment that greatly limits your level of independence in your family or community; and
- (2) IL program services are likely to improve or maintain your level of independence in any of these areas.

NEW SECTION

WAC 388-890-0800 Who provides IL program services? (1) An IL counselor provides IL program services; or

(2) The IL counselor may refer you to a service provider who meets standards established by the IL program.

(3) When a service provider is used, the service provider must provide IL program services that you, the IL counselor, and the service provider have agreed to in advance of starting the service.

NEW SECTION

WAC 388-890-0805 What are my responsibilities in the IL program? To receive independent living services, you must:

- (1) Complete tasks that you have agreed to complete to reach your IL goals;
- (2) Be willing to learn new skills and try new things; and
- (3) Accept responsibility for your decisions and actions related to your IL goals.

NEW SECTION

WAC 388-890-0810 How do I apply for IL program services? (1) Fill out and sign an IL program services application form; or

- (2) Submit the following information:
 - (a) Your name, address and the county where you live;
 - (b) Your birthdate and gender;
 - (c) Your Social Security Number;
 - (d) A short description of the type of disability;
 - (e) The date of your application.

NEW SECTION

WAC 388-890-0815 What happens after I submit my application for IL program services? You meet with an IL counselor to:

- (1) Fill out other forms and releases needed by the IL program to collect the information needed to decide if you are eligible for services;
- (2) The IL program does an assessment to:
 - (a) Verify whether you have a significant disability that greatly limits your level of independence in your family or community;
 - (b) Identify your IL needs; and
 - (c) Decide if IL program services can help you to improve or maintain your level of independence in your family or community.
- (3) The assessment may include, but is not limited to, the following areas:
 - (a) Your home and living environment, including housing, ability to get around, and safety;
 - (b) Financial issues, such as budgeting, paying bills, and managing money;
 - (c) Your basic skills in cooking, cleaning, shopping and general home and family care;
 - (d) How you relate to your family or others socially, and how you spend your free time;
 - (e) How you manage your own personal care; and
 - (f) School or work interests.

NEW SECTION

WAC 388-890-0820 Who decides if I am eligible for IL program services? (1) An IL counselor determines whether you meet the eligibility requirements as outlined under WAC 388-890-790; or

(2) If an individual or organization has a contract with the IL program to offer IL program services, the individual or organization may determine whether you meet the eligibility requirements under WAC 388-890-790.

NEW SECTION

WAC 388-890-0825 Where does the IL program get the information needed to decide if I am eligible? The IL program uses information that you, your family, your doctor, or other organizations submit to decide if you are eligible.

(1) If the information does not verify whether you are eligible for IL program services, you may need to get additional assessments, exams, or tests to get the information.

(2) The IL program pays for services needed to verify whether you are eligible.

NEW SECTION

WAC 388-890-0830 How do I find out if I am eligible for IL program services? (1) If the IL program verifies you are eligible, the IL program notifies you of the decision.

(2) If the IL program determines you are not eligible, the IL program must:

(a) Talk with you about the decision;

(b) Send you, or your representative, a notice of the decision in writing, including information about the services offered by the client assistance program and how to ask for services; and

(c) When possible, refer you to other agencies or programs that offer services to meet your needs.

NEW SECTION

WAC 388-890-0835 What if I disagree with a decision about my eligibility for IL or a decision about IL program services? If an IL counselor makes a decision about your IL program services that you don't agree with, you have the following options:

(1) Try to resolve the disagreement by talking to the IL counselor, his or her supervisor, or regional administrator; and

(2) Contact the client assistance program as outlined under WAC 388-890-1185.

NEW SECTION

WAC 388-890-0840 Under what conditions can I get IL program services? (1) The IL program offers services as needed to:

(a) Establish your eligibility;

(b) Assess your IL needs;

(c) Develop an IL plan; and

(d) Reach your IL goals.

(2) The IL program provides services only if you are not eligible to receive a comparable service from another organization or program.

NEW SECTION

WAC 388-890-0845 How are my IL program services planned? (1) If you are eligible for IL program services, you work with an IL counselor to develop a written IL plan or a verbal IL plan.

(a) You can get the same IL program services under a written IL plan and a verbal IL plan.

(b) If you choose a verbal IL plan, you must sign a waiver declining a written IL plan.

(2) Before the IL program purchases services under a written IL plan or verbal IL plan, you must complete a financial statement as outlined under WAC 388-890-1145, unless you receive public assistance or support from another program as outlined under WAC 388-890-1150.

NEW SECTION

WAC 388-890-0850 What is included on a written or verbal IL plan? The written or verbal IL plan includes:

(1) Your goals for addressing the barriers that limit your level of independence in your family or community;

(2) The IL program services you are using to achieve each goal; and

(3) How long you expect to use each service.

NEW SECTION

WAC 388-890-0855 Who signs and keeps a written IL plan? (1) You and an IL counselor sign the written IL plan.

(2) The IL counselor gives you a copy of the written IL plan in a format that you can understand and use.

NEW SECTION

WAC 388-890-0860 How often is my IL plan reviewed? (1) You and an IL counselor review your IL plan at least once a year, and more often if needed to decide whether:

(a) IL program services should continue, change or stop;

(b) You could and want to be referred to DVR to apply for vocational rehabilitation services as outlined under WAC 388-890-105;

(c) You should be referred to another program or service.

(2) You may develop a new plan, if changes are needed.

(3) When you develop a new plan, the new plan is developed as outlined in WAC 388-890-845 through 388-890-855.

NEW SECTION

WAC 388-890-0865 Who pays for IL program services? (1) The following IL program services are offered at no cost to you:

(a) Services needed to determine eligibility for IL program services;

- (b) Services provided by an IL counselor; and
 - (c) Any other IL service for which there is no cost.
- (2) The IL program does not pay for IL program services that you can get at no cost from another public program or as an insurance or employee benefit.
- (3) If using the services or benefits of another public program or insurance program would delay reasonable progress toward reaching your IL goals, the IL program pays for the services.
- (4) The IL program only pays for IL program services, other than those listed in (1) above, if you meet the financial need criteria established in WAC 388-890-1165.

NEW SECTION

WAC 388-890-0870 What are IL advocacy services? IL advocacy services support and assist you to express your interests or concerns to others to:

- (1) Reach your IL goals; or
- (2) Get other benefits and services you need.

NEW SECTION

WAC 388-890-0875 What are IL rehabilitation technology services? IL rehabilitation technology services assist you to use devices, equipment, or technology services that enable you to reach your IL goals. IL rehabilitation technology services assist you to:

- (1) Assess your technology needs;
- (2) Try out different types of devices, equipment, and services;
- (3) Obtain devices; and/or
- (4) Receive training on the use of devices or equipment.

NEW SECTION

WAC 388-890-0880 What are IL communication services? IL communication services assist you to learn skills or use services that enable you to understand and share information. Examples of communication services include, but are not limited to:

- (1) How to get and use interpreter services, including tactile interpreter services;
- (2) Training in the use of equipment that help you communicate;
- (3) Braille training; or
- (4) How to get and use reader services.

NEW SECTION

WAC 388-890-0885 What are IL counseling services? (1) IL counseling services include support and advice from an IL counselor to help you reach your IL goals by finding out about issues that get in the way of your independence;

- (2) IL counseling services also includes therapeutic counseling services purchased from a qualified therapist on a short-term basis to help you:
 - (a) Adjust to your disabling condition; and
 - (b) Deal with issues about being more independent.

NEW SECTION

WAC 388-890-0890 What are IL housing services? IL housing services assist you to find or keep a suitable living arrangement and take steps needed to move, if needed. Housing services include, but are not limited to, assisting you to:

- (1) Find out about low-income housing resources and different types of housing;
- (2) Find housing that accommodates your disability;
- (3) Assess what is needed in your current housing to accommodate your disability; and
- (4) Find out about ways to make your home accessible.

NEW SECTION

WAC 388-890-0895 Are IL program payments for home modifications limited? (1) The IL program pays for home modifications if:

- (a) The modifications are related to a disability and will improve or maintain independence or safety;
 - (b) You and/or a family member with whom you live:
 - (i) Own the place where you live; and
 - (ii) Complete a financial statement based on the family income to determine whether you must pay, in whole or in part, for home modifications.
 - (c) The housing construction complies with appropriate building codes and permit requirements.
- (2) The IL program does not pay for the cost of labor to construct home modifications.

NEW SECTION

WAC 388-890-1000 What is IL skills training? IL skills training teaches you skills to manage and balance your life in areas including, but not limited to:

- (1) Budgeting,
- (2) Meal planning and/or preparation,
- (3) Consumer skills,
- (4) Personal care,
- (5) Social interaction.

NEW SECTION

WAC 388-890-1005 What are IL information and referral services? IL information and referral services help you to find out about and get help from other community programs and services. IL information and referral services include, but are not limited to:

- (1) Information about a variety of disability issues;
- (2) Information about health insurance and where it is available; and
- (3) Help with contacting other programs and services in the community.

NEW SECTION

WAC 388-890-1010 What is IL peer counseling? IL peer counseling is support, advice, teaching, and information sharing with people with disabilities.

NEW SECTION

WAC 388-890-1015 What is IL mobility training? IL mobility training improves your ability to get around in your home or your community, including but not limited to:

- (1) How to use a wheelchair;
- (2) How to make transfers;
- (3) Training on the use of public transportation.

NEW SECTION

WAC 388-890-1020 What is IL personal assistance training? IL personal assistance training helps you develop the skills to get or keep the services of an attendant or assistant to meet your personal assistance needs. Personal assistance training includes, but is not limited to:

- (1) How to find an attendant or assistant; and
- (2) How to manage the services.

NEW SECTION

WAC 388-890-1025 Does the IL program pay for attendant services as part of personal assistance training? The IL program does not pay for attendant services as part of personal assistance training.

NEW SECTION

WAC 388-890-1030 What are IL physical rehabilitation services? IL physical rehabilitation services include medical assessments or short-term services to assist you to identify or reach your IL goals. Physical rehabilitation services include, but are not limited to:

- (1) Occupational therapy;
- (2) Speech therapy; and
- (3) Physical therapy.

NEW SECTION

WAC 388-890-1035 What are IL preventative services? IL preventative services enable you to prevent or limit conditions that result from your disability. IL preventative services enable you to reduce the risk that conditions or limitations worsen. IL preventative services may include, but are not limited to, the purchase of items used to prevent decubitus ulcers.

NEW SECTION

WAC 388-890-1040 What are IL recreational services? IL recreational services assist you to find ways to enjoy activities or hobbies of personal interest to you. IL recreational services may include but are not limited to:

- (1) Assisting you to find information and contact local programs or organizations that offer activities you are interested in; and/or
- (2) Getting short-term instruction in an area of interest to you.

NEW SECTION

WAC 388-890-1045 What are IL program services to family members? (1) IL program services to family members assist you and your family members with issues related to your disability or independence. Services to family members may include, but are not limited to:

- (a) Giving your family training to understand disability issues;
- (b) Assisting you to get child care needed to allow you to use IL program services.

(2) Family member means:

- (a) Your legal guardian;
- (b) Someone related to you; or
- (c) Someone you live with who has a strong interest in your well being and who needs IL program services for you to achieve your IL goals.

NEW SECTION

WAC 388-890-1050 What are IL therapeutic services? IL therapeutic services include evaluations to assist you to get specific information from a medical professional, such as a psychologist or neuropsychologist, to help you:

- (1) Identify your IL goals; and/or
- (2) Decide best methods for you to receive services.

NEW SECTION

WAC 388-890-1055 What are IL transportation services? (1) IL transportation services help you participate in other IL program services and include, but are not limited to:

- (a) Public transportation fares or passes,
 - (b) Estimated cost of gasoline,
 - (c) Parking fees.
- (2) IL transportation services do not include the purchase of vehicles.

NEW SECTION

WAC 388-890-1060 What other services does the IL program offer? The IL program may offer other services needed to help you to understand IL program services and options or achieve your IL goals. Other IL program services may include, but are not limited to support to attend a class, and support to find volunteer work.

NEW SECTION

WAC 388-890-1065 How long can I receive independent living services? There is no limit on how long IL program services may be provided.

NEW SECTION

WAC 388-890-1070 Why does the IL program stop providing or paying for IL program services? (1) The IL program stops providing or paying for IL program services if you:

- (a) Agree with an IL counselor that you have completed the goals and objectives in your IL plan;

- (b) Are no longer available to receive services at a DVR office where IL program services are offered;
 - (c) Choose to quit using IL program services;
 - (d) Are eligible and plan to use vocational rehabilitation services.
- (2) The IL program stops providing or paying for IL program services if it:
- (a) Determines you no longer need IL program services;
 - (b) Determines you are not cooperating in your IL plan;
 - (c) Determines that you are no longer eligible for IL program services;
 - (d) Refers you to another service or program that offers services that are more likely to meet your needs;
 - (e) Cannot locate you.

NEW SECTION

WAC 388-890-1075 Am I involved in the decision to stop receiving IL program services? Before the IL program decides to stop providing or paying for your IL program services, an IL counselor must give you an opportunity to discuss the reasons for the decision.

NEW SECTION

WAC 388-890-1080 How does the IL program notify me that my services are stopping? (1) If an IL counselor decides that you are no longer eligible for IL program services, the IL counselor must follow the procedures in WAC 388-890-065 to notify you about the decision.

(2) If you and an IL counselor have decided to stop IL program services for another reason, the IL program must send you a written notice. The written notice must explain:

- (a) The reason the IL program has decided to stop providing or paying for IL program services;
- (b) The services offered by the client assistance program as outlined under WAC 388-890-1185 and how to ask for those services.

NEW SECTION

WAC 388-890-1085 If the IL program decides I am not eligible for IL program services, is the decision reviewed? (1) If the IL program decides that you are not eligible for IL program services, an IL counselor must contact you to review the decision within twelve months.

(2) If you have a change in your life that affects your eligibility for IL program services, you may ask the IL program to review the decision.

- (3) The IL program is not required to review your eligibility if you:
- (a) Refuse or decline a review;
 - (b) Are no longer available to receive services at a DVR office that provides IL program services; or
 - (c) Cannot be located.

NEW SECTION

WAC 388-890-1090 Does the IL program keep a record of my IL program services? The IL program keeps

a record of your services, either electronically or in writing for three years after you stop receiving IL program services. The record includes, but is not limited to:

- (1) Records that verify your eligibility or ineligibility;
- (2) IL goals and objectives that are:
 - (a) Established with your input, whether on a written IL plan or not; and
 - (b) Achieved by you.
- (3) Services you requested and received;
- (4) A written IL plan or a written form signed by you declining a plan.

NEW SECTION

WAC 388-890-1095 Does the IL program keep personal information confidential? (1) The IL program protects your personal information as outlined in WAC 388-890-1255 through 388-890-1295.

(2) When a service provider is used, the service provider must have and follow policies and procedures that are consistent with WAC 388-890-1255 through 388-890-1295.

PAYMENT FOR VR AND IL PROGRAM SERVICESNEW SECTION

WAC 388-890-1100 How are costs for VR and IL program services paid? Under federal law, DVR may only pay for VR and IL program services after you and a counselor have looked for other resources available to pay for the services, including:

- (1) Comparable services and benefits; and
- (2) Your own financial resources.

NEW SECTION

WAC 388-890-1110 What are comparable services and benefits? Comparable services and benefits are services or benefits that are similar to services DVR would provide that are available to you from another public program, under a health insurance program, or as an employee benefit. For example, if you need a mental health service and it is available to you at no cost from a local mental health center, DVR will not pay another organization or service provider for that service.

NEW SECTION

WAC 388-890-1115 What VR or IL program services are provided without a determination of comparable services or benefits? The following DVR services are provided without a determination of comparable services and benefits:

- (1) Assessment services, as outlined under WAC 388-890-150;
- (2) Assistive technology services, as outlined under WAC 388-890-190;
- (3) Assistive technology devices, as outlined under WAC 388-890-175;

(4) Counseling and guidance services, as outlined under WAC 388-890-200;

(5) Independent living services, including assessments, when provided directly by a VR or IL counselor, as outlined under WAC 388-890-220;

(6) Referral services, as outlined under WAC 388-890-325;

(7) Job placement and job retention services, as outlined under WAC 388-890-240;

(8) Training services, as outlined under WAC 388-890-380 and 388-890-390;

(9) Rehabilitation engineering services, as outlined under WAC 388-890-335;

(10) Post-employment services as outlined under WAC 388-890-305 that include any of the services listed in subsections (1) through (9) above.

NEW SECTION

WAC 388-890-1120 What if determining the availability of comparable services and benefits would result in a delay or interrupt my progress? (1) A determination of comparable services and benefits is not required before you begin providing VR services if you and a VR or IL counselor agree the determination would delay or interrupt:

(a) A service you need when you are at extreme medical risk;

(b) An immediate job placement; or

(c) Your progress toward achieving the employment outcome identified on your individual plan for employment.

(2) A VR counselor may complete the determination of comparable services and benefits while you receive VR or IL services if it is expected that services and benefits exist and could be used at a later time without resulting in a delay.

(3) If comparable services and benefits are available, you must apply for and use comparable services and benefits.

NEW SECTION

WAC 388-890-1125 What is extreme medical risk? Extreme medical risk means a likelihood of death or a functional impairment will substantially worsen if medical services, including mental health services, are not provided quickly.

NEW SECTION

WAC 388-890-1130 Does DVR pay for a service if comparable services and benefits are available, but I don't want to use them? DVR does not pay for a service that is available to you as a comparable service or benefit. If you choose not to apply for or use comparable services or benefits that a VR or IL counselor determines are adequate to meet your needs, you are responsible to pay for the services or benefits.

NEW SECTION

WAC 388-890-1135 Are awards and scholarships based on merit considered comparable services and bene-

fits? Awards and scholarships you earn based on merit are not considered comparable services and benefits.

NEW SECTION

WAC 388-890-1140 How do I get comparable services and benefits? (1) You apply for comparable services and benefits from the organization or agency from which the service or benefit is available.

(2) If you need assistance to apply for comparable services and benefits, a VR or IL counselor helps you apply for the services or benefits.

NEW SECTION

WAC 388-890-1145 How does DVR determine whether I pay for all or part of my VR or IL services using my own financial resources? To determine whether you must pay for all or part of your VR or IL program services using your own financial resources:

(1) You must complete a DVR financial statement to document your financial status before DVR purchases services under an IPE or IL Plan, except the services outlined in WAC 388-890-1160.

(2) You must provide copies of financial records requested by DVR to establish your financial status.

(3) If you are married, are a dependent, or are supported financially by another person, you and the other party or parties must provide information about your combined financial status.

(4) If you fail to report your financial status accurately or provide the required information, DVR may deny or suspend services at any time in the rehabilitation process, except the services listed under WAC 388-890-1175.

NEW SECTION

WAC 388-890-1150 Do I have to report my financial status if I receive public assistance or income support from another public program? You meet DVR's financial need criteria if you qualify for one of the programs listed below, regardless of whether you are married, are a dependent, or receive financial support from another family member. If you give DVR proof that you qualify for one of these programs, you do not need to give DVR any other information about your financial status:

(1) DSHS income assistance,

(2) Medicaid, or

(3) Supplemental Security Income.

NEW SECTION

WAC 388-890-1155 What financial information does DVR use to decide if I need to help pay for VR services? The following information is used to determine whether you must pay any part of the cost of VR or IL program services:

(1) Your income from all sources;

(2) Your assets and property, including but not limited to bank accounts, vehicles, personal property, stocks, bonds and trusts;

(3) Your living expenses, including household expenses, credit payments, disability-related expenses and other financial obligations.

NEW SECTION

WAC 388-890-1160 Are any of my resources not counted in the decision about whether I have to help pay for services? DVR does not count the following resources when deciding whether you need to help pay for VR or IL program services:

- (1) The value of your primary home and furnishings;
- (2) The value of items that you keep because of personal attachment or hobby interest, rather than because of monetary value;
- (3) The value of one vehicle per household member if the vehicle is needed for work, school, or to participate in VR or IL program services;
- (4) Retirement, insurance, or trust accounts that do not pay a current benefit to you or your family;
- (5) If the retirement, insurance or trust account pays a current benefit, only the monthly benefit is counted as income. The balance of the account is excluded;
- (6) Up to five thousand dollars of your total assets are excluded as exempt;
- (7) Equipment or machinery used to produce income;
- (8) Livestock used to produce income; and
- (9) Disability-related items.

NEW SECTION

WAC 388-890-1165 How does DVR decide whether I have resources to help pay for VR services? (1) You must complete a financial statement that compares your total income and assets to your total living expenses and obligations, unless you meet the conditions listed under WAC 388-890-1150.

(2) DVR allows you to deduct five thousand dollars from your total assets as an exemption.

(3) DVR pays for your VR or IL program services if the results of the financial statement show that you do not have resources available to help pay for your VR or IL program services.

(4) You must help pay for VR or IL program services if the results of the financial statement show that you have resources available to help pay for your VR or IL program services.

(5) DVR does not pay for VR or IL program services under an IPE or IL plan when the financial statement shows that you have resources available and choose not to use them to pay for VR or IL program services, except for the services listed under WAC 388-890-1150.

NEW SECTION

WAC 388-890-1170 How is the amount I pay for VR or IL program services determined? (1) After completing the financial statement, you and a VR or IL counselor must agree how to use the resources identified on the financial statement to help pay for VR or IL program services.

(2) The costs you agree to pay are documented on the IPE or IL plan.

(3) If your financial status changes, report the change to a VR or IL counselor.

NEW SECTION

WAC 388-890-1175 What VR or IL program services am I not required to help pay for? You are not required to help pay for the following VR or IL program services, regardless of your financial status:

- (1) Assessment services needed to determine eligibility or rehabilitation needs, including independent living assessment services;
- (2) Counseling, guidance, and referral services;
- (3) Job placement and job retention services;
- (4) Independent living services provided directly by DVR staff;
- (5) Post-employment services that include any of the services listed in subsections (1) through (4) of this section.

YOUR RIGHTS WHEN YOU DISAGREE WITH A DECISION MADE BY DVR

NEW SECTION

WAC 388-890-1180 What if a VR counselor makes a decision about my VR services that I don't agree with? (1) If a VR counselor makes a decision relating to your VR services that you don't agree with, you have the following options:

- (a) Try to resolve the disagreement by talking to the VR counselor, a VR supervisor, or regional administrator;
 - (b) Contact the Client Assistance Program as outlined under WAC 388-890-1185;
 - (c) Request mediation; and/or
 - (d) Request a formal hearing.
- (2) You have the right to use one or more of these options at any time.
- (3) Your efforts to reach an agreement with the VR counselor, VR supervisor, or regional administrator are not used to deny or delay your right to mediation or a formal hearing.

NEW SECTION

WAC 388-890-1185 What is the client assistance program (CAP)? (1) The client assistance program (CAP) is a program that offers advice and information at no cost to you about your rights as a DVR participant and to help you understand and receive services available.

(2) You may ask for help or information from CAP at any time during the rehabilitation process by:

- (a) Asking a DVR staff person for information about how to contact CAP; or
- (b) calling CAP at the toll-free number 1-800-544-2121 voice/TTY.

NEW SECTION

WAC 388-890-1190 What is mediation? (1) Mediation is a method used when you and a VR counselor cannot resolve a disagreement about your VR services.

(2) A trained mediator who knows the laws and rules about VR services conducts a meeting with you and a representative from DVR.

(3) The mediator does not work for DVR.

(4) During a mediation meeting, the mediator:

(a) Allows each party to present information or evidence;
(b) Helps each party listen to and understand the other party's position;

(c) Reviews and explains any laws that apply;

(d) Facilitates an agreement, if possible, between the parties;

(e) The facilitator does not make decisions about the disagreement.

(5) You may be represented by another person of your choice at the mediation meeting.

NEW SECTION

WAC 388-890-1195 When can I ask for mediation?

(1) Mediation is an option any time you disagree with a decision DVR makes about your VR services.

(2) All parties involved in the issue, including DVR, must agree to mediation.

(3) Mediation is not used to deny or delay your right to a formal hearing. You may request both mediation and a formal hearing at the same time. If an agreement is:

(a) Reached during mediation, the formal hearing is canceled.

(b) Not reached during mediation, the formal hearing is held as scheduled.

NEW SECTION

WAC 388-890-1200 Who arranges and pays for mediation? (1) DSHS schedules mediation sessions in a timely manner at a location that is convenient to all parties.

(2) DSHS pays for costs related to mediation, except costs related to a representative or attorney you ask to attend.

(3) DVR may pay for VR services you require to participate in mediation, such as transportation or child care.

NEW SECTION

WAC 388-890-1205 Is information discussed during mediation confidential? Information discussed during mediation is kept confidential and may not be used in a later hearing or civil proceeding, if one is held. Before beginning a mediation session, all parties must sign a statement of confidentiality.

NEW SECTION

WAC 388-890-1210 How do I request mediation? For more information or to request mediation, ask a VR counselor, supervisor or regional administrator or call DVR's state-wide toll free number 1-800-637-5627.

NEW SECTION

WAC 388-890-1215 After the mediation session, do I receive a written statement of the results? When you and the DVR representative reach an agreement during the mediation meeting, DSHS provides you with a written statement of the agreement.

NEW SECTION

WAC 388-890-1220 What is a formal hearing? (1) A formal hearing is a proceeding conducted as outlined under the Administrative Procedure Act, chapter 388-08 WAC.

(2) A formal hearing is similar to a trial and is held by an administrative law judge who does not work for DSHS.

(3) During the formal hearing, both you and DVR may present information, witnesses, and/or documents to support your position.

(4) You may be represented by an attorney, a friend, a relative, or someone else if you choose.

(5) The administrative law judge makes a decision after:

(a) Hearing all of the information presented;

(b) Reviewing any documents submitted; and

(c) Reviewing relevant federal and state laws and regulations.

NEW SECTION

WAC 388-890-1225 When is a formal hearing available? (1) You have the right to a formal hearing when you disagree with a decision made by DVR about your eligibility for VR services or a decision about VR services.

(2) You must ask for a formal hearing in writing within 20 days of the decision.

NEW SECTION

WAC 388-890-1230 How do I request a formal hearing? (1) To ask for a formal hearing, you must send a written request to the Office of Administrative Hearings, P.O. Box 2465, Olympia, Washington 98507-2465.

(2) You must include the following information in your written request:

(a) Your name, address, and telephone number;

(b) A written statement about the decision and the reasons you disagree; and

(c) Any other information that supports your position.

NEW SECTION

WAC 388-890-1235 After I submit a request for a formal hearing, when is it held? The office of administrative hearings must hold a formal hearing within forty-five days of receipt of your written request for a hearing, unless:

(1) You or DVR ask for a delay; and

(2) There is a reasonable cause for the delay.

NEW SECTION

WAC 388-890-1240 Do I receive a written formal hearing decision? The office of administrative hearings

sends you a written report of the findings and decisions within thirty days of the formal hearing.

NEW SECTION

WAC 388-890-1245 Is the decision after a formal hearing final? (1) If you accept the hearing decision, it will become final automatically, and DVR must implement the decision.

(2) If you do not agree with the hearing decision, you may as the DSHS board of appeals to review it. Instructions on how to ask for a review are included with the hearing decision sent to you.

(3) If you do not agree with the final decision issued by the DSHS board of appeals, you may ask a superior court to review that decision. Instructions on how to ask a superior court to review the final agency decision are included with the final agency decision sent to you.

NEW SECTION

WAC 388-890-1250 Can DVR suspend, reduce or terminate my services while waiting for a formal hearing decision? DVR must not suspend, reduce, or terminate services while a decision is waiting for a formal hearing decision, unless you:

- (1) Provide false information to obtain VR services; or
- (2) Commit fraud or other criminal action to obtain VR services.

CONFIDENTIALITY OF PERSONAL INFORMATION

NEW SECTION

WAC 388-890-1255 How do I know what personal information I must give DVR and how it is used? When you apply for services, DVR must explain:

- (1) What types of personal information you must share;
 - (2) What information DVR must get and what information is optional;
 - (3) How DVR uses personal information;
 - (4) What laws allow DVR to use personal information;
- and
- (5) Your options if you decline to give DVR required information.

NEW SECTION

WAC 388-890-1260 Does DVR keep a record of my VR services on file? DVR keeps a record of VR services for three years after your case is closed. The VR case service record includes, but is not limited to:

- (1) The application form or request for VR services;
- (2) Records that verify the type and severity of your disability;
- (3) A summary of how your disability limits your ability to get or keep a job;
- (4) Records that explain and support:
 - (a) The eligibility or ineligibility decision;

(b) Your rehabilitation needs.

(5) Records that support the need for a trial work experience, if needed, and summaries of trial work progress reviews;

(6) Financial statement;

(7) Information collected to develop an individualized plan for employment (IPE), including:

(a) A summary of how your job goal matches your strengths, abilities, and interests;

(b) Each step needed to reach your job goal; and

(c) VR services to be used and how the services address the impediment to employment.

(8) If VR services are provided in a setting that is not integrated, a written explanation of reasons for using a nonintegrated setting;

(9) IPE, IPE amendments, and IPE progress reports;

(10) records that verify you are paid at or above the minimum wage, but not less than the usual wage your employer pays to nondisabled individuals doing the same or similar work, if you achieve a competitive employment outcome;

(11) Summary of annual reviews, if done;

(12) Written results of mediation sessions or formal hearings, if held;

(13) Written summary of the need for post-employment services after getting a job, including a description of what services are needed;

(14) Notification of case closure and appeal rights.

NEW SECTION

WAC 388-890-1265 Under what conditions does DVR share personal information in my record with another service provider or organization? DVR shares personal information with another service provider or organization only when:

- (1) You sign a written consent giving DVR permission to release the information; and
- (2) The information is needed to help you meet your rehabilitation goals.

NEW SECTION

WAC 388-890-1270 When DVR gets personal information about me from another agency or service provider, is it kept confidential? If DVR gets personal information about you from another agency or service provider, DVR only releases the information to others following rules established by the agency or service provider that provided the information and with your written consent.

NEW SECTION

WAC 388-890-1275 Does DVR change incorrect information in my record? (1) You may ask DVR to correct information in your record that you believe is incorrect.

(2) DVR corrects the information, unless there is a disagreement about whether the information is correct. If there is a disagreement about whether the information is correct, you may:

- (a) Write a summary describing why the information is not correct; or
- (b) Ask DVR to write a summary describing your concerns about the information.
- (3) DVR puts the written summary in your record.

NEW SECTION

WAC 388-890-1280 How do I receive copies of information from my DVR record? (1) You may ask DVR for information contained in your record. A request for records must be in writing.

(2) DVR gives you copies of the records in a timely manner, unless DVR determines the information may be harmful to you.

(3) If DVR determines the records may be harmful to you, DVR releases the records to your representative, parent, guardian, another person you choose, or to a qualified medical professional.

(4) If a representative has been appointed by a court to represent you, the information must be released to the representative.

(5) If previously existing records are given to DVR by another organization or service provider, you must ask the organization or service provider for the records.

(6) If DVR requested or paid an organization or service provider to create records, such as an assessment to determine eligibility, DVR may release the records to you.

NEW SECTION

WAC 388-890-1285 Can DVR release personal information without my written consent? DVR releases personal information without your written consent only under the following conditions:

- (1) When required by federal or state law;
- (2) When asked by a law enforcement agency to investigate criminal acts, unless prohibited by federal or state law;
- (3) When given an order signed by a judge, magistrate, or authorized court official;
- (4) When DVR decides you may be a danger to yourself or others;
- (5) When asked by the division of child support of the department of social and health services;
- (6) To an organization, agency or person(s) for audit, evaluation or research.

NEW SECTION

WAC 388-890-1290 Under what conditions does DVR release personal information for audit, evaluation or research? DVR may release personal information for audit, evaluation or research when the results would improve the quality of life or DVR services for people with disabilities. Before any personal information is shared, the organization, agency, authority or individual must agree to the following conditions:

(1) The information must only be used by people directly involved in the audit, evaluation or research;

(2) The information must only be used for the reasons approved by DVR in advance;

(3) The information must be kept secure and confidential;

(4) The information must not be shared with any other parties, including you or your representative;

(5) The final product or report must not contain any personal information that would identify you without your written consent.

NEW SECTION

WAC 388-890-1295 How does DVR protect personal information about drug, alcohol, HIV/AIDS and sexually transmitted diseases? (1) DVR uses special protections when you share personal information about drug or alcohol abuse or about HIV/AIDS and sexually transmitted diseases.

(2) DVR asks for your specific permission to copy information of this nature before sharing it with a service provider or organization that is helping you reach your employment goals.

(3) Information about drug and alcohol abuse must be handled in accordance with RCW 70.96A.150 and applicable federal and state laws and regulations.

(4) Information about HIV/AIDS or other sexually transmitted diseases must be handled in accordance with RCW 70.24.105 and applicable federal and state laws and regulations.

HOW TO CONTACT DVR IF YOU DON'T SPEAK ENGLISH

NEW SECTION

WAC 388-890-1300 How do I contact DVR if I don't speak English? If you don't speak English, you may request another type of communication to meet with DVR. DVR arranges and pays for services you need to communicate with DVR to learn about or apply for DVR services.

NEW SECTION

WAC 388-890-1305 What other methods of communication does DVR use? DVR uses equipment, devices or other services you need to understand and respond to information. Methods we can use to communicate with you include, but are not limited to, the use of:

- (1) Interpreters,
- (2) Readers,
- (3) Captioned videos,
- (4) Telecommunications devices and services,
- (5) Taped text,
- (6) Braille and large print materials,
- (7) Electronic formats,
- (8) Graphics,
- (9) Simple language materials.

NEW SECTION

WAC 388-890-1310 When does DVR communicate with me using methods other than English? DVR uses a method of communication that enables you to understand information and ask questions about the following, at a minimum:

- (1) How DVR keeps personal information confidential.
- (2) Your right to make informed choices throughout the rehabilitation process.
- (3) DVR's decision about whether you are eligible for VR or IL program services.
- (4) The options you have to develop an individualized plan for employment (IPE).
- (5) Other essential information relating to VR or IL program services and programs and answer your questions.

REPEALER

The following sections of the Washington Administrative Code are repealed:

<p>WAC 490-500-005</p> <p>WAC 490-500-010</p> <p>WAC 490-500-015</p> <p>WAC 490-500-022</p> <p>WAC 490-500-025</p> <p>WAC 490-500-030</p> <p>WAC 490-500-050</p> <p>WAC 490-500-055</p> <p>WAC 490-500-065</p> <p>WAC 490-500-070</p> <p>WAC 490-500-080</p> <p>WAC 490-500-170</p> <p>WAC 490-500-180</p> <p>WAC 490-500-185</p> <p>WAC 490-500-190</p> <p>WAC 490-500-200</p> <p>WAC 490-500-205</p> <p>WAC 490-500-257</p>	<p>Definitions.</p> <p>Application for services.</p> <p>Initial interview.</p> <p>Assessment for determining eligibility and vocational rehabilitation needs.</p> <p>Eligibility for services.</p> <p>Eligibility for services—Criteria.</p> <p>Certification for decision of eligibility or ineligibility.</p> <p>Notice to applicant.</p> <p>Ineligibility—Review required.</p> <p>Extended evaluation.</p> <p>Extended evaluation—Plan.</p> <p>Criteria for order of selection.</p> <p>Economic need.</p> <p>Economic need—Financial statement required.</p> <p>Economic need—Standards for determining.</p> <p>Economic need—Notification of decision.</p> <p>Comprehensive assessment.</p> <p>Individualized, written rehabilitation plan.</p>	<p>WAC 490-500-260</p> <p>WAC 490-500-270</p> <p>WAC 490-500-275</p> <p>WAC 490-500-300</p> <p>WAC 490-500-325</p> <p>WAC 490-500-350</p> <p>WAC 490-500-380</p> <p>WAC 490-500-385</p> <p>WAC 490-500-389</p> <p>WAC 490-500-390</p> <p>WAC 490-500-418</p> <p>WAC 490-500-420</p> <p>WAC 490-500-430</p> <p>WAC 490-500-435</p> <p>WAC 490-500-437</p> <p>WAC 490-500-445</p> <p>WAC 490-500-450</p>	<p>Individualized, written rehabilitation plan—Content.</p> <p>Individualized, written rehabilitation plan—Participation.</p> <p>Individualized, written rehabilitation plan—Review.</p> <p>Vocational rehabilitation—Employment outcome.</p> <p>Comparable services and benefits available from other agencies.</p> <p>Vocational rehabilitation services.</p> <p>Vocational rehabilitation services—Counseling, guidance, and work-related placement services.</p> <p>Vocational rehabilitation services—Physical and mental restoration.</p> <p>Vocational rehabilitation services—Telecommunications, sensory, and other technological aids and devices.</p> <p>Vocational rehabilitation services—Training.</p> <p>Vocational rehabilitation services—Rehabilitation assistive technology services.</p> <p>Vocational rehabilitation services—Additional living expenses.</p> <p>Vocational rehabilitation services—Occupational licenses, tools, equipment, and initial stocks and supplies.</p> <p>Vocational rehabilitation services—Transportation.</p> <p>Vocational rehabilitation services—Interpreter services and reader services.</p> <p>Vocational rehabilitation services—Services to family members.</p> <p>Vocational rehabilitation services—Other goods and services.</p>
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PROPOSED

WAC 490-500-455	Vocational rehabilitation services—Post-employment services.	WAC 490-500-605	Independent living program—Eligibility/ineligibility.
WAC 490-500-460	Vocational rehabilitation services—Information and referral services.	WAC 490-500-615	Independent living program—Economic need and comparable services and benefits.
WAC 490-500-465	Vocational rehabilitation services—Recruitment and training services.	WAC 490-500-620	Independent living program—Written independent living plan.
WAC 490-500-470	Vocational rehabilitation services—Transition services.	WAC 490-500-622	Independent living program—Independent living services.
WAC 490-500-475	Vocational rehabilitation services—Supported employment.	WAC 490-500-625	Independent living program—Termination.
WAC 490-500-477	Vocational rehabilitation services—Independent living services.	WAC 490-500-627	Independent living program—Client records.
WAC 490-500-480	Vocational rehabilitation services—On-the-job or other related personal assistance.	WAC 490-500-630	Statewide independent living council.
WAC 490-500-485	Vocational rehabilitation services—Services to groups.	WAC 490-500-635	State rehabilitation advisory council.
WAC 490-500-500	Purchase of services.		
WAC 490-500-505	Purchase of services—Selection criteria—Schools or training organizations.		
WAC 490-500-510	Purchase of services—Selection criteria—On-the-job training.		
WAC 490-500-525	Termination of services under an individualized, written rehabilitation plan—Ineligible.		
WAC 490-500-530	Termination of services under an individualized, written rehabilitation plan—For reasons other than ineligibility.		
WAC 490-500-542	Termination of services under an individualized written rehabilitation plan—Rehabilitated.		
WAC 490-500-545	Notification of termination.		
WAC 490-500-555	Confidential information—Disclosure.		
WAC 490-500-560	Administrative review.		
WAC 490-500-580	Fair hearing—Adjudicative proceeding.		
WAC 490-500-590	Client records.		
WAC 490-500-600	Independent living program.		

**WSR 99-12-112
PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Filed June 2, 1999, 9:42 a.m.]

Supplemental Notice to WSR 98-05-056.

Preproposal statement of inquiry was filed as WSR 98-05-056.

Title of Rule: Revising rules relating to investor owned water companies commission, Docket No. UW-980082.

Purpose: To implement the requirements of Executive Order 97-02, requiring agencies to review significant rules for need; effectiveness and efficiency; clarity; intent and statutory authority; cost and fairness. The proposal would repeal the existing rules, reorganize and rewrite the substance of the text for compliance with Executive Order 97-02, and promulgate new sections incorporating the redrafted provisions. In addition, the proposal, adds provisions to set existing policies in rules, adds a provision to set existing policies in rules, adds a provision requiring refunds for poor water quality, updates definitions, and deletes obsolete provisions.

Other Identifying Information: To original CR-102 was withdrawn to allow additional time for study and revision in light of stakeholder comments.

Statutory Authority for Adoption: RCW 80.01.040 and 80.04.160.

Summary: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Danny P. Kermod, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1253; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South

Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules address how the Washington Utilities and Transportation Commission regulates the rates and operations of investor owned water companies. This review is in compliance with Executive Order 97-02 and reviews the chapter for clarity, intent and statutory authority, need effectiveness and efficiency, coordination, cost and fairness. The proposal would reorganize and redraft the rules to comply with Executive Order 97-02. The proposal would incorporate and formalize policies, would eliminate obsolete rules, and it would add some substantive provisions as set out below.

Proposal Changes the Following Existing Rules: The proposal would repeal existing rules and substitute reorganized and redrafted rules.

The proposed substantive changes to rule text include the following:

- (1) Deleting and adding definitions as needed;
- (2) Expanding companies' requirements to provide customer notice for tariff filings;
- (3) Adding requirements identifying information that companies must supply when making general rate change filings;
- (4) Adding provisions to codify existing policies or clarify requirements relating to the following topics:
 - a. When and how water companies may use funding mechanisms such as facilities charges;
 - b. Requirements relating to adopted and initial tariff filings, and
 - c. Clarifying when companies are jurisdictional by incorporating policy statement UW-930006 in WAC 480-110-255 and withdrawing the policy statement. In addition, the rule increases revenue threshold for water company jurisdiction from \$418 to \$429 pursuant to specific legislative authority in RCW 80.04.010.
- (5) Adding a provision that sets out when a water company may be required to refund changes [charges] due to water quality, and how to calculate the amount of the refund; and
- (6) Separating rules relating to company and customer responsibilities.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

BACKGROUND: The Washington Utilities and Transportation Commission (WUTC) is proposing changes to chapter 480-110 WAC, Water companies and an addition to chapter 480-09 WAC, Procedures. The WUTC is proposing the changes to the current rules in order to comply with the requirement to review all significant rules.

The WUTC had continuous involvement from the regulated water industry. Five stakeholder meetings were held to develop these proposed rules. In addition, a special meeting was held to focus on unique service area problems. Written

comments have also been helpful to clarify the intent of the proposed rules and effects of the proposed rules on the industry.

SUMMARY OF PROPOSED CHANGES: The current proposal would, among other things:

- Revise current provisions into clear language;
- Codify WUTC policy on such issues as initial tariff filings, facility charges and service connections;
- Implement new rules regarding rate increase filings; and
- Adjust the jurisdictional revenue threshold and accounting thresholds for the effects of inflation.

Included is the recognition that using today's current technology, smaller water companies can maintain "electronic offices." The rules recognize with the prevalence of fax machines, pagers, and cellular or other wireless phones, a small water company can maintain reasonable contact with its customers without maintaining a business location. This can reduce costs to the company and thus the ratepayer.

The proposed rules will also reduce the regulatory burdens required by mandated meter testing programs and the associated record-keeping costs. In addition, the rules provide requirements for companies filing for new facilities charges, and surcharges. The rules also require that water bills be understandable.

STAKEHOLDER INVOLVEMENT: Many of this statement's conclusions were developed by stakeholder participation including cost estimates from:

- Responses from a questionnaire sent to all of the investor owned water companies that are subject to WUTC regulation (see appendix 1); and
- Information provided by stakeholders at a commission sponsored workshop.

Participating stakeholders included industry members, investor owned water company association representation, nonregulated water company owners, customers, attorneys and industry consultants.

This study and its conclusions are not the result of consensus, but rather are based upon consideration and analysis of the individual rules and the assessment of the information provided by the stakeholders. Based upon input from stakeholders, staff modified the proposed rules to reduce costs while at the same time maintaining or increasing their effectiveness to obtain the desired results.

INDUSTRY SEGMENT DISCUSSION INDUSTRY: The water supply industry in its broadest sense, includes all water distribution companies that provide water through pipes installed in the ground and which deliver water for domestic, commercial, and industrial use. The associated standard industrial classification (SIC) industry number for water supply is 4941. The Washington Department of Revenue shows 481 taxpayers reporting under that SIC for 1998 and 480 for 1997. The water suppliers reporting under SIC 4941, includes not only investor owned water companies but also homeowner associations, water co-ops, and water public utility districts.

These proposed rules will affect only those companies that fall under WUTC jurisdiction. Currently, the WUTC regulates approximately seventy water companies of the four

hundred and eighty-one companies reporting under SIC 4941 or 14.6% of the total reported industry.

RCW 19.85.020(l) defines a small business as any company with fifty or fewer employees. None of the WUTC regulated companies have more than fifty employees. Thus, it may be unique that all of the companies affected by these rules are classified as small businesses.

A characteristic of this industry is large asset investment relative to the revenue generated. Water companies are not labor intensive but rather capital intensive. Average employees for all WUTC regulated water companies is 2.5 employees, whereas the three largest water companies regulated by the WUTC have an average number of only 18.3 employees. Although all the companies are classified as small business for SBEIS purposes, the companies still range from a company that has 19 employees with seven office personnel to a very small company that has one part-time bookkeeper and a part-time water operator. Since the entire industry affected by the rules are small businesses, the statement will focus on overall cost reduction and mitigation.

COSTS OF COMPLIANCE: Much of the language proposed in the new rules is simply a restatement of the current rules into plain language and thus there is no cost impact. The SBEIS does not examine the existing costs of compliance but only the changes in the cost of compliance as a result of proposed changes in the existing rules. The key cost categories are discussed below for each rule that imposes a new cost.

PROFESSIONAL SERVICES POSSIBLY NEEDED FOR COMPLIANCE: To comply with new requirements some regulated water companies may need the assistance of:

- Legal counsel to prepare applications for rate increases.
- A professional accountant to prepare proper financial information required in the minimum filing requirements for general rate increases.
- A computer consultant to reprogram, modify, or install computer billing software that is in compliance with the proposed rules.

Companies that have not used professionals such as legal counsel or a professional accountant prior to the implementation of the proposed rules may indicate a reliance by the company solely on the commission staff for professional advice. For those companies, costs for legal and accounting may be offset, to some degree, by more timely information and rate adjustment requests. For other companies that currently use legal counsel and accounting professionals, much of the information required in these proposed rules has already been collected or are currently being collected. In all cases, better and more professionally run companies result in more timely regulatory action.

Accounting, reporting requirements, and regulatory fees, WAC 480-110-275: This rule increases the revenue thresholds that are used to classify water companies. Required accounting standards are determined by the company's revenue class level. For example, the current rule requires a company to use the system of accounts applicable to a Class B water utility when its operating revenues reach \$150,000. The proposed rules increase the threshold by

\$50,000 to \$200,000 of operating income for Class B water utilities.

The change in the rule allows companies, that would have been required to follow a more complex accounting system, to continue to use the current accounting classification until sometime in the future.

When a company reaches a revenue threshold, it is required to begin using the system of accounts required for that water utility class level. The costs of that conversion could include professional costs of an outside accountant to help in the required change over.

The change in the rule defers those conversion costs to a later period. By allowing the company to convert later than currently required, the company will recognize a cost savings. Quantitatively, it is difficult to compute an absolute value that accurately reflects the savings because of current differences in company revenues. However, by using present value calculations and some general assumptions, the cost savings can be illustrated.

A present value model was developed reflecting the rule's impact on two hypothetical companies. We have assumed a revenue growth rate of 9%. This is the growth reflected in the SIC 4941 revenue data for the third quarter of 1997 compared to third quarter of 1998. The model also used a discount rate of 10.5% to recognize the cost of money.

Scenario 1 (see appendix 2) assumes that it would take a professional accountant four days to convert the accounting system from a Class C system to Class B system. At \$75 per hour, the cost would be \$2,400.

Under the current rules the company would be required to change its accounting system in the year 2002. The year 2000's present value for the \$2,400 cost is \$1,779. Under the proposed rules the company would be required to change in the year 2005, three years later. The present value of the future cost is \$1,318, or a \$460 savings.

Scenario 2 (see appendix 3) assumes a company with a higher revenue level and it is also assumed that it will take two weeks of professional assistance. At \$75 per hour, it would cost \$6,000 to convert the system. The current rules would require the change in year 2003, a present value of \$4,024. The proposed rules on the other hand would require the company to change in the year 2006. The present value of the \$6,000 is \$2,983 or a \$1,042 cost savings.

The above analyses illustrate that the change in the rule provides a cost decrease, the cost savings for each company will vary.

Availability of information, WAC 480-110-315: This proposed rule allows for an "Electronic Office." With current technology, (fax machines, pagers, and cellular phones), a small water company can maintain reasonable contact with its customers without requiring that the company maintain a physical office location.

The change in this rule will save the smaller water companies approximately \$2,000 to \$3,000 per year in office rent. These costs may be actual cost savings by the company or imputed savings. The imputed savings would be represented by the company's owner or manager no longer needing to designate a portion of a residence as the business office of the company.

The smaller companies may also save costs by no longer needing to hire part-time employees to staff the office while the owner-operator is outside working on the system. These savings could range from approximately \$5,356 for a half-time employee at minimum wage to \$10,712 for a full-time employee at minimum wage, plus related payroll taxes.

The proposed rule still requires twenty-four hour emergency telephone numbers and still requires prompt responses from the company for both emergency and nonemergency calls.

Application for service, WAC 480-110-325: This rule requires the company to provide forms on which service applications would be made for water service. The rule requires specific information be included on the application form. Many companies may need to print new application forms to comply with this rule.

A phone survey of three Olympia printers provided estimates ranging from \$160 to \$290. Estimated costs include layout and design for 1,000, two-sided application forms. It has also been suggested that many companies have the ability to prepare a form on a computer and produce copies as they need them without the need for outside printing.

The rule also requires certain date-sensitive information such as expected service date, along with the requirement that the applicant be informed of the company's intention to provide or deny service within ten days. It is expected that these requirements will force some companies to develop better record-keeping procedures. It is expected that the overall cost impact will be minimal. In addition some costs may be offset by savings from future efficiencies in use of information that is contained in their records.

This rule also requires the company to collect information that the company may not currently collect. Therefore, this rule may also add to the time required of the company to assist the applicant in completing the application. The staff expects the time/cost impact will be minimal and that the costs may be offset by savings from future efficiencies in use of information that is contained in the records.

Form of bills, WAC 480-110-375: The proposed form of bills rule requires a greater level of detail than under the current rule. This rule should have minimal effect on the very small company that either manually prepares bills or uses spreadsheet programs to produce bills. For companies that use computer billing software to bill their customers, the rule may require some companies to update their current billing software. In some cases, the rule may even require the company to purchase new billing software that has the ability to comply with the proposed provisions of the rule.

Staff does not expect costs to reprogram or update current billing packages to be greater than the cost of a new billing package with capacity to comply with the proposed rule. The overall costs would include the cost to transfer data and additional training. Costs of new billing packages run from \$2,000 to a high end cost of \$20,000 for mainframe systems. The cost of any system that a company has, normally reflects the size of the company. A larger company with more expensive billing software normally will have a greater ability to reprogram their software at a reasonable cost or no cost if the company is paying an annual fee. Whereas a smaller company may find it cheaper to buy new software.

The new requirements may require a company to change its current and require a new bill format to be used, making the current bill stock obsolete. However, it is assumed that the time required to convert from the old format to the new format would allow the company to use much of the current stock.

This study assumes that time costs associated with the conversion would be incurred normally during the day to day operations and that there would be no additional administrative costs. It is also assumed that additional workers would not be hired nor would there be an extraordinary amount of overtime required.

Computer consultants may be required to either update current billing packages or to install new programs. The costs of any consulting to update would be capped at the cost of a comparable new billing package. If the cost is related to a new package, the vendor normally includes a fixed amount of support in the cost of the package.

Meters, WAC 480-110-415: The proposed rules repeal the requirement that companies file with the commission a statement of test procedures used by the company. The current WAC requires a statement to be reviewed and approved by the commission. Among other things, the statement requires descriptions of equipment employed to determine water pressure and description of its testing and adjustment program of meters prior to installation.

The repeal of these requirements will save the costs of preparing the statement, the cost of filing with the commission and the cost of any subsequent updates.

The current rules also requires the company to maintain records that show information about each piece of testing equipment. The cost of the related record keeping will be eliminated. The current rules also prescribe a meter testing program along with mandated testing periods for each type of meter. These testing cycles range from two years to ten years. In addition, the current rules require the company to maintain long-term database on each meter in its service areas. The repeal of the required record-keeping and mandated meter testing programs allows the company to approach meter maintenance and replacement in a manner that best fits each service area and the demands of each system. The repeal of the rules does not suggest that companies should not have a meter repair and maintenance program, it merely substitutes best industry practice for government mandate. The cost of the related record keeping will be eliminated.

Water company funding mechanisms, WAC 480-110-455: This rule, as originally proposed, required that any money disbursed from money collected from a surcharge or facilities charge have prior commission approval. Companies would have been required to file for approval for any disbursements by requesting either a commission order or a letter from the executive secretary. Stakeholders felt that the costs associated with application for each disbursement would be burdensome and unnecessary. The stakeholders felt that this rule would cause additional costs such as the costs associated with any delay in approval of the disbursements such as late payment fees and interest on unpaid invoices. In addition, they felt that the applications for disbursement would be formal filings and could require the

company to obtain the help of an attorney until such time as the company felt comfortable preparing and filing the application itself.

The rule has been rewritten to address those concerns. The approval for disbursement has been made optional at the discretion of the commission. This removes costs imposed by the rule on companies that do not need special oversight by the commission.

Filing requirements—General rate increase water companies, WAC 480-09-337: This proposed rule requires the company to prepare its rate case in an organized and systematic manner prior to filing with the commission. Most of the data required by this rule have been submitted by the company at staff's request after the case has been filed. The rule merely requires the company to compile the information before requesting new rates.

The recordkeeping and time costs required by this rule relate to data that should already be maintained by management. The only data that may be in addition to data already collected in the normal course of business are usage statistics verifying test year revenues. The proposed rule may require companies to maintain data of customer usage. The stakeholders expressed concern regarding the wording of the draft rules presented at the last stakeholder meeting. They felt that the wording implied a precision that would be either impossible to obtain or very costly. The rule has been reworded to allow a reasonable level of accuracy without a high cost.

The stakeholders also expressed concern of the costs of filing a general ledger or expanded checkbook as part of the minimum filing requirements. They felt it would be impractical and time consuming. After review of the draft rule it was decided that the costs to the companies outweighed the benefits of having the information available at the time of filing. It was agreed that the water section staff could request the information later or review the original documents at the company's office at a lower cost. Therefore these proposed rules do not include the requirement in order to mitigate costs to the industry.

The minimum filing requirements may require some companies to seek professional accounting assistance. The associated costs would be dependent on the degree the company used a consultant. If the company produces the supporting work papers in-house and if test year financials are filed, the current year-end financials that the company's regular accountant produces would not add substantially to the cost, if at all. However, if the company, uses a consultant to file pro forma financial statements and produce the other required supporting work papers the cost could increase by \$500 to \$2,000. The cost difference would vary by company size and complexity of the operating company.

OTHER COSTS OF COMPLIANCE: Proposed WAC 480-110-405 Meter accuracy and water pressure complaint, proposes the use of a recording pressure gauge. Some stakeholders expressed their concerns regarding the cost of the recording device. Staff found that the devices range in cost from \$200 to \$275, plus the cost of charts which is \$12.50 for a box of 100 weekly charts (100 weeks).

There also have been discussions regarding the costs associated with updating filed tariffs with language and cites consistent with the proposed rules. The commission main-

tains an electronic template that can be obtained by the affected companies at no charge. The template can be used by companies to update their tariffs. Companies may also hire a consultant to prepare and file a new tariff for them. Cost estimates range from \$75 to \$350.

REDUCTION OR MITIGATION OF COSTS IMPOSED BY RULES: As explained above, all the companies affected by these proposed rules are small businesses therefore there is no disproportionate impact of costs. The commission reviewed methods to reduce the costs on the regulated water industry to mitigate the cost impact of the proposed rules.

The commission eliminated substantive regulatory requirements including:

- The repeal of the requirement to file with the commission updated service area maps each time the service area is extended.
- The removal of record-keeping requirements for meter testing equipment, and meter histories.
- Discontinuance of mandated periodic meter testing programs.

As can be seen from the individual discussions of the cost impacts of the proposed rules, the economic impact of the total rewriting of these rules include a number of cost reductions as well as any costs imposed.

Any prudent increase in costs can be recovered from ratepayers though increased rates. The company would experience only a temporary cash flow reduction but should not experience a permanent decline in earnings.

Loss of revenue must be considered where demand is sensitive to price. When costs are passed on to the consumer in the form of higher prices, the consumer can go to a different supplier or change to substitute products. When the consumer changes buying habits due to increased prices, revenues decrease. However, in the water industry, water demand is relatively unresponsive to price. Economists refer to this as "price inelasticity."

Studies have shown that water usage is not materially affected by changes in price. Short of a major increase in water rates, the average consumer will continue to use basically the same amount of water as prior to the rate increase. There are a number of reasons cited including water having no close substitutes and for a consumer to materially affect their water bill the consumer must make major changes in life style or changes in hardware such as low flow devices, including changing landscaping.

It is expected that the proposed rules will not impose any new costs that would cause rates to increase to such a large degree as to cause revenue reduction.

HEARING LOCATION: The public hearing will commence on Wednesday, July 28, 1999, at 9:30 a.m., at the WUTC's Main Hearing Room, #206, at the Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., Olympia, WA.

SUBMIT WRITTEN COMMENTS TO: Ms. Carole Washburn, Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250. Written comments should be timely filed by 5:00 p.m., July 14, 1999.

DATE OF INTENDED ADOPTION: The intended date of adoption of these rules is Wednesday, July 28, 1999.

WRITTEN BY: Danny P. Kermode CPA, Revenue Requirements Specialist.

A copy of the statement may be obtained by writing to Washington Utilities and Transportation Commission, Records Center, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, phone (360) 664-1234, fax (360) 586-1150.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to the Washington Utilities and Transportation Commission.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on July 28, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Pat Valentine-Hazzard by July 26, 1999, TDD (360) 586-8203, or (360) 664-1133.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504 or e-mail to <records@wutc.wa.gov>, fax (360) 586-1150, by July 14, 1999. Please include Docket No. UW-980082 in your communication.

Date of Intended Adoption: July 28, 1999.

May 26, 1999

Terrence Stapleton
for Carole J. Washburn
Secretary

NEW SECTION

WAC 480-110-205 Application of rules. These rules apply to any water company that distributes, sells, or supplies water, and that meets requirements for commission regulation or jurisdiction under RCW 80.04.010 and WAC 480-110-255. This includes investor-owned water companies that meet the jurisdictional threshold of serving one hundred or more customers or receive average revenue of four hundred twenty-nine dollars or more per customer per year.

NEW SECTION

WAC 480-110-215 Exemptions from rules. (1) The commission may grant an exemption of any rule in this chapter, when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-09 WAC.

NEW SECTION

WAC 480-110-225 Saving clause. The commission may impose additional or different requirements on any water company in response to a complaint or on its own motion. These rules do not relieve any water company from any of its duties and obligations under the laws of the state of Washington.

NEW SECTION

WAC 480-110-235 Definition of control. (1) For purposes of determining commission jurisdiction over a water company as defined in RCW 80.04.010, "control" means the water system operator or manager has discretion over the property or finances or operations of a water company which is normally exercised by an owner. Factors indicating control include, but are not limited to, whether the operator or manager:

- (a) May authorize the purchase or sale of all or part of the water system or its water rights;
- (b) May authorize capital additions or improvements to the system;
- (c) May accept contributed plant;
- (d) May authorize the expenditure or acquisition of funds which encumber any asset of the company;
- (e) May authorize the expenditure of funds for nonwater company purposes;
- (f) Receives compensation of a type or amount having no reasonable relationship to the work performed or to be performed.

(2) Control will not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

NEW SECTION

WAC 480-110-245 Glossary. "Applicant" means any person, partnership, firm, corporation, municipality, cooperative organization, governmental agency, etc., that has completed a water company's application for water service.

"Commission" means the Washington utilities and transportation commission.

"Contributions in aid of construction" means any money, services or property received by a water company to fund capital investments at no cost to the company with no obligation to repay.

"Customer" means:

- Anyone who has paid water company fees and/or has an accepted application for service; or
- Anyone whose service connection is installed and is currently paying a ready-to-serve charge; or
- Anyone who is actually receiving water service from the company.

"Extension" means the water mains and equipment necessary to extend the company's transmission and distribution infrastructure. An extension may also be called a distribution extension, a main extension, or a line extension.

"Facilities charge" means a one-time fee that a new customer must pay before the company will connect the customer's property to the water system.

PROPOSED

"Initial tariff" means:

- The tariff filed by a water company when it first becomes subject to the jurisdiction of the commission; or
- The tariff filed by a water company that was formerly subject to commission jurisdiction, and has once again become jurisdictional. But does not mean a tariff filed to add a newly acquired system or company to the tariff of a currently jurisdictional company.

"Jurisdictional customer" means anyone who is actually receiving water service.

"Potential customer" means anyone to whom the water company has:

- Given a letter agreeing to provide service; and
- The letter is currently enforceable and has not expired by its own terms; and
- The property is not yet receiving any type of service.

"Primary contaminants" means substances that, when present in drinking water at levels exceeding designated maximum contaminant levels (MCL), may adversely affect the health of consumers. These MCLs are established as water quality "primary standards" and are based on chronic, non-acute, or acute human health effects.

"Rate increase filing" means any filing by the company that would:

- Increase gross annual revenues of the company from activities regulated by the commission;
- Restructure tariffs so that one class of customer would provide more gross revenue than under the prior tariff structure. The term does not mean filings designed only to recover governmentally imposed taxes or periodic rate adjustments that have been authorized by commission order.

"Ready-to-serve charge" means the charge assessed by the water company when:

- The water company has the ability to provide water service;
- The water company has committed to provide water service; and
- There is an installed service connection at the customer's property.

"Reconnect charge" means the charge specified in the company's tariff for restoring water service that has been disconnected:

- At the customer's request; or
- For nonpayment; or
- For failure to comply with the company's rules.

"Service area" means the geographic area to which the company intends to provide water service using current plant.

"Service connection" means the pipes, valves, and fittings between the water company's distribution system and the customer's service line.

"Standby charge" means a charge imposed by some unregulated companies for having transmission and distribution infrastructure installed but without the current ability to provide water. Also sometimes referred to as a system readiness fee.

"Surcharge" means a monthly charge or fee paid to the water company for plant or expenses. The surcharge is in addition to regular monthly service fees and typically has an expiration date or dollar limit and is subject to specific accounting requirements.

"Water company" or "company" means any corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatever, owning, controlling, operating or managing any water plant within the state of Washington for the purpose of furnishing water service to the public for hire and subject to the jurisdiction of the commission. This does not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

"Water system" means all plant, equipment, and other assets used to provide water service for a specific location.

NEW SECTION

WAC 480-110-255 Jurisdiction. (1) The commission only regulates investor-owned water companies:

(a) That own, operate, control, or manage one or more water systems; except that control or management does not include management by a satellite management agency as defined in chapter 70.116 RCW if the satellite management agency is not an owner of the water company.

(b) Meet jurisdictional thresholds of one hundred or more customers, or receive average revenue of four hundred twenty-nine dollars per customer per year.

If a water company serves customers	and receives average annual revenue per customer	commission regulation
99 or less	less than \$429	No
99 or less	\$429 or more	Yes
100 or more	less than \$429	Yes
100 or more	\$429 or more	Yes

(c) The commission does not regulate the following providers of water service:

- (i) Cities, towns, or counties.
- (ii) Public utility districts.
- (iii) Water districts.
- (iv) Local improvement districts.

(v) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service only to their owners or members.

(vi) Homeowner associations, cooperatives and mutual corporations, or similar entities that provide service to nonmembers unless they serve one hundred or more nonmembers, or charge nonmembers more than four hundred twenty-nine dollars average annual revenue per nonmember.

(vii) Facilities such as mobile-home parks, apartment buildings, and office buildings where the facility owner passes through to tenants only the cost the facility owner pays for water the facility receives, plus reasonable third-party costs for reading meters, billing, and collecting. The owner may use a flat-rate approach or use submeters to apportion the cost of water to individual tenants.

(2) To determine jurisdiction, the commission considers only those customers receiving water. The commission does

PROPOSED

not consider customers who do not receive water, such as customers who have paid:

- (a) Water-availability letter fees.
- (b) Standby charges.
- (c) System readiness fees.
- (d) Ready-to-serve charges.

(3) To calculate the average annual revenue per customer, the commission considers only the charges that water-receiving customers pay on a monthly basis, other than contributions in aid of construction. For example, this includes money paid for flat-rate service or the metered base-charge and all usage charges.

(a) The commission does not include charges paid by customers who do not receive water, such as:

- (i) Water availability letter fees.
- (ii) Standby charges.
- (iii) System readiness fees.
- (iv) Ready-to-serve charges.

(b) The commission does not consider contributions in aid of construction in determining jurisdiction. Such contributions can be money, services or property. Payments can be made in a lump sum or financed over time. Examples of contributions in aid of construction include payments for:

- (i) Connection to system.
- (ii) Meter installation.
- (iii) System buy-in.
- (iv) Facilities charges.
- (v) Assessments for capital plant and equipment.

(4) The following example shows how to calculate the average annual revenue per customer for two hypothetical customers. The data for each customer are provided at the end of the example:

- (a) Select the most recent twelve consecutive months.

Example: February 1999 through January 2000.

(b) For each customer who received water service during the twelve-month period, add the amount the customer paid to the water company for items other than contribution in aid of construction items.

Example: Customer A paid \$340.
Customer B paid \$283.

(c) For each customer who received water service during the twelve-month period, add the number of months the customer received water service.

Example: Customer A received water service for twelve months.
Customer B received water service for nine months.

(d) Total the amount paid by customers during the twelve-month period.

Example:

Paid to Water Com-
pany During the
Twelve-Month Period

Customer A	\$340
Customer B	+ \$283
	\$623
Total Paid During Twelve- Month Period	\$623

(e) Total the number of months each customer received water service.

Example:

	<u>Number of Months Received Water Service During the Twelve-Month Period</u>
Customer A	12
Customer B	+ 9
	21
Total Months Received Water Service During the Twelve- Month Period	21

(f) Calculate the "Average Monthly Revenue Per Customer": Divide the "Total Paid During the Twelve-Month Period" by the "Total Months Received Water Service During the Twelve-Month Period."

Example:

Total Paid During the Twelve-Month Period	\$623
Total Months Received Water Service During the Twelve-Month Period	+ 21
	\$29.67
Average Monthly Revenue Per Customer	\$29.67

(g) Calculate the "Average Annual Revenue Per Customer": Multiply the "Average Monthly Revenue Per Customer" times 12 months.

(A)	Average Monthly Revenue Per Customer	\$29.67
	Months in a Year	x 12
		\$356.04
(B)	Average Annual Revenue Per Customer	\$356.04

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**DATA USED IN THE EXAMPLE
TO CALCULATE
AVERAGE ANNUAL REVENUE PER CUSTOMER**

**Example—
Customer A**

	<u>Standby Charge</u>	<u>Ready to Serve Charge</u>	<u>Connection Charge</u>	<u>Facilities Charge</u>	<u>Meter Base Charge</u>	<u>Meter Usage Charge</u>	
<u>Receive Water Service</u>	No	No	Yes	Yes	Yes	Yes	
<u>Contribution in Aid of Construction</u>	No	No	Yes	Yes	No	No	
							<u>Total</u>
<u>Year</u>	<u>Month</u>						<u>Paid</u>
1997	February				\$20	\$4	\$24
1997	March				\$20	\$5	\$25
1997	April				\$20	\$2	\$22
1997	May				\$25	\$5	\$30
1997	June				\$25	\$6	\$31
1997	July				\$25	\$12	\$37
1997	August				\$25	\$6	\$31
1997	September				\$25	\$4	\$29
1997	October				\$25	\$4	\$29
1997	November				\$25	\$3	\$28
1997	December				\$25	\$2	\$27
1998	January				\$25	\$2	\$27
					\$285	\$55	\$340
Number of months service					12		
					Not Receiving Water		\$0
Receiving Water - Contribution in Aid of Construction							\$0
Receiving Water - Other than Contribution in Aid of Construction							\$340
Total customer paid during period							\$340

**DATA USED IN THE EXAMPLE
TO CALCULATE
AVERAGE ANNUAL REVENUE PER CUSTOMER**

**Example—
Customer B**

	<u>Standby Charge</u>	<u>Ready to Serve Charge</u>	<u>Connection Charge</u>	<u>Facilities Charge</u>	<u>Meter Base Charge</u>	<u>Meter Usage Charge</u>
<u>Receive Water Service</u>	No	No	Yes	Yes	Yes	Yes

PROPOSED

Contribution in Aid of Construction		No	No	Yes	Yes	No	No	Total
Year	Month							Paid
1997	February	\$7						\$7
1997	March	\$7						\$7
1997	April		\$12					\$12
1997	May			\$300	\$4,500	\$25	\$5	\$4,830
1997	June					\$25	\$4	\$29
1997	July					\$25	\$3	\$28
1997	August					\$25	\$12	\$37
1997	September					\$25	\$10	\$35
1997	October					\$25	\$15	\$40
1997	November					\$25	\$5	\$30
1997	December					\$25	\$2	\$27
1998	January					\$25	\$2	\$27
		\$14	\$12	\$300	\$4,500	\$225	\$58	\$5,109

Number of months service

9

Not Receiving Water

\$26

Receiving Water - Contributions in Aid of Construction

\$4,800

Receiving Water - Other than Contribution in Aid of Construction

\$283

Total customer paid during period

\$5,109

(h) To ensure all customers are treated equitably, the commission will impute the same rates to any customers receiving free or reduced service that apply to other customers receiving comparable service on the same system.

NEW SECTION

WAC 480-110-265 Tariffs. Tariffs filed by a water company must conform to the rules of this section and chapter 480-80 WAC Utilities General—Tariffs, unless the commission has authorized in writing deviation from the rules.

NEW SECTION

WAC 480-110-275 Accounting, and reporting requirements, and regulatory fees. (1) Water companies must use the uniform system of accounts (USOA) published by the National Association of Regulatory Utility Commissioners (NARUC). The USOA sets out the accounting requirements for class A, B, and C water companies.

Water companies are classified by revenues.

Class	Annual Gross Operating Revenue
A	\$1,000,000 or more
B	\$200,000 to \$999,999
C	Less than \$200,000

(2) A water company may use the accounting requirements for a higher class if it chooses.

(3) The commission will distribute an annual report form that each water company must complete and file with the commission for the prior calendar year. The annual report must be filed, and the company's regulatory fee paid, no later than May 1 of each year.

(4) A written request for the extension of the time for filing the annual report can be made prior to May 1. The commission will not grant an extension of time for payment of regulatory fees.

NEW SECTION

WAC 480-110-285 Securities, affiliated interest, transfer of property. (1) Before a water company issues stock, securities, or other evidence of indebtedness, the company must comply with the requirements of chapter 80.08 RCW and chapter 480-146 WAC.

(2) Before a water company enters into a contract or arrangement with an affiliated interest, the company must file a copy or summary of the contract or arrangement with the commission in accordance with chapter 80.16 RCW and chapter 480-146 WAC.

(3) Before selling, leasing, or assigning any of its property or facilities, or before acquiring property or facilities of another public utility, a water company must obtain an authorizing order from the commission in accordance with chapter 80.12 RCW and 480-143 WAC.

PROPOSED

NEW SECTION

WAC 480-110-295 Adopted and initial tariffs. A water company must file revisions to its filed tariff within thirty days of its acquisition of new service area, whether by acquisition of another regulated water company or by acquiring one or more previously unregulated water systems.

(1) **Adopted tariffs - when a regulated company acquires another regulated company.** Any regulated water company acquiring a regulated water company must adopt the latter's tariff. An adoption form must be completed and filed with the commission by the acquiring water company within thirty days of the acquisition. The commission will supply an adoption form upon request.

(2) **Incorporate into existing tariff - when a regulated water company acquires a nonregulated company.**

(a) When a regulated water company acquires a nonregulated water company or water system, the acquiring water company must file a separate tariff page indicating the name of the newly acquired company or system with the rates and charges that were in existence before the acquisition.

(b) If the acquired nonregulated company or water system was previously subject to commission jurisdiction, the acquiring water company must file a separate tariff page indicating the name of the newly acquired company or system with the rates and charges in effect for the acquired company at the time the acquired company was removed from regulation.

(c) No other rates and charges may apply to the customers on the newly acquired system except those specifically shown on the new tariff page unless the company obtains the commission's approval to charge a different rate.

(3) **Initial tariffs - when a company becomes jurisdictional.**

(a) An initial tariff must be filed in a standard tariff format. The commission will provide illustrations of the standard format upon request.

(b) The tariff must be accompanied by a cover letter describing the filing as an initial tariff.

(c) Customers must be notified before the commission receives the filing.

(d) The filing must be accompanied by supporting financial data justifying the proposed rates. See WAC 480-09-337, Filing requirements—General rate increases water companies.

(4) **Initial tariffs - a company that was previously subject to commission jurisdiction.** If a company or water system that was previously subject to commission jurisdiction and once again becomes jurisdictional, the company must file a tariff with the rates and charges in effect at the time the company was last removed from regulation.

NEW SECTION

WAC 480-110-305 Access to premises. Authorized personnel of a water company have the right to enter a customer's property during reasonable hours to perform meter reading, maintenance, testing, installation or removal of the company's property. Customers may ask to see the identifi-

cation of the water company personnel before allowing entry to the customer's property.

NEW SECTION

WAC 480-110-315 Availability of information. (1) A water company must notify its customers of its regular business hours, telephone number, mailing address and a twenty-four hour emergency telephone, pager, voice messaging, fax machine or mobile phone number, at least once a year.

(2) A water company must advise the commission and its customers of any change in address or telephone number(s) at least ten days prior to the effective date.

(3) The water company must develop procedures for prompt response to reported failures or emergencies. A company representative must respond to the customer who reported the service failure or emergency within twenty-four hours of the report.

(4) When a nonemergency customer call is received, a water company must return the customer's call within two business days.

(5) A water company must acknowledge and respond to a customer's written inquiry within two weeks of receiving the letter.

(6) The water company must provide a copy of the commission's consumer brochure to each new applicant for service, and once a year notify its current customers of the availability of the brochure and how to obtain a copy.

(7) The water company must make the following information available for review by customers:

(a) A copy of the water rules, chapter 480-110 WAC.

(b) A copy of the company's current rates and regulations (tariff).

(c) A copy of the consumer brochure published by the commission.

NEW SECTION

WAC 480-110-325 Application for service. (1) The water company must obtain applications for service in writing, on company-supplied forms. The completed application form must:

(a) Include both the company's and the applicant's name, address and telephone number;

(b) Show the date the person applied for service;

(c) Comply with the water company's filed tariffs;

(d) Clearly state the type of service requested. (Examples: Residential or commercial, flat-rated or metered service, a letter to provide service, ready to serve, etc.);

(e) Include a property lot description, street number, or other sufficient description of location for service;

(f) Include a complete list and description of all applicable charges. (Examples: Account set-up, service connection, facilities charge, line extension, etc.);

(g) Include the date by which a customer can expect service;

(h) Include the application expiration date, if any;

(i) Include signatures of the potential customer and a company representative.

(2) After completing the application, the water company must:

- (a) Provide the applicant with a copy of the completed form;
- (b) Keep a copy of the completed application in the company's business office for no less than three years after the expiration date or the denial-of-service date;
- (c) Inform the applicant within ten days of the company's intention to provide service or deny service. If service is denied, the company must tell the applicant the reason service is being denied and advise the applicant of the commission's toll-free number (1-800-562-6150) for appealing the decision.

NEW SECTION

WAC 480-110-335 Establishment of credit and deposits. (1) **Establishment of credit - residential.** A company must not collect a security deposit if an applicant for residential water service can establish satisfactory credit by any one of the following factors:

- (a) Prior service with the water company within the prior twelve months and:
 - (i) At least twelve consecutive months with no more than one delinquency notice; and
 - (ii) The service was not disconnected for nonpayment.
- (b) Prior residential water service with another water company, as demonstrated in (a) of this subsection, for which references may be quickly and easily checked. The water company may request that the reference be in writing from the previous water company;
- (c) Full-time consecutive employment during the prior twelve months with no more than two employers, and the applicant is currently employed or has a regular source of income;
- (d) Ownership of a legal interest in the premises being served;
- (e) Furnishing a satisfactory guarantor responsible for payment of water service bills in the event of disconnection or default by the customer, in a specified amount, not to exceed the amount of the cash deposit required;
- (f) Producing, in person at the water company's business office, two major credit cards, or other credit references, that the company can quickly and easily check that demonstrate a satisfactory payment history.

(2) **Establishment of credit - nonresidential.** An applicant for nonresidential water service may be required to demonstrate that it is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(3) **Deposit requirements.** A deposit may be required when:

- (a) The applicant has failed to establish a satisfactory credit history as outlined in subsections (1) or (2) of this section;
- (b) During the prior twelve months, the applicant's service from another water company has been disconnected for failure to pay amounts owing when due;
- (c) There is an unpaid, overdue balance owing for similar service from the water company to which application is being made or from any other water company;

(d) Two or more delinquency notices have been served upon the applicant by any water company during the prior twelve months;

(e) The application is for the initiation or continuation of service to a residence where a prior customer still lives and owes a past due bill to the water company.

(4) **Amount of deposit.** Required deposits for a customer or location must not exceed:

- (a) Two-twelfths of the estimated annual billings for that customer or location for companies billing monthly;
- (b) Three-twelfths of estimated annual billings for companies billing bimonthly;
- (c) Four-twelfths of estimated annual billings for companies billing trimonthly.

(5) **Transfer of deposit.** When a customer moves to a new address within the water company's service territory, the deposit must be transferable, less any outstanding past-due balance owing from the old address.

(6) **Interest on deposits.** Interest on deposits collected from applicants or customers must:

(a) Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. The commission will advise the water company each year of the specific rate by mail.

(b) Earn the calculated interest rate during January 1 through December 31 of the subsequent year.

(c) Be computed from the time of deposit to the time of refund or total application of the deposit and must be compounded annually.

(7) **Extended payment arrangement of deposits.** When an applicant or customer is required to pay a deposit but is unable to pay the entire deposit in advance of connection or continuation of service, the applicant or customer must be allowed to pay fifty percent of the deposit prior to service, with the remaining balance payable in equal amounts over the next two months.

(8) **Cash payments.** When payment is made in person and in cash, a receipt must be furnished to each applicant or customer for the amount paid.

(9) **Refund of deposits.** Deposits plus accrued interest must be refunded when there has been satisfactory payment or upon termination of service.

(a) Satisfactory payment - when a customer has paid for service for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

- (i) The water company has not initiated disconnection proceedings against the customer; and
- (ii) No more than two notices of delinquency have been made to the customer by the water company.

(b) Termination of service - upon termination of service, the utility must return to the customer the amount then on deposit plus accrued interest, less any amounts due the utility by the customer.

(10) **Refund of deposits.** Any deposit, plus accrued interest, must be refunded to the customer in accordance with the preference indicated by the customer at the time of

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deposit or as modified on a later date using one of the following methods:

(a) In the form of a check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment as described above; or

(b) Applied to the customer's account for service beginning in the 13th month.

(11) **Additional deposit.** Nothing in this rule prevents the requirement of a larger deposit or a new deposit when conditions warrant. Should a larger or new deposit be required, the reasons must be specified in writing to the customer. Any requirement for a new or larger deposit must comply with the standards set forth in this rule.

NEW SECTION

WAC 480-110-345 Refusal of service. (1) A water company must not refuse or discontinue service to an applicant or customer when there are unpaid bills from a prior customer at the same premises unless the company believes, based on objective evidence, that the applicant is acting on behalf of the prior customer with the intent to avoid payment.

(2) A water company cannot permanently deny service to an applicant or customer because of a prior obligation to the company. A prior obligation is the dollar amount that has been billed to a customer but left unpaid at the time of disconnection of service for nonpayment.

(3) The water company may refuse to connect an applicant for service, or refuse to increase service to a customer, when one or more of the following conditions exist:

(a) The service will adversely affect service being provided to other customers;

(b) The applicant or customer has not complied with state, county, or municipal codes or regulations concerning the approved design of the facilities;

(c) In the company's judgment, the applicant's or customer's installation of piping or equipment is hazardous, or of such design that satisfactory service cannot be provided;

(d) The applicant or customer has not installed on its premises required protective devices necessary to protect the company's property or that of its other customers;

(e) The company is unable to secure all necessary rights of way, easements, approvals, and permits;

(f) Furnishing the water is contrary to the provisions of the company's approved water system plan; or

(g) The location to be served is located outside of the company's service area.

NEW SECTION

WAC 480-110-355 Discontinuance of service. (1) **Service may be disconnected either by customer direction or by company action:**

(a) **Customer-directed** - Customers wanting to discontinue service must notify the water company. The company must disconnect the service as requested by the customer. If the customer fails to request disconnection of service the customer will be responsible to continue paying for water service at the company's tariff rate until the company becomes aware that the customer vacated the property.

(b) **Company directed: Notice requirements** - After properly notifying the customer, as explained in subsection (3) of this section, the water company may discontinue service to its customers for:

(i) Unpaid bills;

(ii) Water use for purposes or properties other than those specified in the customer's application for service;

(iii) Willful waste of water through improper or defective piping, equipment, or otherwise;

(iv) Piping or equipment that does not meet the company's standards or fails to comply with other applicable codes and regulations;

(v) Tampering with the company's property;

(vi) Vacating the premises;

(vii) Nonpayment of any proper charges, including deposit, as provided in the company's tariff;

(viii) Refusing to allow access as required in WAC 480-110-305;

(ix) Violating rules, service agreements, or effective tariffs, including violation of outdoor watering instructions given to customers in order to curtail water use during time of shortage;

(x) Use of equipment that detrimentally affects the company's service to its other customers.

(c) **Service obtained by fraud: No notice required before termination** - A water company may terminate service without notice when it discovers that a customer has obtained service fraudulently. Examples of fraud include: When service is connected without the company's knowledge, when service is obtained by fraudulent means or representations, or when service is used to provide service to other persons who are required to obtain their own service.

(i) **First offense:** The company may disconnect service immediately and without prior notice when it discovers fraud, unless the customer immediately pays:

(A) The tariff rate for service that the company estimates was taken fraudulently; plus

(B) All company costs resulting from the fraudulent use; plus

(C) Any applicable required deposit.

(ii) **Second offense:** The company may disconnect service immediately and without prior notice when it discovers further fraud. The company may refuse to reconnect service to a customer who has been disconnected for further fraud.

(iii) **Commission review:** A customer may ask the commission to review any company determination of fraud through an informal or formal complaint. The company has the burden of proving that fraud occurred. However, this rule does not relieve any person who has committed fraud from civil or criminal responsibility.

(2) **Medical emergencies** - When a water company has cause to disconnect or has disconnected a residential service, it must postpone disconnection of service or must reinstate service for a grace period of five business days after receiving either verbal or written notification of the existence of a medical emergency. In cases of actual emergencies when service is reinstated, payment of a reconnection charge and/or deposit shall not be required prior to reinstatement of service.

(a) The company may require that the customer, within five business days, submit written certification from a qualified medical professional stating that the disconnection of water service would significantly endanger the physical health of a resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this section precludes a company from accepting other forms of certification, but the maximum the company can require is written certification. If the company requires written certification, it may require that the certification include some or all of the following information:

- (i) Residence location;
- (ii) An explanation of how the physical health of the person will be endangered by disconnection of local service;
- (iii) A statement of how long the condition is expected to last; and
- (iv) The title, signature and telephone number of the person certifying the condition.

(b) A medical emergency does not excuse a customer from paying delinquent and ongoing charges. The company may require that the customer do the following within the five business day grace period: Pay a minimum of twenty-five percent of the delinquent balance and enter into an agreement to pay the remaining delinquent balance within ninety days and to pay subsequent bills when due. Nothing in this section precludes the company from agreeing to an alternate payment plan, but the company may not require the customer to pay more than this subsection prescribes. The company must send a notice to the customer confirming the payment arrangements within two business days.

(c) If within the five-day grace period the customer fails to provide an acceptable payment arrangement, the company may disconnect service without further notice.

(d) If the customer fails to abide by the terms of the payment agreement the company may disconnect service without further notice.

(e) The medical certification is valid only for the length of time the health endangerment is certified to exist but no longer than six months unless renewed.

(3) **Required notice prior to disconnecting service** - Water companies must notify customers before disconnecting their service except in case of danger to life or property, fraudulent use, impairment of service, or violation of law. In all other cases, the company must not disconnect service until it has met the following requirements:

(a) The company must serve a written disconnection notice on the customer, either by mail, or, at the company's option, by personal delivery of the notice to the customer's address, attached to the primary door. Each disconnection notice must include:

- (i) A delinquent date that is no less than eight business days after the date of personal delivery or mailing if mailed from inside the state of Washington or a delinquent date that is no less than eleven days if mailed from outside of the state of Washington; and
- (ii) All pertinent information about the reason for the disconnection notice and how to correct the problem; and

(iii) The company's name, address, and telephone number by which a customer may contact the company to discuss the pending disconnection of service.

(b) In addition to (a) of this subsection, a second notice must be provided by one of the two options listed below:

(i) **Delivered notice** - The company must deliver a second notice to the customer and attach it to the customer's primary door. The notice must contain a deadline for compliance that is no less than twenty-four hours after the time of delivery that allows the customer until 5:00 p.m. of the following day to comply; or

(ii) **Mailed notice** - The company must mail a second notice, which must include a deadline for compliance that is no less than three business days after the date of mailing if mailed from within the state of Washington or six days if mailed outside the state of Washington.

(c) Disconnection notices must:

(i) Include detailed information pertinent to the situation; and

(ii) Include the company's name, address and telephone number by which the customer may contact the company to discuss the pending disconnection of service; and

(iii) Expire after ten business days from the first day that the company may disconnect service, unless other mutually agreed upon arrangements have been made and confirmed in writing by the company. If mutually accepted arrangements are not kept, the company may disconnect service without further notice.

(d) Except in case of danger to life or property, companies may not disconnect service on Saturdays, Sundays, legal holidays, or on any other day on which the company cannot reestablish service on the same or following day.

(e) A company employee dispatched to disconnect service must accept payment of a delinquent account at the service address if tendered in cash, but is not required to give change for cash tendered in excess of the amount due and owing. The company must credit any excess payment to the customer's account. When disconnection does not take place due to payment made by the customer, the company may assess a fee for the disconnection visit to the service address as provided in the company's tariff. The disconnection notice must describe the disconnection visit charge, the amount, and the circumstances under which the charge will be made.

(f) When service is provided through a master meter, or when the utility has reasonable grounds to believe service is to other than the customer of record, the company must undertake reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the customer of record, a minimum period of five days must be allowed to permit the service users to arrange for continued service.

(g) When service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection must be provided to the director of the Washington department of health, and to the customer. Upon request to the company from the Washington department of health director or designee, an additional five business days must be allowed before disconnecting service to allow the department to take whatever steps are necessary to protect the

interests of resident patients who are responsibilities of the Washington department of health.

(h) Service may not be disconnected while the customer is pursuing any remedy or appeal provided by these rules or while engaged in discussions with the company's representatives or with the commission. However, any amounts not in dispute must be paid when due and any conditions posing a danger to health, safety, or property must be corrected.

(4) **Payments at a payment agency** - Payment of any past due amounts to a designated payment agency of the water company constitutes payment when the customer informs the company of the payment and the company has verified the payment with the payment agency.

(5) **Reconnecting water service after disconnection** - The water company must restore disconnected service when the customer has paid, or the company has agreed to bill, any reconnection charge and:

- (a) The causes of disconnection are removed; or
- (b) The customer pays all proper charges; or
- (c) The customer pays any applicable deposit as provided for in the company tariff in accordance with WAC 480-110-335.

The commission may order reconnection pending resolution of any bona fide dispute between the company and the customer over the propriety of disconnection.

NEW SECTION

WAC 480-110-365 Service responsibilities. (1) **Customer responsibility** - Customers must notify the water company in writing prior to making a change in equipment or usage that will materially affect the service being provided by the company. The customer must:

- (a) Provide the company adequate time to install necessary additional facilities or supply; and
- (b) Pay an equitable share of the cost of necessary additional facilities, if any, as provided in the company's tariff or through a contract submitted to the commission for approval.

(2) **Water company responsibility** - Water companies must:

- (a) Install and maintain all equipment at appropriate locations necessary to operate the system;
- (b) Install additional equipment as required by the commission in connection with performing special investigations; and
- (c) Notify all affected customers when changes to the service will require customers to adjust their equipment.

(i) If the customer has been advised of the needed change prior to taking service, the company has no obligation to pay for any costs in connection with making required changes to the customer's equipment.

(ii) If the change in service is required by law, the company has no obligation to pay for any costs in connection with making required changes to the customer's equipment.

(iii) Otherwise when equipment must be adjusted to permit use under the changed conditions, the cost of any necessary adjustments must be equitably shared by the company and customer.

(3) **Maintenance** - Each water company must maintain its plant and system in a condition that enables it to furnish

adequate service and meet its obligation under chapter 246-290 or 246-291 WAC, as applicable.

(4) **Quality of water** - Each water company must meet Washington department of health requirements under chapter 246-290 or 246-291 WAC, as applicable.

(5) **Protection of water supply** - Each water company must protect its sources of supply, as required by Washington department of health, WAC 246-290-135 or chapter 246-291 WAC, as applicable.

(6) **Operations and maintenance** - Each water company must comply with Washington department of health rules regarding operation and maintenance, as required under chapter 246-290 WAC and by good engineering practices.

(7) **Test records** - Each water company must:

- (a) Keep a complete record of each test made for quality and service conditions as required under these rules. The records must contain complete information concerning the test, including such items as the commission may require;
- (b) Provide the records to the commission staff upon request.

(8) **Interruption of service and service outages:**

(a) Water companies must make all reasonable efforts to avoid outage of service but are not insurers in the event of every emergency, acts of God, or similar event. When outages do occur, the company must make reasonable efforts to reestablish service with a minimum of delay.

(b) When making necessary repairs or changes to its facilities, a water company:

(i) May interrupt service for a period of time as reasonably necessary and in a manner that minimizes the inconvenience to the customers; and

(ii) Must attempt to do the work during working hours regularly maintained by the company.

(c) A water company may interrupt service without incurring any liability.

(9) **Notice of service interruptions** - Water companies must:

(a) Notify its customers of a scheduled interruption twenty-four hours in advance through newspapers, radio announcements, or other means;

(b) Notify police and fire departments affected by the interruption individually;

(c) Keep a record of all interruptions of service affecting a substantial number of customers, including in such records:

- (i) The location;
- (ii) The date and time;
- (iii) The duration; and
- (iv) The cause of each interruption, if known.

(d) Provide copies of records to the commission staff, upon request.

NEW SECTION

WAC 480-110-375 Form of bills. (1) Customer bills must:

- (a) Be issued at intervals not to exceed three months and identify if the water company is billing in arrears or advance;
- (b) Show a reference to the applicable rate schedule;
- (c) Identify and show each separate charge as a line item;
- (d) Show the total amount of the bill;

(e) Include enough information that, together with tariff rates, the customer can calculate his or her bill (a copy of the tariff is available for review at company or from the commission upon request);

(f) Show the date the bill becomes delinquent if not paid. The minimum specified time after the bill's mailing date must be fifteen days, if mailed from within the state of Washington, or eighteen days if mailed from outside the state of Washington, after the bill's mailing date.

A customer may request to pay by a certain date that is not the normally designated payment date when showing good cause. Good cause may include, but is not limited to, adjustment of a billing cycle to parallel receipt of income. The preferred payment date must be prior to the next invoice date.

(g) Include the water company's business address and telephone number and/or emergency telephone number by which a customer may contact the company;

(h) If the customer is metered, include the current and previous meter readings, the current read date, and the number and kind of units consumed;

(i) Show taxes and any tax percentage rate that the taxes are computed from. Taxes must be totaled to show a total taxed amount. Upon request, the company must provide a detail of the computation of the tax amount. Taxes, as used here, represent municipal occupation, business and excise taxes that have been levied by a municipality against the company, and are being passed on to the customer as a part of the charge for water service; and

(j) Clearly identify when a bill has been estimated.

(2) Water companies may prorate bills for customers who have taken service for a fraction of the billing period. If the company does not have its method of prorating bills in its tariff, the company must prorate bills in the following manner:

(a) For flat rate service, the charge must be prorated on the basis of the proportionate part of the period during which service was rendered.

(b) For metered service the charge will be equal to:

(i) The applicable minimum charge as shown in the company's tariff must be prorated on the basis of the proportionate part of the period during which service was rendered; plus

(ii) Any water usage charge computed using rates and allowances shown in the company's tariff.

(3) The water company must include its method for estimating bills in its tariff. Estimating of bills is allowed for no more than two consecutive billing cycles.

(4) When a company has cause to back-bill a customer, the company must allow the customer payment arrangements, if requested, for the same number of months to pay equal to the cumulative total of months being back-billed. (Example: If the company is back-billing for a one-year period, the company must allow the customer twelve months of equal payments to pay the total amount of the back billing.) These payments will be in addition to current billings.

NEW SECTION

WAC 480-110-385 Water company responsibility for complaints and disputes. (1) If a water company receives a

complaint or dispute from a customer or an applicant for service it must:

(a) Acknowledge the complaint;

(b) Investigate promptly;

(c) Report the results of the investigation to the complainant;

(d) Take corrective action, if warranted, as soon as appropriate under the circumstances;

(e) Inform the complainant that the decision may be appealed to a higher level representative at the company, if any;

(f) Inform the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability for review of the complaint; and

(g) Provide the complainant with the commission's address and toll-free telephone number.

(2) Applicants, customers, or their representatives, may file with the commission:

(a) An informal complaint against the company as set forth in WAC 480-09-150; and/or

(b) A formal complaint against the company as set forth in WAC 480-09-500.

(3) When commission consumer affairs staff refers an informal complaint to the company, the company must:

(a) Investigate and report the results to the commission consumer affairs staff within two business days. The commission consumer affairs staff may grant an extension of time for responding to the complaint, if requested and warranted;

(b) Keep the commission consumer affairs staff informed of progress toward the solution and the final result.

(4) Each water company must keep a record of all complaints concerning service or rates for at least one year and, on request, make them readily available for commission review. The record must contain:

(a) Complainant's name and address;

(b) Date and nature of the complaint;

(c) Action taken; and

(d) Final result.

NEW SECTION

WAC 480-110-395 Water quality refunds. (1) Water companies may be required to refund water charges due to poor water quality only:

(a) Upon commission order resulting from a formal proceeding before the commission; and

(b) When there are violations of the Washington department of health water quality standards in WAC 246-290-310 (primary contaminants); and

(c) If the company does not take follow up steps outlined in WAC 246-290-320.

(2) The amount of the refund will be determined in a formal proceeding before the commission and is not recoverable through rates or charges.

NEW SECTION

WAC 480-110-405 Meter accuracy and water pressure complaints. (1) When the water company receives a meter accuracy or water pressure complaint, it must perform

a test and share the results with the customer. The test must be at no charge to the customer, except the water company may charge for any additional meter tests requested by the customer within a twelve-month period as provided in its tariff.

(2) The test must be performed within ten days of the complaint.

(3) The customer has the option to witness the test. Should the customer choose to witness the test, a mutually agreed time will be established. A continuously recording pressure gauge may be required for a period of up to one week based on customer complaints of low pressure.

(4) The meter or pressure test must be taken using industry standard methods and equipment.

(5) If a meter test reveals a meter error in excess of two percent water flow to the detriment of the customer, the company must repair or replace the meter at no cost to the customer. A refund for any over billing must be made to the customer.

(6) If the water company and customer cannot resolve a complaint, it may be appealed to the commission for resolution.

(7) The water company must keep a record of meter and pressure tests and have them available for inspection. The record must list the customer's name and address, type of complaint, resolution, and what test method was used.

(8) The water company must provide, at the commission's request, a description of the test procedures and equipment used to perform meter and pressure complaint tests.

NEW SECTION

WAC 480-110-415 Meters. (1) Water company rights and responsibilities:

- (a) The water company must:
 - (i) Bear the cost of the meter and meter installation.
 - (ii) Install water meters that are in working order and accurately measure water flow.
 - (iii) Record meter serial numbers and identify location of installation.
 - (iv) Repair or replace a malfunctioning meter at its expense unless a customer causes the malfunction.

- (b) The water company may:
 - (i) Install meters and charge the tariff meter rate after thirty days notice to affected customers.
 - (ii) Install any apparatus to detect fraud or waste without notifying the customer.

(2) Water customer rights and responsibilities:

(a) A customer may request that a standard residential meter as defined in the company's tariff be installed, provided that metered rates are in effect.

(b) When a customer requests a meter installation, the water company may charge the customer in advance for the meter cost and meter installation, if such charge is included in the company's tariff. The company must reimburse the customer, by bill credit, at least ten percent of the meter and installation charge each month until fully paid.

(c) The water company has thirty days from the date of request to install the meter.

(d) If the water company fails to install the meter within the time limit in (c) of this subsection, the customer must be charged only the meter minimum charge until the meter is installed.

(e) If a customer tampers with a meter, the customer will be liable to the company for any repair or replacement costs.

(f) If the customer requests assistance in reading a meter, the water company must provide information on how to read the meter.

NEW SECTION

WAC 480-110-425 Water company customer notice requirements. (1) Draft customer notices must be submitted to the commission for review at least one week prior to the company's planned printing date for distribution.

(2) At a minimum, the water company must notify:

- (a) Anyone who may be affected by the water company's proposal including customers and potential customers; and
- (b) The public affairs section of the commission.

(3) Notice to customers must be provided thirty days prior to the requested effective date when a water company proposes:

- (a) A change in rates;
- (b) A change in services and/or conditions;
- (c) A change in ownership or control of the operating company;
- (d) A change in ownership by way of sale or transfer of assets (see chapter 480-143 WAC for content of notice);
- (e) To institute a charge for a service that was formerly free;
- (f) To eliminate or grandfather any service.

(4) Content of notice for rate change - The notice to customers must contain, at a minimum, the following:

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- (a) Date
- (b) (Insert water company name) has filed for approval from the Washington utilities and transportation commission to increase rates (insert total annual revenue). If approved, the rates will be effective on (insert effective date).
- (c) (Clearly explain the reason for the proposal - be specific.)

Current Rates/Services	Proposed Rates	Percentage of Increase
\$	\$	%

(d) If you have questions about the proposed filing and how it will affect you, please call (insert company name & office phone number). If you have questions about the rate making process, you may contact the Washington Utilities and Transportation Commission at the following address: WUTC, 1300 S. Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250; 1-800-562-6150 (toll-free) or by e-mail comments@wutc.wa.gov.

(e) If you would like to comment on this proposal, it is important for you to do so now. Comments must be submitted in writing or presented at the commission's open meeting to be

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considered as part of the formal record. The commission encourages your written comments, either supporting or opposing, regarding this proposal. All open meetings are held in Olympia, WA. If you would like to be added to the commission's mailing list to be notified of the open meeting date, please call the toll-free number listed above and leave your name and complete mailing address.

Sincerely,
Company Name/Representative

(5) Notice after commission action is permitted only when the commission approves an increase in federal, state, county or city-imposed taxes, fees or surcharges, and when credits are issued.

(a) At a minimum notice after commission action must include the effective date, a clear description of changes to rates or services resulting from the commission's decision, and a company contact number where customers may seek additional information.

(b) Any notice after commission action may be accomplished by a bill message, bill insert, printed in a company newsletter, or mailed separately to customers.

(c) The commission may require other notification to the public as it determines necessary.

NEW SECTION

WAC 480-110-435 Extension contracts. (1) Each water company must file, as a part of its tariff, an extension rule that states the conditions required by the company before it will extend its transmission and distribution infrastructure to provide water service to an applicant.

(2) Companies entering into any extension contract must:

(a) File the contract with the commission not less than thirty days before the proposed effective date of the contract.

(b) Conform the proposed contract to the applicable provisions of WAC 480-80-335.

(3) Extension contracts must include the documentation necessary to show that the proposed charges are fair, just, reasonable, and sufficient.

(4) An extension may also be referred to as a distribution extension, a main extension, or a line extension.

NEW SECTION

WAC 480-110-445 Service connections and customer service lines. A service connection is the pipes, valves, and fittings between the water company's distribution system and the customer's service line. The customer's service line is the water line from the customer's points of usage to the water company's service connection.

(1) A service connection must not be longer than the total width of any public rights of ways or public utility easement running along or parallel to the water distribution system connection or the distance from the distribution main to the customer's property line, whichever is shorter. If a service connection is longer, it will be treated as an extension.

(2) Service connections may be installed when the system is originally built or at a later date, after the system is operational. A service connection charge may be based on the average installation cost for new service connections in subsection (3)(a) and (b) of this section. The service connection must be owned and maintained by the water company.

(3) A water company may assess a service connection charge, if named in its tariff, to recover the cost of the service connection:

(a) Installed by the water company during construction of the water system; or

(b) Installed after the distribution system had been buried and in service; or

(c) When the service connection has been previously removed for good cause and must be reinstalled to provide water service.

(4) A service connection charge must not be assessed if:

(a) The water company did not incur any cost to install the service connection (e.g., the service connection is a contribution in aid of construction);

(b) The water company is just installing a meter; or

(c) The water company is merely opening a valve to connect the company's distribution system to the customer's service line.

(5) The company may install the service connection to the property line, property corner, or to a location on the property mutually agreed upon. The company may install a meter or valve at any point along the service connection line or at a different mutually agreed location provided that in such event the property line will nevertheless be deemed the point of delivery.

(6) The customer's service line must be installed to provide easy access to the water company's distribution system. If there is doubt as to where the proper location should be, the customer must consult with the water company and agree on a location.

(7) The water company may request that the trench be left open and customer's service line exposed in order to inspect the connection for potential problems. The water company must complete the inspection within two business days after notification that the trench is open.

NEW SECTION

WAC 480-110-455 Water company funding mechanisms. (1) Some water companies have insufficient funds to respond to emergencies, replace or upgrade failing infrastructure, or add plant to accommodate growth. Frequently, water companies cannot obtain financing through traditional capital markets. The purpose of a surcharge or a facilities charge is to provide the water company with a source of capital, provided by customers, to fund capital needs. No company may collect a surcharge or facilities charge except by commission order or approval.

(2) Surcharges.

(a) Surcharges are designed to fund three types of financing needs:

(i) Future water utility plant. This surcharge allows the company to collect money from current customers to fund a reserve in order to pay for future capital projects that are part

of a long-range plan. The project must be approved by the department of health as a part of a long-range plan, or required by the department to assure compliance with federal or state drinking water regulations, or to perform construction or maintenance required by the department of ecology to secure safety to life and property under RCW 43.21A.064(2).

(ii) Current water utility plant. This surcharge is used to fund financing that pays for current plant improvements required by:

(A) Washington department of health order or letter to adequately serve current customers; or

(B) Required by department of ecology. This surcharge is tied to the repayment of the debt used for the financing of the required water utility plant.

(iii) Special expenses. This surcharge is used to pay for operating expenses that are independent and unique from normal operating expenses or that may be subject to large variations. This type of operating expense may need periodic reevaluation without the need of a general rate case. Examples of the use of this type of surcharge are: New or highly variable safe drinking water act testing and treatment expenses, extraordinary maintenance expenses, or temporary taxes.

(b) A surcharge may fund up to one hundred percent of the total cost of a project or expense.

(c) Funds received by surcharge, including any interest earned on the funds while being held in reserve, are contributions in aid of construction.

(d) When seeking approval of a surcharge the company must file:

(i) A cover letter explaining the request;

(ii) A tariff page, stating the amount of the surcharge and who must pay;

(iii) Supporting justification for the charge; and

(iv) If applicable, requests for capital surcharges must refer to the appropriate sections of the company's submitted comprehensive water system plan, or include a copy of the Washington department of health order or letter requiring plant improvements to adequately serve current customers.

(3) Facilities charges.

(a) Facilities charges are designed to fund two types of capital needs:

(i) Future water utility plant. This type of facilities charge allows the company to collect money from new customers to fund a reserve in order to pay a portion of future capital projects that are part of a long-range plan. The project must be in accordance with the company's submitted comprehensive water system plan or Washington department of health order or letter requiring plant improvements to adequately serve current customers, or utility plant that is required by department of ecology.

(ii) Current water utility plant. This type of facilities charge allows the company to collect money from new customers to be used to fund a reserve to partially finance current plant improvements required by Washington department of health order or letter to adequately serve current customers or required by department of ecology.

(b) A facilities charge may not fund one hundred percent of the total cost of qualifying projects. The water company must maintain an appropriate ratio of rate base to total plant.

(c) Funds received through a facilities charge, including any interest earned on the funds while being held in reserve, are contributions in aid of construction.

(d) A water company may impose a facilities charge by tariff or contract.

(e) When seeking approval of a facilities charge the company must file:

(i) A cover letter explaining the request;

(ii) A tariff page or signed contract, stating the amount of the charge and who must pay;

(iii) Supporting justification for the charge;

(iv) Requests for a facilities charge must refer to the appropriate sections of the company's submitted comprehensive water system plan, or include a copy of the Washington department of health order or letter requiring plant improvements to serve current or potential customers.

(4) **Accounting and reporting requirements.**

(a) Surcharge funds and facilities charge funds collected pursuant to this rule, and interest earned upon such funds must be held in a separate account by the company for the benefit of customers. Such funds do not become the property of company owners and may not (except as authorized in (b) of this subsection), be disbursed, alienated, attached, or otherwise encumbered by the company or its owners. In the event of a sale or transfer of the company, the trust obligations established in this rule regarding any unspent surcharge or facilities charge funds are transferred to the new owner of the company.

(b) Funds may be used from the account only to the extent and for the purposes approved by the commission.

(i) At the discretion of the commission, disbursements from the account may become subject to prior approval by the commission either by order by the commission or by letter from the executive secretary.

(ii) The company may be required to file requests for disbursements.

Requests would provide sufficient detail to allow the determination that the requested disbursement is in compliance with the commission's order.

(c) The water company must report for each tariffed surcharge or facilities charge the following information to the commission within sixty days of the end of the calendar quarter:

(i) Beginning balance;

(ii) Amounts received, detailed by source;

(iii) Amounts spent, detailed by project or expense;

(iv) Ending balance;

(v) Reconciliation of bank balance to general ledger.

NEW SECTION

WAC 480-110-465 Political information and political education activities. (1) The commission will not allow expenses for political information or political education activities for ratemaking purposes.

(2) Political information and political education activities include, but are not limited to:

(a) Encouraging support or opposition to ballot measures, legislation, candidates for an office, or current public office holders.

- (b) Soliciting support for political action committees.
- (c) Gathering data for political mailing lists.
- (d) Soliciting political contributions or recruiting political volunteers.

NEW SECTION

WAC 480-110-475 Reports of accidents. Each water company must notify the commission within seventy-two hours after every accident resulting in death or serious injury to any person occurring in its plant or through contact with its facilities. At a minimum, the report must include the name of the injured person, time and place of the accident, and an explanation of the accident. The water company may notify the commission by phone, but must provide a written report within five business days.

NEW SECTION

WAC 480-110-485 Retention and preservation of records and reports. (1) The water company must retain all records and reports for three years unless otherwise specified in subsection (2) of this section. No records may be destroyed prior to the expiration of the time specified in subsection (2) of this section.

(2) The *Regulations to Govern the Preservation of Records of Electric, Gas and Water Companies*, published by the National Association of Regulatory Utility Commissioners is prescribed as the requirement for the state of Washington. This document is available at the commission branch of the Washington state library. The commission secretary will provide a copy of the document on request, subject to any charge, or it may be ordered directly from the National Association of Regulatory Utility Commissioners.

NEW SECTION

WAC 480-110-495 Maps. Each water company shall maintain a current map of each of its water systems showing the current service area. The company must provide the current maps to the commission for review within five business days of a request. The maps must contain enough detail to answer questions related to rates and charges and obligations to serve.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 480-110-011 Application of rules.
- WAC 480-110-016 Saving clause.
- WAC 480-110-018 Definition of control.
- WAC 480-110-021 Glossary.
- WAC 480-110-023 Average customer revenue jurisdictional threshold.
- WAC 480-110-026 Tariffs.

- WAC 480-110-028 Fire flow requirements.
- WAC 480-110-031 Accounting.
- WAC 480-110-032 Accounting—Political information and political education activities.
- WAC 480-110-036 Finance—Securities, affiliated interests, transfer of property.
- WAC 480-110-041 Availability of information.
- WAC 480-110-046 Application for service.
- WAC 480-110-051 Deposits.
- WAC 480-110-056 Refusal of service.
- WAC 480-110-061 Contract for service.
- WAC 480-110-066 Distribution extensions—Service installations—Service connections.
- WAC 480-110-071 Discontinuance of service.
- WAC 480-110-076 Service responsibilities.
- WAC 480-110-081 Service connections.
- WAC 480-110-086 Meter location.
- WAC 480-110-091 Access to premises.
- WAC 480-110-096 Complaints and disputes.
- WAC 480-110-101 Form of bills.
- WAC 480-110-111 Refund for inaccurate metering.
- WAC 480-110-116 Responsibility for delinquent accounts.
- WAC 480-110-121 Meter charges and installation.
- WAC 480-110-126 Meter readings.
- WAC 480-110-131 Identification of meters.
- WAC 480-110-136 Initial accuracy of meters.
- WAC 480-110-141 Accuracy of meters.
- WAC 480-110-146 Dispute as to accuracy of meters.
- WAC 480-110-151 Complaint meter test.
- WAC 480-110-156 Statement of test procedures.
- WAC 480-110-161 Frequency of periodic tests.
- WAC 480-110-166 Meter history records.
- WAC 480-110-171 Reports of accidents.
- WAC 480-110-176 Filing of records and reports and the preservation of records.

PROPOSED

NEW SECTION

WAC 480-09-337 Filing requirements—General rate increases water companies. A rate increase filing for a water company must include at least the following information:

(1) Cover letter - each filing must include a cover letter. The letter must:

(a) Provide a description of the filing, and the requested action, in understandable terms;

(i) Technical terms are acceptable, but descriptions must use common terms so the public can easily understand the impact of the filing;

(ii) Acronyms, if used, must be defined before they are used in the text of the letter;

(b) State why the filing is being made, e.g., increased costs for water testing;

(i) Compliance filings required by prior commission action must include the docket number of the commission action and the name of that proceeding;

(ii) Rate change filings must describe each service that is impacted and the dollar and percentage change for each service as well as the net impact of all changes on the company's total regulated revenue;

(iii) Filings that only address changes to the text of the tariff must describe the general effect, and reasons for the changes;

(c) Requests for permission to change tariffs on less than statutory notice will be granted by the commission only when it deems the circumstances or conditions fully justify the lack of notice. A complete explanation with reasons for the request is required with a tariff revision less than statutory notice filing must include reasons that support less than statutory notice treatment;

(d) Failure to include required information in the cover letter could result in the filing being rejected.

(2) The proposed tariff with explanatory markings.

(3) Supporting work papers for the test period. The supporting work papers must include:

(a) A calculation of the revenue impact of proposed rates by each class affected;

(b) Balance sheet and statement of revenues and expenses;

(c) Depreciation schedule;

(d) If adjustments are proposed, the company must file:

(i) Schedule showing adjustments to the statement of revenues and expenses, including any restating adjustments and/or proforma adjustments including effect of proposed rates;

(ii) Work papers explaining both restating and proforma adjustments;

(e) Usage statistics verifying test year revenues and proposed revenues;

(f) Public water system identification number assigned by Washington department of health for each system that the new rates will affect; and

(g) Schedule showing separation of revenues and expenses between regulated and nonregulated operations.

(4) A copy of the notice mailed to customers.

WSR 99-13-011

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed June 4, 1999, 11:27 a.m.]

The Department of Labor and Industries is withdrawing WAC 296-150C-1580 as proposed in WSR 99-08-129 on April 7, 1999.

If you need any additional information regarding this matter, please call Selwyn Walters at 902-4206.

Gary Moore
Director

WSR 99-13-017

**PROPOSED RULES
DEPARTMENT OF REVENUE**

[Filed June 4, 1999, 4:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-085.

Title of Rule: WAC 458-16-280 Art, scientific, and historical collections and 458-16-282 Musical, dance, artistic, dramatic, and literary associations.

Purpose: WAC 458-16-280 explains the requirements that an art, scientific, or historical collection must satisfy to receive the property tax exemption available under the provisions of RCW 84.36.060. WAC 458-16-282 explains the criteria and conditions imposed on organizations, associations, or corporations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works that wish to receive a property tax exemption under the provisions of RCW 84.36.060.

Statutory Authority for Adoption: RCW 84.36.865.

Statute Being Implemented: RCW 84.36.060.

Summary: RCW 84.36.060 provides a property tax exemption to art, scientific, and historical collections and associations and to associations engaged in the production and performance of musical, dance, and artistic, dramatic, or literary works. The statute imposes different requirements on the designated collections and associations so two rules are required to explain the conditions and criteria that must be satisfied to receive a property tax exemption.

Reasons Supporting Proposal: In 1995, the legislature amended RCW 84.36.060 (section 1, chapter 302, Laws of 1995) to also allow a property tax exemption for property under construction or soon to be used for an exempt purpose. The proposed changes to WAC 458-16-280 and 458-16-282 describe these statutory provisions.

Name of Agency Personnel Responsible for Drafting: Kim M. Qally, 711 Capitol Way South, #303, Olympia, WA (360) 664-0086; Implementation and Enforcement: Sandy Guilfoil, 6004 Capitol Boulevard, Tumwater, WA (360) 753-5503.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 84.36.060 provides a property tax exemption to art, scientific, and historical collections and associations and to associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works. Because the statute imposes different criteria and conditions on the collections and the associations exempted, DOR adopted two rules to explain the statutory requirements that must be satisfied by each organization in order to receive a property tax exemption under this statute. WAC 458-16-280 explains the requirements that an art, scientific, or historical collection must satisfy to receive an exemption. WAC 458-16-282 explains the criteria and conditions imposed on organizations, associations, or corporations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works that wish to receive an exemption.

In 1995, the legislature amended RCW 84.36.060. Section 1, chapter 302, Laws of 1995 expanded the property tax exemption to include property under construction or soon to be used for an exempt purpose by the designated collections or associations. The proposed changes to WAC 458-16-280 and 458-16-282 describe these statutory provisions and will provide taxpayers and other interested parties with up-to-date information about the exemptions authorized by this statute. The revised rules will reflect the current contents of the statute.

Proposal Changes the Following Existing Rules: This is a proposal to amend two existing rules, WAC 458-16-280 Art, scientific, and historical collections and 458-16-282 Musical, dance, artistic, dramatic, and literary associations.

The proposed changes incorporate 1995 amendments to RCW 84.36.060. Section 1, chapter 302, Laws of 1995 expanded this property tax exemption to include property under construction or soon to be used for an exempt purpose by art, scientific, and historical collections and associations and associations engaged in the production and performance of musical, dance, and artistic, dramatic or literary works.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rules and the proposed amendments do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

RCW 34.05.328 does not apply to this rule adoption. This rule is an interpretive rule as defined in RCW 34.05.328 (5)(c)(ii).

Hearing Location: Evergreen Plaza Building, 711 Capitol Way South, Audit Division Conference Room, 3rd Floor, Olympia, WA, on July 28, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale no later than ten days before the hearing date, TDD 1-800-451-7985 or (360) 586-0721.

Submit Written Comments to: Kim M. Qually, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail kimq@dor.wa.gov, by July 28, 1999.

Date of Intended Adoption: August 16, 1999.

June 1, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-07-008, filed 3/3/94, effective 4/3/94)

WAC 458-16-280 Art, scientific, and historical collections. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.060 to art, scientific, or historical collections.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Governmental entity" means any political unit or division of the federal, state, city, county, or municipal government.

(b) "Property" means all real and personal property exclusively used to secure, maintain, ~~((or))~~ and exhibit art, scientific, or historical collections.

(3) **Exemption for existing property.** All art, scientific, or historical collections ~~((maintained for and exhibited))~~ owned by associations maintaining and exhibiting the collections to the general public and not for profit, ~~((as well as))~~ together with all real and personal property owned by these associations and used exclusively to secure, maintain, ~~((or))~~ and exhibit the collections, shall be exempt from taxation under the following conditions:

(a) An organization, association, or corporation must be organized and operated exclusively for artistic, scientific, or historical ~~((, literary or educational))~~ purposes.

(b) The organization, association, or corporation organized and operated for artistic, scientific, or historical ~~((, literary, or educational))~~ purposes must receive a substantial part of its income from a governmental entity or through direct or indirect contributions of money, real or personal property, or services from the general public. Admission or entrance fees derived from exercising or performing its purpose or function shall not be included within the figures used to calculate "a substantial part" of the organization's, association's, or corporation's income.

(i) For example, an art museum may receive support from a city government and from donations made by the general public in addition to general admission fees paid by visitors. When determining whether the art museum receives a substantial part of its income from a governmental entity or through contributions from the general public, the admission fees may not be considered as contributions from the general public.

(ii) Any organization, association, or corporation that relies on services donated by the general public for a substantial part for its support must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(4) **Exemption for property under construction or soon to be used for an exempt purpose.** Property that is being constructed, remodeled, or otherwise prepared to main-

PROPOSED

tain and exhibit art, scientific, or historical collections, may qualify for exemption under certain circumstances. A nonprofit organization, association, or corporation seeking an exemption for property not currently being used for an exempt purpose may qualify if the property will be used for an exempt purpose within a reasonable period of time and proof is submitted that a reasonably specific and active program is being carried out to enable the property to be used to maintain and exhibit an art, scientific, or historical collection.

(a) Acceptable proof of a specific and active building or remodeling program shall include, but is not limited to, the following items:

(i) Affirmative action by the board of directors, trustees, or governing body of the nonprofit organization, association, or corporation endorsing and underwriting the construction or remodeling;

(ii) Itemized reasons for the proposed construction or remodeling;

(iii) Clearly established plans for financing the construction or remodeling; and

(iv) Building permits necessary to begin or continue the construction or remodeling.

(b) Property under construction shall not qualify for exemption during this interim period if the property is used by, loaned to, or rented to a for-profit organization or business enterprise.

(5) Additional requirements. Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.060.

AMENDATORY SECTION (Amending WSR 94-07-008, filed 3/3/94, effective 4/3/94)

WAC 458-16-282 Musical, dance, artistic, dramatic and literary associations. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.060 to organizations, associations, or corporations ~~((that either produce or perform, or both,))~~ engaged in the production and performance of musical, dance, artistic, dramatic, or literary works.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Governmental entity" means any political unit or division of the federal, state, county, city, or municipal government.

(b) "Property" means all real and personal property exclusively used to produce or perform musical, dance, artistic, dramatic, or literary works.

(3) **Exemption.** All real and personal property owned by or leased to a nonprofit organization, association, or corporation ~~((whose purpose is either to produce or perform or to produce and perform))~~ engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public and not for profit shall be exempt from taxation under the following conditions:

(a) The property must be used exclusively to produce or perform musical, dance, artistic, dramatic, or literary works.

(b) An organization, association, or corporation must be organized and operated exclusively for musical, dance, artistic, dramatic, literary, or educational purposes.

(c) The organization, association, or corporation organized and operated for musical, dance, artistic, dramatic, literary, or educational purposes must receive a substantial portion of its income from a governmental entity or ~~((through))~~ from direct or indirect contributions of money, real or personal property, or services from the general public. Admission or entrance fees derived from ~~((exercising))~~ producing or performing ~~((its purpose or functions))~~ musical, dance, artistic, dramatic, literary, or educational works shall not be included within the figures used to calculate "a substantial part" of the organization's, association's or corporation's income.

(i) For example, a theater may receive support from a city government and from donations made by the general public in addition to ticket sales for admission to its performances. When determining whether the theater receives a substantial part of its income from a governmental entity or through contributions from the general public, the ticket sales may not be considered as contributions from the general public.

(ii) Any organization that relies on services donated by the general public for a substantial portion of its support must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(4) Exemption for property under construction or soon to be used for an exempt purpose. Property that is being constructed, remodeled, or otherwise prepared to be used by associations engaged in the production and performance of musical, dance, artistic, dramatic, literary, or educational works, may qualify for exemption under certain circumstances. A nonprofit organization, association, or corporation seeking an exemption for property not currently being used for an exempt purpose, may qualify if the property will be used for an exempt purpose within a reasonable period of time and proof is submitted that a reasonably specific and active program is being carried out to enable the property to be used by associations engaged in the production and performance of musical, dance, artistic, dramatic, literary, or educational works.

(a) Acceptable proof of a specific and active building or remodeling program shall include, but is not limited to, the following items:

(i) Affirmative action by the board of directors, trustees, or governing body of the nonprofit organization, association, or corporation endorsing and underwriting the construction or remodeling;

(ii) Itemized reasons for the proposed construction or remodeling;

(iii) Clearly established plans for financing the construction or remodeling; and

(iv) Building permits necessary to begin or continue the construction or remodeling.

(b) Property under construction shall not qualify for exemption during this interim period if the property is used

by, loaned to, or rented to a for-profit organization or business enterprise.

(5) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.060.

WSR 99-13-043
PROPOSED RULES
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES

[Filed June 8, 1999, 11:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-017.

Title of Rule: Retirement rule revisions, WAC 131-16-021.

Purpose: To clarify rules to reflect that part-time faculty and administrators employed at 50% are eligible for enrollment in the TIAA/CREF retirement plan. Deletes language that is no longer applicable and further clarifies eligibility.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Statute Being Implemented: WAC 131-16-021.

Summary: See Purpose above. We plan to adopt emergency rules at the June 17 state board meeting in Vancouver, Washington.

Reasons Supporting Proposal: In response to changes made legislatively and also administratively.

Name of Agency Personnel Responsible for Drafting and Implementation: John Boesenberg, 319 7th Avenue, Olympia, WA, (360) 753-3661; and Enforcement: Howard Fischer, Senior Assistant Attorney General, (360) 586-2789.

Name of Proponent: State Board for Community and Technical Colleges, 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: Changes eligibility for part-time faculty and administrator participation in the TIAA/CREF retirement plan and further clarifies eligibility.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Whatcom Community College, 237 West Kellogg Road, Bellingham, WA, on September 16, 1999, at 10:15 a.m.

Assistance for Persons with Disabilities: Contact C. Krueger, e-mail ckrueger@sbctc.ctc.edu, by August 30, 1999, fax (360) 586-6440.

Submit Written Comments to: John Boesenberg, P.O. Box 42495, Olympia, WA 98504-2495, fax (360) 586-6440, by August 30, 1999.

Date of Intended Adoption: September 16, 1999.

June 3, 1999

Claire C. Krueger

Executive Assistant and
Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-021 Employees eligible to participate in retirement annuity purchase plan. (1) Eligibility to participate in the TIAA/CREF plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and ~~((who)), effective July 1, 1999,~~ are assigned a cumulative total of at least ~~((eighty))~~ **fifty** percent of full-time workload as defined by the collective bargaining agreement and/or the appointing authority at one or more college districts or the state board for at least two consecutive college quarters (or whose employment meets the requirements for an "eligible position" as defined by the Washington state teachers retirement system). (Part-time faculty workload is calculated in accordance with RCW 28B.50.489 and 28B.50.4891.)

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: Provided, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Optional participation in tax-deferred annuities other than this qualified plan as offered by individual colleges is permitted consistent with the Internal Revenue Code: Provided, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed by the same appointing authority. For the purpose of this section, spring and fall quarters shall be considered as consecutive periods of employment.

PROPOSED

(7) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031(1).

WSR 99-13-045
PROPOSED RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 98-20—Filed June 8, 1999, 2:36 p.m.]

Continuance of WSR 99-11-102.

Preproposal statement of inquiry was filed as WSR 98-22-041.

Title of Rule: Every category of health care provider.

Hearing Location: Seattle Center, Fidalgo Room, (part of NW Rooms), Seattle, Washington, on July 6, 1999, at 6:00 p.m.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by July 5, 1999, TDD (360) 407-0409.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, Internet e-mail KacyB@oic.wa.gov, fax (360) 664-2782, by July 5, 1999.

Date of Intended Adoption: July 15, 1999.

June 8, 1999

Bethany Weidner

Deputy Commissioner

WSR 99-13-050
PROPOSED RULES

DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed June 9, 1999, 3:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-084.

Title of Rule: WAC 388-550-4500 Payment method—RCC.

Purpose: To update rule content to reflect current department policy. To comply with the Governor's Executive Order 97-02. This rule was originally filed under WSR 99-09-091 as a proposed rule, but due to an error, the text for this rule that was included in the filing did not contain any changes from the existing rule text. The department has withdrawn this rule from the WSR 99-09-091 filing and is refiling.

Statutory Authority for Adoption: RCW 74.08.090, 42 U.S.C. 1395x(v), 42 C.F.R. 447.271, 42 C.F.R. 447.11303, and 42 C.F.R. 447.2652.

Statute Being Implemented: RCW 74.08.090, 42 U.S.C. 1395x(v), 42 C.F.R. 447.271, 42 C.F.R. 447.11303, and 42 C.F.R. 447.2652.

Summary: These amendments update the method by which the department calculates hospital ratio of costs-to-charges (RCC).

Reasons Supporting Proposal: To comply with the Governor's Executive Order 97-02. To update rule content to reflect current department policy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alan McMullen, DOS/MAA, 623 8th Avenue S.E., Olympia, WA 98501, (360) 586-6698.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Reflects updated methods that the department uses to calculate hospital ratio of costs-to-charges (RCC).

The purpose of the proposed amendments are to improve staff efficiency and customer compliance by reflecting current policy in rule, as well as clarify, consolidate, and reorganize the rule.

The anticipated effect is that the purpose stated above will be achieved.

Proposal Changes the Following Existing Rules: Amends WAC 388-550-4500 to update the rule to reflect current department policy in calculating hospital ratio of costs-to-charges (RCC).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed amendments and concludes that no new costs will be imposed on the small businesses affected by them.

RCW 34.05.328 does not apply to this rule adoption. The rules do not fit the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on July 27, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by July 16, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by July 27, 1999.

Date of Intended Adoption: July 28, 1999.

June 8, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-06-046, filed 2/26/99, effective 3/29/99)

WAC 388-550-4500 Payment method—RCC. (1)(a) MAA calculates a hospital's ratio of costs-to-charges (RCC) by dividing adjusted allowable operating costs by adjusted patient revenues associated with these allowable costs.

(b) MAA bases these figures on the annual Medicare cost report data provided by the hospital.

(c) MAA updates hospitals' RCC rates annually with the submittal of new HCFA 2552 Medicare cost report data. Prior to computing the ~~((ratio))~~ RCC, MAA excludes increases in operating costs or total rate-setting revenue attributable to a change in ownership.

~~((2))~~ (d) MAA limits a hospital's RCC to one hundred percent of its allowable charges. ~~((MAA recoups payments made to a hospital in excess of its customary charges to the general public:))~~

~~((3))~~ MAA establishes the basic hospital payment by multiplying the hospital's assigned)

(2) For hospital inpatient services, the hospital RCC payment is determined by multiplying the hospital's specific RCC rate by the allowed charges for medically necessary services ~~((MAA deducts client))~~, less any client responsibility (spend-down) ~~((or))~~ and third-party liability (TPL) ~~((as identified on the billing invoice or by MAA from the basic payment to determine the actual payment due from MAA for that hospital admission))~~.

~~((4))~~ (3) MAA uses the RCC payment method to ~~((reimburse))~~ pay:

(a) MAA peer group A hospitals;

(b) Other DRG-exempt hospitals identified in WAC 388-550-4300; and

(c) ~~((Any hospital for))~~ DRG-exempt services described in WAC 388-550-4400.

~~((5))~~ (4) MAA ~~((deems the RCC for in-state and border area hospitals lacking sufficient HCFA 2552 Medicare cost report data the weighted average of the RCC rates for in-state hospitals))~~ uses the Washington in-state average RCC to pay for Washington in-state and border area hospitals that are exempted from the DRG payment method and do not have a HCFA 2552 Medicare cost report.

~~((6))~~ (5) MAA calculates ~~((an outpatient ratio of costs to charges by dividing the projected costs by the projected charge multiplied by the average RCC:))~~

~~((a))~~ In no case may the outpatient adjustment factor exceed 1.0.

~~((b))~~ The outpatient adjustment factor is updated annually effective November 1) the hospital's specific outpatient RCC by multiplying the hospital specific inpatient RCC by the outpatient adjustment factor. The outpatient adjustment factor:

(a) Is the projected costs divided by the projected charges multiplied by the in-state average RCC.

(b) Is limited at 1.00.

(c) Is updated as determined by the legislature.

Preproposal statement of inquiry was filed as WSR 99-09-040.

Title of Rule: Enhancement account funding.

Purpose: Provide mechanism for funding enhancement accounts.

Statutory Authority for Adoption: RCW 77.32.440.

Statute Being Implemented: RCW 77.32.440.

Summary: Changes enhancement account funding to reflect actual participation.

Reasons Supporting Proposal: The legislature requires the department to fund the enhancement accounts based on actual participation.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Dave Brittell, 1111 Washington Street, Olympia, 902-2206; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Provides a more accurate funding mechanism and allows adjustment based on future participation.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The funding mechanism for regional fisheries enhancement, recreational fisheries enhancement, and Eastern Washington pheasant enhancement is currently a percentage of sales of certain hunting and fishing licenses. With the new recreational licensing structure, the enhancement fees (formerly a separate cost) are included in the cost of the relevant hunting or fishing license. Participants in the programs funded by these enhancement programs are no longer readily identifiable by the fees they pay, making the percentage of sales calculation problematic. The department is required by rule or statute to annually survey hunters and fishers to determine participation rates by types of hunting and fishing. The surveys will be expanded to capture the numbers of hunters and fishers that participate in and benefit from regional fisheries enhancement, recreational fisheries enhancement, and Eastern Washington pheasant enhancement efforts. The surveys will occur after April 1, 2000, and the resulting rates of participation will be used to establish enhancement program funding, beginning July 1, 2000, for fiscal year 2001. This method will more accurately reflect actual participation than a percentage of license revenues. With this change, funding for each enhancement program will be determined using the same funding method. For fiscal year 2000, the enhancement programs will receive the same level of funding as was provided in fiscal year 1999. Beginning fiscal year 2001, annual funding will increase or decrease according to participation rates in the particular type of hunting or fishing.

Proposal Changes the Following Existing Rules: Changes percentage to fixed dollar amount for fiscal year 2000, and funding thereafter is based upon an annual survey of participation conducted by the department.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect the

WSR 99-13-054
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed June 10, 1999, 10:05 a.m.]

Original Notice.

funding of department enhancement programs, not small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Shilo Inn, 707 Ocean Shores Boulevard, Ocean Shores, on August 6-7, 1999, at 12:00 noon.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 22, 1999, TDD (360) 902-2295, or (360) 902-2267.

Submit Written Comments to: Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501, fax (360) 902-2944, by August 5, 1999.

Date of Intended Adoption: August 7, 1999.

June 10, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 98-263, filed 12/31/98, effective 1/1/99)

WAC 220-20-070 Recreational fisheries enhancement account—Funding. (~~Pursuant to RCW 75.54.140, effective January 1, 1999, the recreational fisheries enhancement account (account) shall be funded as follows:)~~)

The department shall deposit into the recreational fisheries enhancement group account ((~~8.505% of the funds received from the sale of each saltwater license and freshwater, saltwater, shellfish combination license, but not including licenses issued to youths and seniors~~)) the sum of \$1,415,000 during fiscal year 2000, based on 127,000 annual license holders and 29,000 short-term license holders fishing for salmon and marine bottomfish in Puget Sound. Beginning in fiscal year 2001, and each year thereafter, the deposit into the recreational fisheries enhancement account shall be adjusted annually to reflect the actual number of license holders fishing for salmon and marine bottomfish in Puget Sound based on an annual survey from the previous license year conducted by the department beginning with the April 1, 1999, to March 31, 2000, license year survey.

AMENDATORY SECTION (Amending Order 98-263, filed 12/31/98, effective 1/1/99)

WAC 220-140-050 Funding the fisheries regional enhancement group account. (~~Pursuant to RCW 75.50.100, effective January 1, 1999, the dedicated fisheries regional enhancement group account (account) shall be funded as follows:)~~)

The department shall deposit into the regional fisheries enhancement group account ((~~1.927% of the funds received from the sale of each saltwater license and freshwater, saltwater, shellfish combination license, but not including licenses issued to youths and seniors~~)) the sum of \$297,500 during fiscal year 2000, based on 297,500 food fish anglers. Beginning in fiscal year 2001, and each year thereafter, the deposit into the fisheries regional enhancement account shall be adjusted annually to reflect the actual number of license holders fishing for food fish based on an annual survey from the previous license year conducted by the department beginning with the April 1, 1999, to March 31, 2000, license year

survey. Additional deposits to the fisheries regional enhancement account will be made pursuant to RCW 75.50.100.

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 232-12-072 Eastern Washington pheasant enhancement—Funding level determination. The department shall deposit into the Eastern Washington pheasant enhancement account ((~~26.06% of the funds received from the sale of small game licenses~~)) the sum of \$385,000 during fiscal year 2000, based on 38,500 Eastern Washington pheasant hunters. Beginning in fiscal year 2001, and each year thereafter, the deposit into the Eastern Washington pheasant enhancement account shall be adjusted annually to reflect the actual number of license holders hunting for pheasant in Eastern Washington based on a survey of licensed hunters from the previous license year.

WSR 99-13-060

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-005.

Title of Rule: WAC 4-25-510 Board meetings, officers.

Purpose: Procedural rule to govern the conduct of matters before the board.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 42.30.070.

Summary: Provides the time and dates of regular meetings and the annual meeting of the board, notifies the public of the election of officers at the board's annual meeting, and outlines the procedures the board will follow during its meetings.

Reasons Supporting Proposal: RCW 42.30.070 provides that the governing body of a public agency shall by rule provide the time for holding regular meetings.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule advises the public of:

- (1) The dates and times the board will hold its regular and annual meetings.
- (2) The election of officers at the annual meeting.
- (3) When the newly elected officers will assume their duties.
- (4) Who has the authority to call meetings of the board.
- (5) The board's compliance with the Administrative Procedure Act.

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Proposal Changes the Following Existing Rules: At the recommendation of the Attorney General's Office, the proposal states the starting and ending times of regular meetings and the annual meeting, removes language that the board "normally" meets on the last Friday of the month and clarifies that the board will meet on the last Friday of the month in the months of January, April, July, and October.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

AMENDATORY SECTION (Amending WSR 93-12-077, filed 5/27/93, effective 7/1/93)

~~WAC 4-25-510 ((**Board meetings, officers.**)) **What is the board's meeting schedule and how are officers elected?** ((An annual meeting of the board shall be held in December each year. At least six other meetings shall be held each year, normally in the months of February, April, June, August, October, and November. Such regular board meetings will normally be on the last Friday of the month, with the exceptions of November and December meetings which shall normally be on the third Friday of the month. The chair or a quorum of the board shall have the authority to call meetings of the board. The board shall follow and apply the rules of procedure, chapter 34.05 RCW, as regards to notice and conduct of meetings.~~

~~At the annual meeting the board shall elect from among its members the chair, vice chair, and secretary. The officers shall assume the duties of their respective offices at the conclusion of the annual meeting at which they were elected. They shall serve a term of one year, but shall be eligible for reelection for an additional term.~~

~~The chair or, in the event of the chair's absence or inability to act, the vice chair shall preside at all meetings of the board. Other duties of the officers shall be such as the board may from time to time determine.) The board meets from 9:00 a.m. to 5:00 p.m. on the last Friday of the month in the months of January, April, July and October. Additionally, the board holds an annual meeting, from 9:00 a.m. to 5:00 p.m., on the third Friday of December.~~

At the annual meeting the board elects the chair, vice-chair, and secretary from its members. The newly elected officers assume the duties of their offices at the conclusion of the meeting and serve a term of one year. Officers can be reelected for one additional term.

Either the chair or a quorum of the board has the authority to call meetings of the board. The board complies with the rules of procedure, chapter 34.05 RCW, in regards to notice and conduct of meetings. The chair presides at all meetings. In the event of the chair's absence or inability to act, the vice-chair presides. The board determines other duties of the officers.

WSR 99-13-061

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-025.

Title of Rule: WAC 4-25-530 Fees.

Purpose: To set fees at a level adequate to pay the costs administering chapter 18.04 RCW.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.065.

Statute Being Implemented: RCW 18.04.065, 18.04.105(7), 18.04.195(6), 18.04.205(4).

Summary: To amend the fees the board charges for applications for a CPA certificate, license, certificate renewal, and firm license.

Reasons Supporting Proposal: The 1999 legislature amended chapter 18.04 RCW to extend the renewal period from a two-year period to a three-year period. This proposal amends the fee schedule to coordinate with the increased term.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.065 directs the board to "set its fees at a level adequate to pay the costs of administering this chapter" (that is, chapter 18.04 RCW, the Accountancy Act). As a matter of policy, the board attempts to set its fees to cover the costs of the various services related to each fee. The primary change proposed by this rule amendment simply aligns fees for CPA certificate applications, license fees, certificate renewal fees, and firm license fees with legislation extending the renewal period from a two-year period to a three-year renewal period.

Proposal Changes the Following Existing Rules: (1) Sets the CPA certificate application fee at \$75 for a three-year period from \$50 for a two-year period.

(2) Sets the CPA certificate by reciprocity application fee at \$225 for a three-year period from \$150 for a two-year period.

(3) Sets the license fee at \$120 for a three-year period from \$80 for a two-year period.

(4) Sets the certificate renewal fee at \$40 for a three-year period from \$25 for a two-year period.

(5) Sets the firm license fee at \$90 for a three-year period from \$60 for a two-year period.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed changes to fees will not impose more than minor costs on industry and is therefore outside the scope of RCW 19.85.030.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to rules that set or adjust fees or rates pursuant to legislative standards. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999
 Dana M. McInturff, CPA
 Executive Director
 by Cheryl M. Sexton

AMENDATORY SECTION (Amending WSR 99-02-009, filed 12/24/98, effective 5/7/99)

WAC 4-25-530 Fees. The board shall charge the following fees:

(1) CPA examination applications:	
(a) First-time	\$ 230
(b) Reexamination, four sections	\$ 205
(c) Reexamination, two sections	\$ 155
(d) Reexamination, one section	\$ 140
(e) Administration of examination for out-of-state applicants	\$ 90
(2) Application for certificate	\$ ((50))
	75
(3) Application for certificate by reciprocity from other jurisdictions	\$ ((450))
	225
(4) ((Biennial)) License to practice public accounting, includes certificate renewal fee	\$ ((80))
	120
(5) ((Biennial)) Certificate renewal	\$ ((25))
	40
(6) ((Biennial)) Firm license:	
(a) Sole proprietorships (with one or	

more employees)	\$ ((60))
	20
(b) Partnerships and limited liability partnerships	\$ ((60))
	20
(c) P.S. corporations and limited liability companies	\$ ((60))
	20
(d) Amendment to firm license	\$ 10
(7) Copies of records, per page	\$0.10
(8) Printed listing of CPAs, CPA firms, CPA exam candidates, set up charge plus \$.01/record	\$ 50
(9) Computer diskette listing of CPAs, CPA firms, CPA exam candidates	\$ 50
(10) Applications for reinstatement	\$ 25
(11) Replacement CPA certificates	\$ 25
(12) Quality assurance review program per financial statement report review (includes monitoring reviews for up to two years)	\$ 225
(13) Late or incomplete individual or firm renewal application, per month or part thereof, to a maximum of \$200 per application	\$ 25
(14) Dishonored check fee (including, but not limited to, insufficient funds or closed accounts)	\$ 30

Note: The board may waive late filing fees for good cause.

WSR 99-13-062
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed June 11, 1999, 1:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-053.

Title of Rule: WAC 4-25-730 Experience.

Purpose: To prescribe the experience required for issuance of an initial license to practice public accounting as a certified public accountant (CPA) in Washington state.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.215 (1)(a).

Statute Being Implemented: RCW 18.04.215 (1)(a).

Summary: Lists the requirements individuals must meet to obtain a license - definition, timing, experience in public accounting, experience other than in public accounting, experience documentation, examination of experience documentation.

Reasons Supporting Proposal: RCW 18.04.215 was amended by the 1999 legislature to require the board to issue three-year licenses to persons who have demonstrated one year in public accounting and who have completed 120 hours of continuing professional education during the 36 months preceding application and to require CPAs to submit to the

PROPOSED

board satisfactory proof of completion of 120 hours of continuing education during the preceding three years. Board's existing experience rule conflicts with the new statute. The proposed changes would conform the current rule to the new statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.215 (1)(a) directs the board to issue licenses to CPA certificate holders who have demonstrated one year of public accounting experience, or such other experience or employment which the board in its discretion regards as substantially equivalent. The rule prescribes the specific experience requirements individuals must meet to obtain the license.

Proposal Changes the Following Existing Rules: Changes the number of hours of continuing education an applicant for an initial license (who passes the CPA examination prior to May 1988) must complete to supplement experience that is older than five years old to conform with 1999 legislation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will have negligible economic impact on the accounting profession.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to rules that clarify language of a rule without changing its effect.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

AMENDATORY SECTION (Amending WSR 93-12-068, filed 5/27/93, effective 7/1/93)

WAC 4-25-730 Experience. Experience required for issuance of an initial license shall meet the requirements of this section:

(1) **Experience definition and timing:** One year of experience shall consist of full-time employment of no less than two thousand hours. For purposes of computing work experience for a part-time employee, two thousand hours shall constitute one year. Employment may be for one or

more employers, with or without compensation, and may consist of any combination of full-time and part-time employment. For an applicant who passed the uniform certified public accounting examination prior to May 1988, experience obtained more than five years prior to application for initial license shall be supplemented by ~~((eighty))~~ one hundred twenty hours of continuing education during the ~~((two))~~ three-year period prior to application. For an applicant who passed the examination in May 1988, or thereafter, this experience must cover a minimum twelve-month period and must be obtained no more than five years prior to applying for a license.

(2) **Experience in public accounting:**

(a) An applicant shall show he/she has had employment for a period of one year as a staff accountant under the direct supervision of a currently licensed certified public accountant who is actively engaged in the practice of public accounting and is a member of a firm licensed to practice public accounting. Experience shall be in a CPA firm that participates in a board approved peer or quality review of its accounting or auditing practice. Qualifying experience for purposes of this section shall mean the performance of services as one skilled in the knowledge and practice of public accounting, including performance of accounting or auditing procedures, issuance of reports on financial statements, performance of management advisory or other consulting services, preparation of tax returns and furnishing advice on tax matters.

(b) Public accounting services shall be performed for clients of a certified public accountant or a firm of certified public accountants in compliance with the board's rules and must regularly involve the exercise of independent judgment and the application of appropriate technical and behavioral standards such as the standards contained in the Code of Professional Ethics, Generally Accepted Auditing Standards, Statement of Responsibilities in Tax Practice, Statement on Standards for Management Advisory Services, Statement on Standards for Accounting and Review Services, Statement on Standards for Attestation Engagements and other similar practice standards issued by the American Institute of Certified Public Accountants.

(3) **Experience other than in public accounting:**

(a) The experience required, as stated in subsection (2) of this section, may also be met by work experience, not including in-classroom training, performed under the direct supervision of a currently licensed certified public accountant in a commercial or governmental organization which has filed a sponsorship agreement with the board, acceptable to the board, which among other things specifies:

- (i) The scope of accounting, auditing, consulting, and other services performed within the organization;
- (ii) The professional education and on-job training provided to an applicant prior to application; and
- (iii) The program of review and supervision performed by the internal review committee within the organization which administers the agreement.

(b) Qualifying work experience must be of a type and at a level equivalent to that performed in public accounting practice and must regularly involve the exercise of independent judgment and the application of the appropriate technical and behavioral standards.

(4) **Experience affidavit:** The experience claimed by an applicant shall be verified by the certified public accountant or firm of certified public accountants supervising the applicant on an experience affidavit form provided by the board.

(5) **Examination of experience documentation:**

(a) Any licensee who has furnished evidence of an applicant's experience to the board shall upon request by the board explain in writing or in person the information so provided.

(b) The board may require an interview or an inspection of documentation relating to an applicant's experience. Any licensee having custody of such documentation shall produce it upon request by the board.

(c) Any licensee who refuses to provide the evidence or documentation of the applicant's experience, requested by an applicant or by the board, shall upon request by the board explain in writing or in person the basis for such refusal.

(6) **Reciprocity:** An applicant who applies for initial license in this state shall be required to document experience obtained in another jurisdiction which is equivalent to the requirements of this state.

WSR 99-13-063

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-24-054.

Title of Rule: New section WAC 4-25-745 How do I apply for an initial CPA license and/or certificate?

Purpose: To prescribe the requirements an applicant must follow in order to apply for an initial CPA license and/or certificate.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.105, 18.04.215.

Statute Being Implemented: RCW 18.04.105.

Summary: Requires that an applicant for an initial license and/or certificate must (1) use an application form provided by the board (2) file a complete application; sets the expiration date of the initial license and/or certificate; clarifies that an individual may not use CPA title or hold out as a CPA without board approval.

Reasons Supporting Proposal: Provides clear instructions to applicants and incorporates the change from issuance of the license and/or certificate on a biennial basis to a three-year period to implement the change to RCW 18.04.105 made by the 1999 legislature.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets forth the procedures applicants for an initial license and/or certificate must follow in a short clear

manner; notifies the applicant of the board's definition of a "complete" application and where the board will send notification when the application is complete; sets the expiration of the license and/or certificate on June 30 of the third calendar year following initial licensure and/or certification; notifies applicants of the prohibition against using the CPA title or holding out as a CPA by persons not properly licensed and/or certified.

Proposal Changes the Following Existing Rules: Separates WAC 4-25-740 into separate sections for clarity and easy access; changes the basis an initial certificate and/or license is issued from a biennial basis to a three-year period to implement the change to RCW 18.04.105 passed by the 1999 legislature; restates the statutory prohibited practices.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have negligible economic impact on the accounting profession.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-745 How do I apply for an initial CPA license and/or certificate? To apply for an initial license and/or certificate you must use the application form provided by the board. You need to fully complete the form, have your signature notarized, and submit the form, all applicable fees, and all required documentation to the board's office.

An initial application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. When the processing of your application is complete, notification will be mailed to the last address you provided to the board.

Your initial license and/or certificate will expire on June 30 of the third calendar year following initial licensure and/or certification.

You may not use the title CPA until you receive written notice from the board of your Washington state CPA certificate number. You may not hold out as a CPA in public practice until you receive written notice from the board of your Washington state CPA license and certificate number. A licensee may only practice public accountancy in a licensed CPA firm meeting the requirements of WAC 4-25-750.

WSR 99-13-064
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-054.

Title of Rule: New section WAC 4-25-746 How do I apply for a Washington state CPA license and/or certificate if I hold a valid CPA certificate, license or permit in another state?

Purpose: Prescribes the requirements an applicant who holds a certificate/valid license issued by another state must follow in order to apply for a Washington CPA license and/or certificate.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.180, 18.04.215(3).

Statute Being Implemented: RCW 18.04.180.

Summary: Requires an applicant for a Washington CPA certificate/license by reciprocity must (1) use a form provided by the board, (2) satisfy continuing education requirements, and (3) file a complete application; sets the expiration date of the certificate/license; restates an individual may practice in this state upon filing of a complete application.

Reasons Supporting Proposal: Provides clear instructions to applicants and incorporates the change from issuance of the certificate/license on a biennial basis to a three-year period to implement the change to RCW 18.04.105 made by the 1999 legislature.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets the procedures applicants for a Washington CPA license and/or certificate by reciprocity must follow in a short clear manner; notifies the applicant of the board's definition of a "complete" application and where the board will send notification when the application is complete; sets the expiration of the license and/or certificate on June 30 of the third calendar year following licensure and/or certification in Washington state; restates RCW 18.04.215(3) that prohibits CPAs certified/licensed in another state from practicing in Washington state before the applicant files a "complete" application with the board.

Proposal Changes the Following Existing Rules: Separates WAC 4-25-740 into separate sections for clarity and easy reference; changes the basis a certificate/license is issued from a biennial basis to a three-year period to implement the change to RCW 18.04.105 passed by the 1999 legislature; restates the statutory directive regarding practice in this state by a CPA who holds a license issued by another state.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have negligible economic impact on the accounting profession.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
 Executive Director
 by Cheryl M. Sexton

NEW SECTION

WAC 4-25-746 How do I apply for a Washington state CPA license and/or certificate if I hold a valid CPA certificate, license or permit in another state? Pursuant to RCW 18.04.180 and 18.04.215(3) the board may issue a certificate and/or license if you hold a CPA certificate, license or permit issued by another state. To apply for a Washington state CPA license and/or certificate you must use the application form provided by the board and satisfy CPE requirements in WAC 4-25-830. You need to fully complete the form, have your signature notarized, and submit the form, all applicable fees, and all required documentation to the board's office.

An application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. When the processing of your application is complete, notification will be mailed to the last address you provided to the board.

Your Washington state CPA license and/or certificate will expire on June 30 of the third calendar year following initial licensure and/or certification.

You may not use the title CPA and you may not hold out as a CPA in public practice until you have filed a complete application with the board. A licensee may only practice public accountancy in a licensed CPA firm meeting the requirements of WAC 4-25-750.

WSR 99-13-065
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed June 11, 1999, 1:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-026.

Title of Rule: WAC 4-25-750 Firm license.

Purpose: To prescribe the procedure to be followed to register and maintain offices established for the practice of public accounting in the state of Washington.

Statutory Authority for Adoption: RCW 18.04.055(8), 18.04.205(3).

Statute Being Implemented: RCW 18.04.205(3).

Summary: Lists the forms of practice in which a certified public accountant (CPA) may practice public accountancy; defines the application requirements a CPA must follow to obtain a firm license.

Reasons Supporting Proposal: RCW 18.04.195 was amended by the 1999 legislature to require CPA firms to license with the board every three years rather than biennially. The board's existing rule conflicts with the new statute. The proposed changes would conform current rules to the new statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.205(3) directs the board to prescribe the procedures to be followed to register and maintain offices established for the practice of public accounting in Washington state. RCW 18.04.195 requires CPA firms to obtain, and renew, licenses to practice public accounting.

Proposal Changes the Following Existing Rules: Changes the expiration of firm licenses to the third year after issuance of the firm's initial license from the second year and on the third year after the initial firm license expires from second year to conform with 1999 legislation.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will have negligible economic impact on the accounting profession.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 does not apply to rules that clarify language of a rule without changing its effect.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

AMENDATORY SECTION (Amending WSR 96-12-061, filed 5/31/96, effective 7/1/96)

WAC 4-25-750 Firm license. (1) A licensee may only practice public accountancy in a CPA firm organized as:

(a) A proprietorship;

(b) A partnership;
(c) A professional corporation;
(d) A limited liability company;
(e) A limited liability partnership; or
(f) Some other form of legal entity authorized by statute for use by a CPA firm.

(2) A CPA firm shall apply to the board for a license to practice public accountancy within ninety days of formation. A CPA firm shall apply for renewal of its license no later than sixty days prior to expiration of the firm's current license. The board will not accept a firm license renewal application unless it is accompanied by all applicable renewal and late filing fees.

(3) An application for a firm license shall include the:

(a) Firm name;
(b) Addresses and telephone numbers of the main office and any branch offices of the firm;
(c) Name of the manager of each branch office;
(d) Owners' names and the states in which they hold CPA licenses;

(e) Names of corporate directors, limited liability company managers, and all firm officers; and

(f) Type of legal organization under which the firm operates (such as, general partnership or limited liability company).

(4) Firm licenses expire on June 30 of the (~~second~~) third year after the board issues a firm's initial license and on June 30 of each (~~second~~) third year after the initial license expires.

(5) A CPA firm shall file with the board a written notification of any of the following events within ninety days after its occurrence:

(a) Formation or dissolution of a CPA firm;
(b) Admission of an owner;
(c) Retirement or death of an owner;
(d) Any change in the name of the firm;
(e) Change in the management of any branch office;
(f) Opening, closing, or relocating of a branch office; and
(g) The occurrence of any event that would cause the firm to be in violation of the provisions of the act or these rules.

A change in the legal form of a firm constitutes a new firm. Accordingly the new firm shall within ninety days of the change file an application for a firm license and pay the applicable fee.

WSR 99-13-066

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-027.

Title of Rule: WAC 4-25-780 Reciprocity for accountants from foreign countries.

Purpose: To prescribe the procedures the board will follow when designating a professional accounting credential

issued in a foreign country as substantially equivalent to a Washington CPA certificate.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.183.

Summary: Lists the requirements for issuance of an initial Washington CPA certificate, license to practice public accounting by reciprocity to accountants from foreign countries and requirements for renewal and discipline of CPA certificate and license based on a foreign accounting credential.

Reasons Supporting Proposal: RCW 18.04.183 was amended by the 1999 legislature to require accountants from foreign countries to complete one hundred twenty hours of continuing education during the preceding thirty-six months in order to obtain a Washington CPA certificate by reciprocity. The board's existing rule conflicts with the new statute. The proposed changes would conform the current rule to the new statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: RCW 18.04.183 directs the board to grant a certificate or license as a certified public accountant (CPA) to a holder of a permit, license, or certificate issued by a foreign country's board, agency or institute. The rule implements the statute listing the qualifications the board will accept before issuing an initial CPA certificate and license to an accountant from a foreign country, the requirements for renewal, and the procedures the board will take to investigate and discipline CPAs certified (and licensed) based in part on a foreign accounting credential.

Proposal Changes the Following Existing Rules: Changes the time period (preceding thirty-six months from preceding twenty-four months) and number of hours of continuing education (one hundred twenty hours from eighty hours) an applicant for a Washington CPA by reciprocity from a foreign country must complete before the board will issue a Washington CPA certificate.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes to the rule will have negligible economic impact on the accounting profession.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA

Executive Director

by Cheryl M. Sexton

AMENDATORY SECTION (Amending WSR 94-10-039, filed 4/29/94, effective 5/30/94)

WAC 4-25-780 Reciprocity for accountants from foreign countries. RCW 18.04.183 allows the board to designate a professional accounting credential issued in a foreign country as substantially equivalent to a CPA certificate issued under provisions of RCW 18.04.105.

(1) **Initial CPA certification.**

(a) The board may rely on the National Association of State Boards of Accountancy (NASBA), the American Institute of Certified Public Accountants, or other professional bodies for evaluation of foreign accounting credential equivalency.

(b) The board may accept a foreign accounting credential in partial satisfaction of CPA certification requirements if:

(i) The holder of the foreign accounting credential met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates; and

(ii) The foreign accounting credential is valid and in good standing at the time of application for a CPA certificate; and

(iii) The body granting the foreign accounting credential permits this state's CPAs equivalent opportunity to receive the foreign accounting credential by reciprocity. The board will, by resolution, specify acceptable foreign accounting credentials and acknowledge reciprocal agreements with bodies granting foreign accounting credentials.

(c) The board may satisfy itself through qualifying examinations that the holder of a foreign credential deemed by the board to be substantially equivalent to a CPA certificate possesses adequate knowledge of U.S. practice standards and the board's regulations. The board will, by resolution, specify the form of qualifying examination(s) and passing grade(s).

(d) The board shall require the foreign reciprocity applicant to demonstrate completion of ~~((eighty))~~ one hundred twenty hours of continuing professional education that meet the standards contained in the board's continuing professional education rules for CPA certificate renewal.

(2) **License to practice public accountancy.** In addition to the certification requirements contained in subsection (1)(a) through (d) of this section, the board may require a foreign reciprocity applicant for a license to practice public accounting to demonstrate satisfactory experience in a foreign or domestic professional accounting firm. The board will, by resolution, specify experience standards for each foreign accounting credential accepted by the board as basis for certification and licensure by foreign reciprocity.

(3) **Renewal of CPA certificate or license granted through foreign reciprocity.** An applicant for renewal of a

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CPA certificate originally issued in reliance on a foreign professional accounting credential shall:

(a) Make application for renewal of the CPA certificate (and license) at the time and in the same manner prescribed by the board for all other CPAs certified (and licensed) by the board.

(b) Pay such fees as are prescribed for all other CPA certificate (and license) renewals.

(c) If still credentialed in the foreign country, present documentation from the body that issued the applicant's foreign accounting credential stating that the credential is in good standing and valid for the practice of public accountancy in the foreign jurisdiction and stating that the applicant is free of a current disciplinary investigation or action or, if the applicant is the subject of such investigation or action, the particulars thereof. If no longer credentialed in the foreign country, present proof from the foreign credentialing body that the applicant was not the subject of any investigations or disciplinary proceedings at the time the foreign credential lapsed.

(d) Show completion of ~~((eighty))~~ one hundred twenty hours of continuing professional education within the ~~((two))~~ three-year period preceding renewal application in accordance with rules applicable to all CPAs.

(4) Investigations and discipline of CPAs certified (and licensed) based in part on a foreign accounting credential.

(a) The holder of a Washington CPA certificate issued in reliance on a foreign accounting credential shall report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against the CPA's foreign credential. Such report shall be made to the Washington state board of accountancy within thirty days of notice to the CPA that an investigation has been started or a sanction imposed.

(b) RCW 18.04.295 authorizes the board to impose discipline for, among other things, violation of state or federal laws. For purposes of enforcement and discipline against CPAs whose CPA certificate (and license) was issued based in part on a foreign accounting credential, the board interprets "state" to include "state, province, or territory" and "federal" to apply to equivalent governmental units of the country in which the foreign accounting credential was issued.

(c) Suspension or revocation of, or refusal to renew, a CPA's foreign accounting credential by the foreign credentialing body is evidence of conduct reflecting adversely upon the CPA's fitness to retain the CPA certificate and is basis for board disciplinary action.

(d) The board may notify foreign credentialing bodies of any sanctions imposed against a CPA whose certificate was issued through foreign reciprocity.

(e) The board may participate in joint investigations with foreign accounting credentialing bodies and may receive evidence supplied by such bodies or their authorized agents or contractors in investigations and disciplinary proceedings.

WSR 99-13-067

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-054.

Title of Rule: New section WAC 4-25-790 How do I renew my CPA license and/or certificate?

Purpose: Prescribes the requirements a CPA must follow in order to renew a certificate/license.

Statutory Authority for Adoption: RCW 18.04.105, 18.04.215.

Statute Being Implemented: RCW 18.04.105, 18.04.215.

Summary: Requires CPAs renewing their certificate/license to (1) use a form provided by the board, (2) satisfy continuing education requirements, (3) file a complete application by April 30 of the year of expiration; sets the expiration date of the certificate/license; notifies CPAs that failure to file a complete renewal application by the expiration date will result in the lapse of their certificate/license and prohibition against using the CPA title or holding out.

Reasons Supporting Proposal: Provides clear instructions to CPAs renewing their certificate/license; changes the due date for renewal application from March 31 (during CPA's busiest time) to April 30 (after the tax deadline); RCW 18.04.105 and 18.04.215 were amended by the 1999 legislature to require the board to issue certificates and licenses on a three-year basis. Board's existing rule conflicts with the new statute. The proposed changes would conform the current rule to the new statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule sets the procedures CPAs applying for the renewal of their certificate/license must follow in a short clear manner eliminating confusion; notifies the applicant that the board will send a renewal application in January to the last address the CPA provided to the board; notifies the applicant of the board's definition of a "complete" application and the due date for filing; sets the expiration of the certificate/license to June 30 of the third calendar year following the renewal; notifies the applicant that failure to file a complete application by the due date will result in late fees; notifies the applicant that failure to file a complete application prior to the expiration of their certificate/license will result in the lapse of their certificate/license and loss of the right to use the CPA title or practice public accounting as a CPA.

Proposal Changes the Following Existing Rules: Separates WAC 4-25-740 into separate sections for clarity and easy reference; changes the due date for the renewal from March 31 to April 30; replaces the provision for an applicant who fails to file a complete application by June 30 to enter

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into an agreement with the board to renew the certificate/license provided the applicant files a complete application by September 30 with a provision that the board may waive, reduce, or extend the due date of renewal and/or late fees based on individual hardship; changes the basis a certificate/license is issued from a biennial basis to three years to implement the changes to RCW 18.04.105 and 18.04.215 passed by the 1999 legislature; warns CPAs that failure to file a complete application by June 30 will result in the lapse of their certificate/license and loss of the right to use the CPA title or practice as a CPA.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will have negligible economic impact on the accounting profession or business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-790 How do I renew my CPA license and/or certificate? To renew your license and/or certificate you must use the form provided by the board and satisfy CPE requirements in WAC 4-25-830. In January of the year of expiration, a renewal form will be mailed to the last address you provided to the board. Renewal of your license constitutes renewal of your certificate.

To renew your license and/or certificate, you must submit to the board by April 30th of the year of expiration:

- A complete renewal application form including your certification that you have complied with the CPE requirements of WAC 4-25-830 and the supporting documentation requirements of WAC 4-25-833;

- All applicable fees; and
- All required documentation.

A renewal application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board. Upon completion of processing, your license or confirmation of your renewal certificate will be mailed to the last address you provided to the board.

A license and/or certificate renewal expires on June 30 of the third calendar year following the renewal.

Failure to file a complete application for certificate and/or license renewal by April 30 of the year of expiration will result in late fees. The board may waive, reduce, or extend the due date of renewal and/or late fees based on individual hardship.

If you fail to file a complete application for certificate and/or license renewal by June 30 of the year of expiration your license and/or certificate will lapse. If your license and/or certificate has lapsed, you may not use the title CPA or hold out as a CPA in public practice.

WSR 99-13-068

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-054.

Title of Rule: WAC 4-25-791 If I hold a certificate under the reasonable cause exemption to the CPE requirements, how do I apply to return to my previous status as a licensee or a certificate holder?

Purpose: Prescribes the requirements a CPA with a certificate maintained under the reasonable cause exemption must follow in order to return to a previous status (licensed or title use certificate).

Statutory Authority for Adoption: RCW 18.04.055(11), 18.04.215 (2), (4).

Statute Being Implemented: RCW 18.04.215.

Summary: Requires CPAs applying to return to a previous status of license holder or certificate holder with title use rights to (1) use a form provided by the board, (2) satisfy continuing education requirements, (3) certify under the penalty of perjury that CPA did not hold out in public practice and/or use the title CPA during the time in which the CPA was a certificate holder under the reasonable cause exemption, and (4) file a complete application; notifies the CPA that upon approval of the application the board will mail notification to the last address provided to the board.

Reasons Supporting Proposal: Provides clear instructions to CPAs changing the status of their certificate from the reasonable cause exemption.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In a short, clear manner that eliminates confusion, this new section sets the procedures CPAs applying to return to a previous status (license holder or certificate holder with title use rights) must follow.

Proposal Changes the Following Existing Rules: The board is proposing to separate the existing rule WAC 4-25-740 into four sections for clarity and easy reference. The pre-

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vious rule (WAC 4-25-740) did not specifically address the procedures CPAs applying to return to a previous status must follow. The new section implements previous board practice of requiring a complete application form, pay the applicable fees, met the continuing education requirements, and certify under the penalty of perjury that the CPA has not held out in public practice and/or used the title CPA during the time in which the CPA was a certificate-holder under the reasonable cause exemption.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new section will have negligible economic impact on the accounting profession or business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-791 If I hold a certificate under the reasonable cause exemption to the CPE requirements, how do I apply to return to my previous status as a licensee or a certificateholder? If you hold a certificate under the reasonable cause exemption, you may not hold out as a CPA in public practice or use the title CPA until your license and/or certificate is returned to its previous status.

To apply to return to your previous status as a licensee or a certificate holder, you must use the form provided by the board and satisfy CPE requirements in WAC 4-25-830. An application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board.

To apply to return to your previous status you must submit to the board:

- A complete application form including your certification, under the penalty of perjury, that you have:

- (1) Not held out in public practice and/or used the title CPA during the time in which you were a certificateholder under the reasonable cause exemption; and

- (2) Met the CPE requirements to return to your previous status in WAC 4-25-830;

- All applicable fees; and
- Other documents or information the board may deem necessary.

Upon approval of your application, your license or notification of certification will be mailed to the last address you provided to the board.

WSR 99-13-069
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-055.

Title of Rule: New section WAC 4-25-792 How do I apply for reinstatement of a lapsed CPA license and/or certificate?

Purpose: Prescribes the requirements a CPA whose license and/or certificate has lapsed must follow to reinstate.

Statutory Authority for Adoption: RCW 18.04.055(11), 18.04.215 (2), (4).

Statute Being Implemented: RCW 18.04.215.

Summary: The new section:

- Requires CPA's applying for reinstatement of a lapsed license and/or certificate to submit a "complete" application that includes (1) a form provided by the board, (2) certification under the penalty of perjury by the CPA that the CPA did not hold out in public practice and/or use the title CPA during the time in which the CPA's license and/or certificate was lapsed, (3) a satisfactory report of continuing education requirements, (4) documentation to support the continuing education report, and (5) applicable fees.
- Notifies the CPA that upon approval of the application the board will mail notification to the last address provided to the board.

Reasons Supporting Proposal: Provides clear instructions to CPAs who wish to reinstate their lapsed license and/or certificate.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In a short, clear manner that eliminates confusion, this new section (WAC 4-25-792) sets the procedures CPAs applying for the reinstatement of their lapsed license and/or certificate must follow. The goal of the new section is to: Promote clarity, ensure effective communication, ensure fairness in interpretation and application of the rule, and promote efficiencies through minimizing gray areas.

Proposal Changes the Following Existing Rules: The board is proposing to separate the existing rule WAC 4-25-760 into two sections for clarity and easy reference. The previous rule (WAC 4-25-760) did not specifically address the procedures CPAs applying for the reinstatement of a lapsed license and/or certificate must follow. The new section

implements previous board practice of requiring a complete application that includes (1) a board provided application form, (2) certification under the penalty of perjury by the CPA that the CPA did not hold out in public practice and/or use the title CPA during the time in which the CPA's license and/or certificate was lapsed, (3) a satisfactory report of continuing education requirements, and (4) applicable fees. The new section adds the requirement to submit documentation to support the continuing education report.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new section will have negligible economic impact on the accounting profession and business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA

Executive Director

by Cheryl M. Sexton

NEW SECTION

WAC 4-25-792 How do I apply for reinstatement of a lapsed CPA license and/or certificate? If your CPA license and/or certificate has lapsed, you may not hold out as a CPA in public practice or use the title CPA until your license and/or certificate is reinstated by the board.

To apply for reinstatement of a lapsed license and/or certificate you must use the form provided by the board and satisfy CPE requirements in WAC 4-25-830. An application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board.

To apply for reinstatement, you must submit to the board:

- A complete reinstatement form including your certification, under the penalty of perjury, that you have:

(1) Not held out in public practice and/or used the title CPA during the time in which your license and/or certificate was lapsed;

(2) Met the CPE requirements for reinstatement in WAC 4-25-830; and

(3) Met the CPE supporting documentation requirements in WAC 4-25-833;

- Source documents as evidence of eligibility for CPE credit for all courses claimed in order to meet CPE requirements as defined by WAC 4-25-833;

- All applicable fees; and

- Other documents or information the board may deem necessary.

Upon approval of your application, your license reinstatement or notification of certification reinstatement will be mailed to the last address you provided to the board.

WSR 99-13-070

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-055.

Title of Rule: New section WAC 4-25-795 How do I apply for reinstatement of a revoked or suspended CPA license and/or certificate?

Purpose: To prescribe the requirements a person or firm whose certificate or license was suspended or revoked by the board must follow for modification of the board's order or for reinstatement.

Statutory Authority for Adoption: RCW 18.04.055(11), 18.04.335, 34.05.220.

Statute Being Implemented: RCW 18.04.335.

Summary: WAC 4-25-795:

- Requires persons or firms applying for modification of a board order suspending or revoking their CPA license and/or certificate or reinstatement of a suspended or revoked license and/or certificate to submit a "complete" application that includes (1) a form provided by the board, (2) certification under the penalty of perjury by the CPA that the CPA did not hold out in public practice and/or use the title CPA during the time in which the CPA's license and/or certificate was suspended or revoked, (3) written substantiation of the reasons constituting good cause for the reinstatement, (4) recommendations under penalty of perjury from two licensed CPAs who have personal knowledge of the individual's or firm's activities since the suspension or revocation was imposed, (5) a satisfactory report of continuing education requirements, (6) documentation to support the continuing education report, (7) applicable fees.
- Notifies the individual or firm of relevant factors the board may consider in considering the application for reinstatement or modification of a board order.
- Notifies the individual or firm of the procedures the board may follow if the board decides to consider the merits of an application for reinstatement.
- Notifies the individual or firm that if the board decides it will not consider the merits of the application there is no further administrative review available.
- Notifies the individual or firm the board may as a condition of reinstatement impose such terms and conditions as it deems suitable.
- Notifies the individual or firm the board will not consider an application while an individual is under sentence for any criminal offense.

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Reasons Supporting Proposal: Provides clear instructions to CPAs (or CPA firms) who wish to modify a board suspension or revocation order or to apply for reinstatement of a suspended or revoked certificate and/or license.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In a clear manner that eliminates confusion, WAC 4-25-795 sets the procedures persons or firms whose certificate and/or license has been revoked or suspended must follow in order to apply for modification of a suspension or revocation order or to apply for reinstatement. The board's goal is to: Promote clarity, ensure effective communication, ensure fairness in interpretation and application of the rule, and promote efficiencies through minimizing gray areas.

Proposal Changes the Following Existing Rules: Renumbers WAC 4-25-760 to 4-25-795 to place in a logical numbering ordering with new sections for ease of reference. The rule is rewritten in a clear writing style for clarity. The amendment implements a board practice of requiring the application for reinstatement of a revoked or suspended CPA license and/or certificate to submit to the board a "complete" application that includes: (1) A completed board provided application form, (2) certification under the penalty of perjury that the individual or firm did not hold out in public practice and/or use the title CPA during the time in which the individual's or firm's license and/or certificate was suspended or revoked, (3) a satisfactory report of continuing education, (4) documentation to support the continuing education report, and (5) applicable fees. Includes notice that if the board decides that it will not consider the merits of an application for reinstatement it constitutes final agency action with no options for further administrative review.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC 4-25-790 will have negligible economic impact on the accounting profession and business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999
Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-795 How do I apply for reinstatement of a revoked or suspended CPA license and/or certificate? If your CPA license and/or certificate was revoked or suspended by the board pursuant to RCW 18.04.295, 18.04.305 and/or 18.04.335, you may not hold out as a CPA in public practice or use the title CPA until your license and/or certificate is reinstated by the board.

You may apply to the board for modification of the suspension or revocation after one year has elapsed from the effective date of the board's order revoking or suspending your license and/or certificate unless the board sets some other period by order. However, if you made a previous application with respect to the same order, no additional application will be considered before the lapse of an additional year following the board's decision on the last such previous application.

To apply for reinstatement of a revoked or suspended license and/or certificate you must use the form provided by the board and satisfy CPE requirements in WAC 4-25-830. An application is not complete and cannot be processed until all fees, required information, and required documentation is received by the board.

To apply for reinstatement, you must submit to the board:

- A complete reinstatement form including your certification under the penalty of perjury, that you have:

- (1) Not held out in public practice and/or used the title CPA during the time in which your license and/or certificate was suspended or revoked;

- (2) Met the CPE requirements for reinstatement in WAC 4-25-830; and

- (3) Met the CPE supporting documentation requirements in WAC 4-25-833;

- All applicable fees;
- Source documents as evidence of eligibility for CPE credit for all courses claimed in order to meet CPE requirements as defined by WAC 4-25-833;
- Written substantiation of the reasons constituting good cause for the reinstatement;
- Two supporting recommendations, under penalty of perjury, from CPA licensees who have personal knowledge of your activities since the suspension or revocation was imposed; and
- Other documents or information which the board may deem necessary.

In considering the reinstatement application, the board may consider all relevant factors, including but not limited to:

- The offense for which you were disciplined;
- Your activities since the disciplinary penalty was imposed;
- Your activities during the time the certificate or permit was in good standing;
- Your rehabilitative efforts;
- Restitution to damaged parties in the matter for which the penalty was imposed; and
- Your general reputation for truth and professional probity.

If the board decides to consider the merits of your application for reinstatement, in the board's discretion, a hearing may be held following such procedures as the board deems suitable for the particular case. If the board decides that it will not consider the merits of your application for reinstatement, then this constitutes final agency action and there is no further administrative review available to you. As a condition of reinstatement, the board may impose such terms and conditions as it deems suitable.

The board will not consider an application for reinstatement while you are under sentence for any criminal offense, including any period during which you are on court-imposed probation or parole.

WSR 99-13-071
PROPOSED RULES
BOARD OF ACCOUNTANCY
 [Filed June 11, 1999, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-056.

Title of Rule: New section WAC 4-25-830 What are the CPE requirements?

Purpose: To clearly prescribe the board's continuing professional education requirements.

Statutory Authority for Adoption: RCW 18.04.055(7), 18.04.215(4), 18.04.105(8).

Statute Being Implemented: RCW 18.04.055(7), 18.04.105(8), 18.04.215(4).

Summary: The new section in compliance with RCW 18.04.105(8) provides that a certified public accountant shall verify to the board completion of an accumulation of at least one hundred twenty hours of continuing professional education (CPE) during the preceding three-year period to maintain or reinstate a license and/or certificate. The rules establish within the one hundred twenty hours:

- A license in public practice must complete at least eight hours in the subject area of accounting and auditing during each year of the CPE reporting period in which the CPA was in public practice.
- A licensee is limited to a maximum of twenty-four hours in nontechnical subject areas.
- All licensees and certificate-holders are required to complete a four-hour course in professional ethics with specific application to the practice of public accounting in Washington state.
- A minimum of twenty hours of CPE each calendar year.

The rule also:

- Establishes provision for a reasonable cause exemption to the CPE requirements.
- Provides direction to CPAs holding a certificate under the reasonable cause exemption and wanting to change status.
- Requires CPAs applying for a Washington license and/or certificate by reciprocity to comply with the

CPE requirements as outlined in this rule except for the four-hour ethics course.

Reasons Supporting Proposal: (1) Clearly outlines the board's CPE requirements.

(2) RCW 18.04.105 and 18.04.215 were amended by the 1999 legislature to require the board to issue certificate and licenses on a three-year basis and require CPAs to complete at least one hundred twenty hours of CPE during the last three-year period. The board's existing rule conflicts with the new statute. The proposed changes would conform the current rule to the new statute.

(3) Responds to stakeholder requests to eliminate the accounting/auditing subject area requirement for certificate holders and licensees not in public practice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Using the clear rule writing technique that eliminates confusion, WAC 4-25-830 sets the continuing professional education (CPE) requirements for Washington CPAs. The goal of the new section is to: Promote clarity, ensure effective communication, ensure fairness in interpretation and application of the rule, and promote efficiencies through minimizing gray areas.

Proposal Changes the Following Existing Rules: The board is proposing to replace WAC 4-25-810 with 4-25-830. The new section changes the CPE requirement to one hundred twenty hours every three years to conform with revisions to RCW 18.04.105 and 18.04.215 by the 1999 legislature. Additionally, the new rule (1) requires a minimum of twenty hours of CPE every calendar year, (2) reduces the accounting/auditing subject area requirement for licensees in public practice from thirty-two hours every two years to eight hours each year in which the licensee was in public practice, (3) eliminates the accounting/auditing subject area requirement for licensees who were not in public practice and for certificate holders, (4) changes the ethics course requirement from a four-hour course every four years to a four-hour course every three years, and (5) clarifies that requests for exception to the CPE requirements due to reasonable cause (other than retirement or nonuse of the CPA title) must be in writing to the board.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new section will have negligible economic impact on the accounting profession and business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

PROPOSED

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999
 Dana M. McInturff, CPA
 Executive Director
 by Cheryl M. Sexton

NEW SECTION

WAC 4-25-830 What are the CPE requirements? (1)

For CPE reporting periods beginning January 1, 2000, or later, the following CPE is required during the three calendar year period prior to renewal:

Category	Minimum CPE in Accounting and/or Auditing	Maximum CPE Allowed in Nontechnical Subject Areas	Minimum CPE in Ethics Applicable to Practice in WA State	Total CPE
(a) A licensee in public practice during the 3-year calendar period prior to renewal.	24	24	4	120
(b) A licensee not in public practice during any portion of the 3-year calendar period prior to renewal.	Exempt	24	4	120
(c) A certificateholder whose activities during the 3-year calendar period prior to renewal do not require a license to practice public accounting.	Exempt	Exempt	4	120

(2) Subject area requirements:

(a) If you are a licensee and you were in public practice during the CPE reporting period, you are required to complete a minimum of 8 hours of CPE in the subject area of accounting and auditing during each year of the CPE reporting period in which you were in public practice. Licensees are limited to a maximum of 24 CPE credit hours in nontechnical subject areas during the CPE reporting period.

(b) If you are a licensee and you were not in public practice during any portion of the CPE reporting period, you are exempt from the accounting and auditing CPE subject area requirement. Licensees are limited to a maximum of 24 CPE credit hours in nontechnical subject areas during the CPE reporting period.

(c) If you are a certificateholder, you are exempt from both the accounting and auditing CPE subject area requirement and the requirement on CPE credit hours in nontechnical subject areas.

(3) Ethics applicable to practice in WA state: During each CPE reporting period all licensees and certificateholders are required to complete a four-hour course on professional ethics with specific application to the practice of public accounting in Washington state.

(4) 20 hours a year minimum: For CPE reporting periods beginning after December 31, 1999, you must complete a minimum of 20 hours of CPE each calendar year.

(5) Reasonable cause exemption: In order to renew your license and/or certificate you must complete the required CPE unless you can demonstrate your failure to meet the CPE requirements was due to reasonable cause. The board may make exceptions to the CPE requirements for reasons of individual hardship including health, military service, foreign residence, or other reasonable cause. You must

request such an exemption in writing to the board. The request should include justification for the exemption and your plan to correct your CPE deficiency.

If you are retired, or you are a certificateholder and did not make any public, professional, commercial, or occupational use of the title CPA during the prior three years, you are deemed to have met the reasonable cause exemption.

(6) Return to previous status: If you seek to change your status as a certificateholder exempted from the CPE requirements under the reasonable cause exemption to a:

(a) Licensee, you must satisfy the requirements of subsection (1)(a) of this section within the three-year period immediately preceding the date the application for change in status was received by the board; or

(b) Certificateholder, you must satisfy the requirements of subsection (1)(c) of this section within the three-year period immediately preceding the date the application for change in status was received by the board.

(7) Reinstatement of a lapsed, suspended, or revoked license and/or certificate: If you seek to reinstate a lapsed, suspended, or revoked license and certificate, you must satisfy the requirements of subsection (1)(a) of this section within the three-year period immediately preceding the date the application for reinstatement was received by the board. If you seek to reinstate a lapsed, suspended, or revoked certificate, you must satisfy the requirements of subsection (1)(c) of this section within the three-year period immediately preceding the date the application for reinstatement was received by the board.

(8) Reciprocity: If you are applying for an initial Washington state CPA license and/or certificate under the reciprocity provisions of RCW 18.04.180 or 18.04.183, you must satisfy the applicable requirements in subsection (1) of this

PROPOSED

section within the three-year period immediately preceding the date the application was received by the board. For purposes of an initial license and/or certificate, you do not need to satisfy the ethics requirements of subsection (3) of this section.

Thereafter, in order to renew your Washington state CPA license and/or certificate, you must comply with all the applicable renewal requirements in subsection (1) of this section, including the ethics requirements in subsection (3) of this section.

WSR 99-13-072
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-057.

Title of Rule: New section WAC 4-25-831 What are the program standards for CPE?

Purpose: To clearly outline the standards continuing professional education courses must meet.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.105(8).

Statute Being Implemented: RCW 18.04.055, 18.04.105(8).

Summary: The new section set the standards for continuing professional education (CPE) programs.

The rule:

- Defines a qualifying program.
- Allows undergraduate and graduate courses for CPE if the courses meet the standards.
- Disallows CPE credit for attending committee meetings unless the meetings meet the standards.
- Allows CPE credit for service on the board's QAR committee, participation as a QAR team captain or reviewer, and participation on other board approved quality or peer review committees as defined by board policy.
- Lists the subject areas for acceptable courses including (1) accounting/auditing subjects, (2) technical subjects, (3) nontechnical subjects, and (4) professional ethics.
- Allows CPE credit for group programs that meet the standards.
- Defines CPE credit.
- Allows CPE for self-study programs (interactive and noninteractive programs).
- Allows a maximum of seventy-two hours of CPE for preparation and presentation of a CPE course as an instructor, discussion leader, or speaker during each CPE reporting period.
- Allows CPE for published articles and books.
- Disallows carry-forward of CPE credit during one period to the next period.
- Allows carry-back of CPE credit provided the CPA request the exception in writing for board approval.

Reasons Supporting Proposal: (1) Clearly outlines the board's program standards for CPE.

(2) Moves the adoption of the NASBA/AICPA statement on standards for formal continuing education which are currently under revision to policy rather than including in the rule - therefore eliminating unnecessary rule amendments.

(3) The enhancement of the subject area definition will aid (1) CPAs when choosing courses to meet the board's requirement, (2) sponsors of CPE programs when developing programs for CPE, and (3) board staff when auditing CPE reports for compliance.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Using the clear rule-writing technique that eliminates confusion, WAC 4-25-831 outlines the standards continuing professional education (CPE) courses must meet. The goal of the new section is to: Promote clarity, ensure effective communication, ensure fairness in interpretation and application of the rule, and promote efficiencies through minimizing gray areas.

Proposal Changes the Following Existing Rules: The board is proposing to replace WAC 4-25-811 with 4-25-831. The new section (1) changes the definition of "qualifying program" by eliminating reference to the statement of standards for formal continuing education published by the National Association of State Boards of Accountancy, (2) allows CPE credit for undergraduate courses, (3) enhances the definition of accounting and auditing subjects, (4) adds professional ethics with a specific application to the practice of public accounting in Washington state to the list of subject areas, (5) adds the prohibition of carry-forward of CPE credit from one reporting period to the next period, and (6) adds the allowance of carry-back of CPE hours to a previous reporting period provided the CPA requests the exception in writing for board approval.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new section will have negligible economic impact on the accounting profession and business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-831 What are the program standards for CPE? (1) **Qualifying program:** A program qualifies as acceptable CPE for purposes of RCW 18.04.215(4) if it is a formal program of learning which contributes to the growth in the professional knowledge and professional competence of an individual in the practice of the profession. A formal program means:

- The program is at least fifty minutes in length;
- Attendance is recorded;
- Participants sign in to confirm attendance and, if the program is greater than four credit hours, participants sign out during the last hour of the program; and
- Attendees are provided a certificate of completion.

(2) **Undergraduate and graduate courses:** A graduate or undergraduate course qualifies for CPE credit if it meets the standards in subsections (1) and (5) of this section. For both undergraduate and graduate courses one quarter credit equals 10 CPE credit hours and one semester credit equals 15 CPE credit hours.

(3) **Committee meetings:** Generally, CPE credit is not allowed for attending committee meetings. A meeting qualifies for CPE credit only if it meets the standards in subsections (1) and (5) of this section.

(4) **Quality assurance review:** Service on the board's QAR committee, participating as a QAR team captain or reviewer, and participating on other board-approved quality or peer review committees may be considered for CPE credit as defined by board policy.

(5) **Subject areas:** Programs dealing with the following general subject areas are acceptable so long as they meet the standards in subsection (1) of this section:

- (a) Accounting and auditing subjects include:
 - (i) Auditing standards or procedures;
 - (ii) Compilation and review of financial statements;
 - (iii) Financial statement preparation and disclosures;
 - (iv) Attestation standards and procedures;
 - (v) Projection and forecast standards or procedures;
- (b) Technical subjects include:
 - (i) Accounting and auditing;
 - (ii) Management advisory services;
 - (iii) Personal financial planning;
 - (iv) Taxation;
 - (v) Management information services;
 - (vi) Budgeting and cost analysis;
 - (vii) Asset management;
 - (viii) Professional ethics (other than those programs used to satisfy the requirements of WAC 4-25-830(3));
 - (ix) Specialized areas of industry;
 - (x) Human resource management;
 - (xi) Economics;
 - (xii) Business law;

- (xiii) Mathematics, statistics, and quantitative applications in business;
- (xiv) Business management and organization;
- (xv) General computer skills, computer software training, information technology planning and management;
- (c) Nontechnical subjects include:
 - (i) Communication skills;
 - (ii) Interpersonal management skills;
 - (iii) Leadership and personal development skills;
 - (iv) Client and public relations;
 - (v) Practice development;
 - (vi) Motivational and behavioral courses;
 - (vii) Speed reading and memory building;
 - (viii) Negotiation or dispute resolution courses;
- (d) Professional ethics with specific application to the practice of public accounting in Washington state covers the following subjects: Revised Code of Washington chapter 18.04, Washington Administrative Code chapter 4-25, and the code of professional conduct promulgated by the American Institute of CPAs.

Subjects other than those listed above may be acceptable provided you can demonstrate they contribute to your professional competence. You are solely responsible for demonstrating that a particular program is acceptable.

(6) **Group programs:** You may claim CPE credit for group programs such as the following so long as the program meets the standards in subsections (1) and (5) of this section:

- (a) Professional education and development programs of national, state, and local accounting organizations;
- (b) Technical sessions at meetings of national, state, and local accounting organizations and their chapters;
- (c) Formal in-firm education programs;
- (d) Programs of other organizations (accounting, industrial, professional, etc.);
- (e) Dinner, luncheon, and breakfast meetings which are structured as formal educational programs;
- (f) Firm meetings for staff and/or management groups structured as formal education programs. Portions of such meetings devoted to communication and application of general professional policy or procedure may qualify, but portions devoted to firm administrative, financial and operating matters generally will not qualify.

(7) **CPE credit:** CPE credit is allowable only for those programs taken after the issuance of the CPA certificate. Credit is not allowed for programs taken to prepare an applicant for the ethics examination as a requirement for initial certification. CPE credit is given for whole hours only, with a minimum of fifty minutes constituting one hour. For example, one hundred minutes of continuous instruction counts as two hours of CPE credit; however, more than fifty minutes but less than one hundred minutes of continuous instruction counts only as one hour CPE credit. Attendees obtain CPE credit only for time spent in instruction; no credit is allowed for preparation time.

(8) **Self-study programs:** Credit for self-study programs is allowed in the renewal period in which you completed the program as established by the evidence of completion provided by the program sponsor.

(a) **Interactive self-study programs:** The amount of credit allowed for interactive self-study is that which is rec-

commended by the program sponsor on the basis of the average completion time under appropriate "field tests." In order to claim CPE credit for interactive self-study programs, you must obtain evidence of satisfactory completion of the course from the program sponsor.

(b) **Noninteractive self-study programs:** The amount of credit allowed for noninteractive self-study is one-half the average completion time as determined by the program sponsor on the basis of appropriate "field tests." To claim CPE credit for noninteractive self-study programs, you must obtain evidence of satisfactory completion of the course from the program sponsor.

(9) **Instructor, discussion leader, or speaker:** If you serve as an instructor, discussion leader or speaker at a program which meets the standards in subsections (1) and (5) of this section, the first time you present the program you may claim CPE credit for both preparation and presentation time. One hour of credit is allowed for each fifty minutes of instruction. Additionally, you may claim credit for actual preparation time up to two times the presentation hours. No credit is allowed for subsequent presentations. A maximum of 72 CPE credit hours are allowed for preparation and presentation during each CPE reporting period.

(10) **Published articles, books:** You may claim CPE credit for published articles and books, provided they contribute to your professional competence. Credit for preparation of such publications may be claimed on a self-declaration basis for up to 30 hours in a CPE reporting period. In exceptional circumstances, you may request additional credit by submitting the article(s) or book(s) to the board with an explanation of the circumstances that justify a greater credit. The amount of credit awarded for a given publication will be determined by the board.

(11) **Carry-forward:** CPE credit hours you complete during one period cannot be carried forward to the next period.

(12) **Carry-back:** CPE credit hours you complete during one period can be carried back to the previous reporting period; however, only in accordance with WAC 4-25-830(5).

WSR 99-13-073
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-058.

Title of Rule: New section WAC 4-25-832 How do I report my CPE to the board?

Purpose: To inform Washington certified public accountants (CPAs) how to report completed CPE to the board.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.105(8).

Statute Being Implemented: RCW 18.04.055, 18.04.105(8).

Summary: The new section notifies certified public accountants (CPAs) applying for renewal of their CPA license and/or certificate that (1) the reporting of compliance with continuing professional education (CPE) requirements is concurrent with the renewal application, (2) CPAs are required to sign a statement certifying under penalty of perjury of compliance with the board's CPE requirements and supporting documentation requirements, and (3) the board audits compliance with CPE and supporting documentation requirements.

Reasons Supporting Proposal: (1) Clearly tells a CPA how to report the completion of CPE to the board.

(2) Aligns the reporting of CPE (requiring a signed statement of compliance with CPE and records retention requirements) with the Uniform Accountancy Act and minimized reporting requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Using the clear rule-writing technique that eliminates confusion, WAC 4-25-832 tells CPAs how to report their completed CPE to the board. The goal of the new section is to: Promote clarity, ensure effective communication, ensure fairness in interpretation and application of the rule, and promote efficiencies.

Proposal Changes the Following Existing Rules: The board is proposing to replace WAC 4-25-812 with two new sections (4-25-832 and 4-25-833) for clarity and easy reference. WAC 4-25-832 eliminates the requirement for CPAs to file with their applications for license and/or certificate renewal a signed statement of the CPE programs for which they claim credit listing the course sponsor, title of program, dates attended and hours claimed. Instead the CPAs will be required to file a signed statement certifying under penalty of perjury that they complied with the board's CPE requirements and supporting documentation requirements (no listing of each course - just total hours).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new section will have negligible economic impact on the accounting profession and business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

PROPOSED

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-832 How do I report my CPE to the board? In order to apply for renewal of your CPA license and/or certificate, you must satisfy the board's CPE and supporting documentation requirements.

The reporting of compliance with CPE requirements is concurrent with the application for license and/or certificate renewal. When you complete your renewal form, you are required to sign a statement certifying under the penalty of perjury that you complied with the board's CPE requirements as defined in WAC 4-25-830 and supporting documentation requirements as defined in WAC 4-25-833.

The board audits, on a test basis, compliance with CPE and supporting documentation requirements as certified on the license and/or certificate renewal form. As part of this audit the board may require a general description of each course's contribution to your professional competence.

WSR 99-13-074
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-058.

Title of Rule: New section WAC 4-25-833 What documentation must I retain to support my eligibility for CPE credits.

Purpose: To prescribe the documentation a Washington certified public accountant (CPA) must retain to support their eligibility for CPE credits.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.105(8).

Statute Being Implemented: RCW 18.04.055, 18.04.105(8).

Summary: The new section notifies certified public accountants (CPAs) (1) they are responsible for documenting entitlement to CPE credit claimed on their application for renewal of their license and/or certificate, (2) of the documentation required to support their claim for CPE credit, and (3) to retain supporting documentation for five years after completion of the program.

Reasons Supporting Proposal: (1) Clearly notifies CPAs to maintain supporting documentation for CPE credit claimed.

(2) Clearly notifies the CPAs of what the board will accept as documentation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Using the clear rule-writing technique that eliminates confusion, WAC 4-25-833 tells CPAs they are responsible for documenting their entitlement of CPE credit claimed and notifies CPAs what the board will accept as documentation. The goal of the new section is to: Promote clarity, ensure effective communication, ensure fairness in interpretation and application of the rule, and promote efficiencies.

Proposal Changes the Following Existing Rules: The board is proposing to replace WAC 4-25-812 with two new sections (WAC 4-25-832 and 4-25-833) for clarity and easy reference. WAC 4-25-833 generally maintains the requirements for documentation of WAC 4-25-812. However, WAC 4-25-833 eliminates as acceptable documentation: Copy of the course outline prepared by the course sponsor and adds "for group programs, a certificate, or other acceptable verification as defined by board policy."

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new section will have negligible economic impact on the accounting profession and business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

NEW SECTION

WAC 4-25-833 What documentation must I retain to support my eligibility for CPE credits? (1) For each program for which you claim CPE credit you must retain documentation to support all of the following required information:

- (a) Program sponsor;
- (b) Title of program or description of content;
- (c) Date(s) attended;
- (d) Number of CPE credit hour(s); and
- (e) Acceptable evidence of completion.

(2) Acceptable evidence supporting the requirements of subsection (1) of this section includes:

(a) For group programs, a certificate, or other acceptable verification as defined by board policy, that is supplied by the program sponsor;

(b) For self-study programs, a certificate supplied by the program sponsor after satisfactory completion of a workbook or examination;

(c) For a university or college course, a record of the grade you received;

(d) For instruction credit, evidence obtained from the program sponsor of your having been the instructor or discussion leader at the program; or

(e) For published articles or books, evidence of publication.

(3) You are responsible for documenting your entitlement to the CPE credit you claim on your license and/or certificate renewal form. You must retain the supporting documentation for CPE credit claimed for five years after completion of the program.

WSR 99-13-075
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-054.

Title of Rule: Repeal of WAC 4-25-740.

Purpose: Repeal section of chapter 4-25 WAC that is being rewritten and recodified into four separate sections (WAC 4-25-745, 4-25-746, 4-25-790, and 4-25-791).

Statutory Authority for Adoption: RCW 18.04.105.

Statute Being Implemented: RCW 18.04.105.

Summary: Repeal section of chapter 4-25 WAC that is being rewritten and recodified (WAC 4-25-745, 4-25-746, 4-25-790, and 4-25-791).

Reasons Supporting Proposal: This section of chapter 4-25 WAC is being repealed (rather than amended) and recodified to provide a history of the rule regarding renewal of certificates and licenses.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board proposes the repeal of WAC 4-25-740 to implement the recodification to four new sections (WAC 4-25-745, 4-25-746, 4-25-790, and 4-25-791).

Proposal Changes the Following Existing Rules: Repeal WAC 4-25-740 and replaces it with four rewritten rules (WAC 4-25-745, 4-25-746, 4-25-790, and 4-25-791).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA

Executive Director

by Cheryl M. Sexton

WSR 99-13-076
PROPOSED RULES
BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-055.

Title of Rule: Repeal of WAC 4-25-760.

Purpose: Repeal section of chapter 4-25 WAC that is being rewritten and recodified into two separate sections (WAC 4-25-792 and 4-25-795).

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055(11).

Summary: Repeal section of chapter 4-25 WAC that is being rewritten and recodified (WAC 4-25-792 and 4-25-795).

Reasons Supporting Proposal: This section of chapter 4-25 WAC is being repealed (rather than amended) and recodified to provide a history of the rule regarding reinstating certificates and licenses.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board proposes the repeal of WAC 4-25-760 to implement the recodification to two new sections (WAC 4-25-792 and 4-25-795).

Proposal Changes the Following Existing Rules: Repeals WAC 4-25-760 and replaces it with two rewritten rules (WAC 4-25-792 and 4-25-795).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999
Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

WSR 99-13-077

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-056, 98-24-057, and 98-24-058.

Title of Rule: Repeal of WAC 4-25-810, 4-25-811, and 4-25-812.

Purpose: Repeal sections of chapter 4-25 WAC that are being rewritten and recodified (WAC 4-25-830, 4-25-831, 4-25-832, and 4-25-833).

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055.

Summary: Repeal sections of chapter 4-25 WAC that are being rewritten and recodified (WAC 4-25-830, 4-25-831, 4-25-832, and 4-25-833).

Reasons Supporting Proposal: This section of chapter 4-25 WAC is being repealed (rather than amended) and recodified to provide a history of the rules regarding continuing professional education.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board proposes to repeal WAC 4-25-810, 4-25-811, and 4-25-812 to implement the recodification to four new sections (WAC 4-25-830, 4-25-831, 4-25-832, and 4-25-833).

Proposal Changes the Following Existing Rules: Repeals WAC 4-25-810, 4-25-811, and 4-25-812 and replaces them with four rewritten rules (WAC 4-25-830, 4-25-831, 4-25-832, and 4-25-833).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposal will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999
Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

WSR 99-13-078

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed June 11, 1999, 1:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-059.

Title of Rule: Repeal of WAC 4-25-813 Continuing professional education (CPE)—Program sponsor agreements.

Purpose: To eliminate the voluntary sponsor agreement program offered to persons or organizations intending to sponsor programs qualifying for CPE.

Statutory Authority for Adoption: RCW 18.04.055, 18.04.105.

Statute Being Implemented: RCW 18.04.055, 18.04.105.

Summary: To repeal section of chapter 4-25 WAC that is unnecessary.

Reasons Supporting Proposal: The sponsor agreement program is voluntary and, as such, only a portion of sponsors participate. Currently, the board has approximately four hundred sponsor agreements. Sponsors agree to comply with the board's guidelines regarding program development and evaluation, and documentation requirements. Upon entering into an agreement with the board, CPE sponsors may display the following statement on their advertising materials: "We have entered into an agreement with the state of Washington Board of Accountancy to meet its continuing professional education program requirements." Approximately one hundred sponsors have been 'monitored' in the last ten years. Monitoring means a CPE committee member, or board staff, attends one of the sponsor's courses and evaluates it. To date, no course has been found unsatisfactory.

The program is designed to (1) educate CPE sponsors on the board's rules and suggested program development/evaluation guidelines, and (2) provide CPAs with a method to

identify CPE sponsors who were aware of the board's requirements.

The board proposes to repeal this rule (WAC 4-25-813 Continuing professional education (CPE)—Program sponsor agreements) because:

- Program sponsors rarely state in their advertising literature that they have an agreement with the board.
- CPAs cannot differentiate between sponsors having an agreement with the board and those who do not.
- The board has monitored CPE program sponsors for nine years. During that time no course has been graded as unsatisfactory.
- The CPE committee feels the value of the program is minimal compared to the administrative costs.
- The program's primary purpose (education of sponsors and promotion of sound program development and administration procedures) can easily be accomplished through outreach and proactive customer service.
- Administration of the sponsor program entails the use of 10% of one staff's time. When you compare the value of what is accomplished through this program to areas where the agency could expand its activities no valid reason exists to continue this formal (rather bureaucratic) program.
- Elimination of this rule is consistent with the intent of Governor Locke's Executive Order: "whereby rules focus on issues of greatest need."

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, 210 East Union, Suite A, Olympia, (360) 664-9194.

Name of Proponent: Board of Accountancy, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The board proposes to repeal WAC 4-25-813 as the rule is unnecessary.

Proposal Changes the Following Existing Rules: Eliminates the voluntary sponsor agreement program offered to persons or organizations intending to sponsor programs qualifying for CPE to Washington CPAs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

RCW 34.05.328 does not apply to this rule adoption. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.328.

Hearing Location: Western Washington University, Viking Addition, Room 461, Bellingham, Washington, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by July 22, 1999, TDD (800) 833-6384, or (360) 664-9194.

Submit Written Comments to: Dana M. McInturff, P.O. Box 9131, Olympia, WA 98507-9131, fax (360) 664-9190, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 11, 1999

Dana M. McInturff, CPA
Executive Director
by Cheryl M. Sexton

WSR 99-13-081

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 14, 1999, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-005.

Title of Rule: Vehicle licenses—Miscellaneous provisions for registration of vehicles.

Purpose: 1. To meet the criteria set forth in Governor Locke's Executive Order 97-02.

2. To clarify rules and help make them more comprehensible.

Statutory Authority for Adoption: RCW 46.01.110, 46.01.100, 46.16.060.

Summary: New WAC 308-96A-098 Surrender and disposition of license plates; amended WAC 308-96A-161 Regular fleet registration, 308-96A-275 Assignment of fleet registration expiration, 308-96A-400 Excise tax exemption—Indians and 308-96A-410 Study fee; and repealed WAC 308-96A-162 Permanent fleet registration.

Reasons Supporting Proposal: Meet criteria supporting Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718; Implementation and Enforcement: Evelyn Barker, 1125 Washington Street S.E., Olympia, 902-3811.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The anticipated effects will be a clarification of the above-mentioned requirements.

Proposal Changes the Following Existing Rules: Clarify sections needed and repeal those no longer required.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030 (1)(a). The proposed rule making does not impose more than a minor cost on businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on August 10, 1999, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by August 9, 1999, TDD (360) 664-8885, or (360) 902-3718.

Submit Written Comments to: Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, P.O. Box 2957,

PROPOSED

Olympia, WA 98507-2957, fax (360) 664-0831 by August 9, 1999.

Date of Intended Adoption: September 6, 1999.

June 11, 1999

Deb McCurley

Acting Administrator

Title and Registration Services

NEW SECTION

WAC 308-96A-098 Surrender and disposition of license plates. (1) **What license plates are required to be surrendered?** Only license plates authorized under RCW 46.16.301 and 46.16.280, and dealer/manufacture plates are required to be surrendered. Wreckers and scrap processors, hulk haulers shall dispose of license plates according to chapter 308-63 WAC.

(2) **Where do I surrender my Washington vehicle license plates?** You may surrender your Washington vehicle license plates in the following manner:

(a) Take them to your local vehicle licensing office;

(b) Mail them to the department of licensing in Olympia, Washington.

(3) **What do Washington vehicle licensing offices do with surrendered license plates?**

(a) License plates surrendered to Washington vehicle licensing offices will be invalidated to make them unusable;

(b) Washington vehicle licensing offices will recycle or otherwise dispose of the invalidated plates that have been surrendered.

(4) **If I choose to dispose of the Washington vehicle license plates that are no longer valid, how is this done?** You may dispose of your invalid Washington vehicle license plates in the following ways:

(a) Remove or invalidate the month and year tabs and bend the plates so they are no longer usable;

(b) Shred the entire license plate; or

(c) After the month and year tab have been removed or invalidated, recycle the license plate in such a way that it cannot be confused with a valid Washington license plate.

(5) **How does the department dispose of my surrendered Washington vehicle license plate?** Once the department has received the Washington vehicle license plate, it shall surrender them to the department of general administration for disposal under RCW 43.19.1919.

AMENDATORY SECTION (Amending WSR 97-10-003, filed 4/24/97, effective 5/25/97)

WAC 308-96A-161 ((Regular)) Fleet registration. ~~((Any owner of a fleet of fifteen or more vehicles, excluding trailing units issued a permanent license plate pursuant to RCW 46.16.068, may apply for and be issued a regular fleet identifier code by the department. The owner may have any vehicle with a certificate of ownership in the exact same owner name registered using the regular fleet identifier code. Regular vehicle license plate month and year tabs shall be issued. Monthly gross weight license may be purchased for individual vehicles.~~

~~Any vehicle with an expired registration will be removed from the regular fleet. Failure of the owner to maintain a minimum of fifteen vehicles with current registrations under the owner's fleet identification code shall automatically cause cancellation of their fleet identification code and removal of all of the owner's vehicles from the regular fleet designation.))~~ (1) What is the purpose of the fleet program? The department recognizes and understands that there are businesses and individual registered owners within the state of Washington that have a valid need to license all their vehicles on the same date and receive a single billing notice. The purpose of the fleet program is to provide such a process.

(2) What types of fleet programs are available? There are two types of fleet programs:

(a) Regular fleet - To participate in the regular fleet program, the owner(s) must:

(i) Have five or more vehicles, all currently registered for highway use; and

(ii) All vehicles participating must be titled and registered in exact name agreement; and

(iii) All vehicles participating will be assigned a December 31 annual expiration. Monthly gross weight license may be purchased for vehicles participating in the regular fleet program.

(b) Permanent fleet - To participate in the permanent fleet program, the owner must:

(i) Have one hundred or more vehicles used for commercial purpose; and

(ii) All participating vehicles must be currently registered for highway use; and

(iii) All vehicles participating must be titled and registered in exact name agreement; and

(iv) All vehicles participating will receive a December 31 annual expiration. Monthly gross weight license may not be purchased for vehicles participating in the permanent fleet program.

(3) How do I join the fleet program? Any owner who qualifies to participate in the fleet program may contact the department or your local Washington vehicle licensing office.

(4) Are there any vehicles that may not be part of a fleet? Yes, there are vehicles that may not be part of a fleet. Those vehicles include:

(a) Snowmobiles;

(b) Trailers with plates issued a permanent license plate under RCW 46.16.068;

(c) Vehicles licensed as daily rental under RCW 82.44.023; and

(d) Any vehicle not required to annually renew.

(5) When will the department remove me from the fleet program? The department will remove you from the fleet program at your request or if you fail to maintain the required minimum number of currently registered vehicles for the chosen fleet program. The fleet identifier code will be automatically canceled and will cause removal of all of the owner's vehicles from the chosen fleet program.

AMENDATORY SECTION (Amending WSR 92-15-025, filed 7/6/92, effective 8/6/92)

WAC 308-96A-275 Assignment of fleet registration expiration. ((Registration renewals for fleet vehicles will be for twelve months expiring on December 31 of the following year. If a vehicle is added to a fleet or is prorated, fees will be collected for the number of months necessary to have a December 31 registration expiration date. For any partial month from the current expiration date to the December 31 expiration date, a full month's fees will be charged. Fees may be collected from four to eighteen months to adjust the expiration date. Any vehicle added to a fleet from October 1 through December 31 will be issued an expiration date of December 31 of the following year.)) **(1) When do fleet vehicle registrations expire?** Fleet vehicle registrations expire December 31 annually.

(2) How does the department adjust registration fees to assign a December 31 registration expiration date for a fleet vehicle?

(a) When you add an unlicensed vehicle to your fleet, the number of month's registration fees are abated to correspond with the number of months of registration. For example:

(i) If you add a vehicle to your fleet between October 1 and December 30 of the current year, you will be required to purchase more than twelve months of registration to obtain a December 31 vehicle registration expiration date for the following December 31;

(ii) If you add a vehicle to your fleet between February 1 and September 30, you will be required to purchase less than twelve months of registration to obtain a December 31 vehicle registration expiration date for the current year;

(iii) If you add a vehicle to your fleet between December 31 and January 31, you will be required to purchase twelve months of registration to obtain a vehicle registration expiration date for the next year.

(b) When you add a currently registered vehicle to your fleet, the number of month's registration fees abated from the date of current registration expiration to December 31, as applied in (a) of this subsection not to exceed eighteen months;

(c) The department will charge a full month's fees for any partial month.

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-400 Excise tax exemption—Indians.

(1) ((For purposes of this rule, the following words and terms have the following meanings:

(a) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the exclusive use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian reservations" by the United States Department of the Interior.

The following Washington reservations are the only "Indian reservations" currently recognized as such by the United States Department of the Interior: Chehalis, Clallam (Jamestown Council), Clallam (Port Gamble Council),

Colville, Hoh, Kalispell, Lower Elwha, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Puyallup, Quileute, Quinault, Sauk-Suiattle, Shoalwater, Skagit, Skokomish, Spokane, Squaxin, Stillaguamish, Suquamish, Swinomish, Tulalip, and Yakima.

(b) "Indian tribe" means any organized Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(c) "Indian" means persons duly registered on the tribal rolls of the Indian tribe occupying an Indian reservation.

(2) Motor vehicles owned by Indian tribes located on recognized Washington Indian reservations are exempt from payment of the motor vehicle excise tax imposed by chapter 82.44 RCW. Mobile homes, travel trailers and campers owned by Indian tribes located on recognized Washington Indian reservations are exempt from payment of the mobile home, travel trailer and camper excise tax imposed by chapter 82.50 RCW.

(3) Any vehicle owned or leased by the governing body of an Indian tribe and used exclusively in its or their service may be exempt from the payment of licensing fees, and may be issued special "I" series license plates, provided, that the Indian tribe itself does not license or register any tribal government service vehicle under tribal law.

(4) Motor vehicles owned by Indians having their principal residence within the recognized Washington Indian reservation, for the tribe in which they are duly registered on the tribal rolls, are exempt from payment of the motor vehicle excise tax imposed by chapter 82.44 RCW. Mobile homes, travel trailers and campers owned by Indians having their principal residence within the recognized Indian reservation, for the tribe in which they are duly registered on the tribal rolls, are exempt from payment of the mobile home, travel trailer and camper excise tax imposed by chapter 82.50 RCW.

(5) A properly completed affidavit of exemption on a form supplied by the department must be submitted with each motor vehicle, mobile home, travel trailer or camper license application as a condition precedent to exemption from excise tax. The department may require such other proof of qualification for exemption as it deems necessary.) **What definitions does the department apply to this section?** For purposes of this rule, the following words and terms have the following meanings:

(a) "Indian reservation" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the exclusive use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian reservations" by the United States Department of the Interior.

(b) "Indian tribe" means any organized Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

(c) "Indian" means a person duly registered on the tribal rolls of the Indian tribe occupying an Indian reservation.

(2) What Indian reservations in Washington are recognized by the United States Department of the Interior? The following are the only Washington "Indian reservations" currently recognized as such by the United States Department of the Interior: Chehalis Confederated tribes, Colville Con-

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federated tribes, Hoh tribe, Jamestown S'klallam tribe, Kalispell tribe, Lower Elwha Klallam tribe, Lummi Nation, Makah tribe, Muckleshoot tribe, Nisqually tribe, Nooksack tribe, Port Gamble S'klallam tribe, Puyallup tribe, Quileute tribe, Quinault Nation, Samish Nation, Sauk-Suiattle tribe, Shoalwater Bay tribe, Skokomish tribe, Spokane tribe, Squaxin Island tribe, Stillaguamish tribe, Suquamish tribe, Swinomish tribe, Tulalip tribes, Upper Skagit tribe, Yakama Nation.

(3) How does an Indian qualify for a motor vehicle excise tax exemption? To qualify for a motor vehicle excise tax exemption, an Indian shall:

(a) Be enrolled as a tribal member of a recognized Washington tribe;

(b) Have their principal residence within the boundaries of the Indian reservation of the tribe of which they are a member. Mobile homes, travel trailers and campers owned by Indians having their principal residence within the recognized Indian reservation, for the tribe in which they are duly registered on the tribal rolls, are exempt from payment of the mobile home, travel trailer and camper excise tax imposed by chapter 82.50 RCW; and

(c) Be a registered owner of the vehicle for which the exemption is requested.

(4) Are vehicles owned or leased by a governing body of an Indian tribe subject to motor vehicle excise tax? No. Vehicles owned or leased by a governing body of an Indian tribe are not subject to motor vehicle excise tax as provided in RCW 46.16.020 and 46.16.022. Mobile homes, travel trailers and campers owned by Indian tribes located on recognized Washington Indian reservations are exempt from payment of the mobile home, travel trailer and camper excise tax imposed by chapter 82.50 RCW.

(5) What documentation does the department require from a tribal member to qualify for a motor vehicle excise tax exemption? The department requires a properly completed affidavit of exemption on a form supplied or approved by the department. An affidavit for each vehicle must be submitted at the time the exemption is established and at the time of renewal if there is a change of address. The department may require such other proof of qualification for exemption, as it deems necessary.

(6) What information must be contained within the affidavit of exemption described in subsection (5) of this section? At the minimum, the affidavit of exemption must include the following:

(a) Description of the vehicle including the year and make and either the license plate number or the vehicle identification number;

(b) The registered owner's name, tribe, reservation and enrollment or Bureau of Indian Affairs number;

(c) The principal address of the registered owner as will be shown on the vehicle registration certificate;

(d) Signature of the registered owner;

(e) A certification of an authorized tribal authority representing the Indian reservation of the tribe of which the registered owner is a member. The certification must include a statement that the registered owner is an enrolled tribal mem-

ber and that the address provided by the registered owner is within the boundaries of their reservation;

(f) The position or title of the tribal authority, their telephone number and their signature.

(7) Are there any types of vehicles for which the Indian excise tax exemption does not apply? No, the Indian excise tax exemption applies to all types of vehicles for which excise tax is due.

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-410 Study fee. ((For the purpose of assessing the study fee as applied to motor vehicles in RCW 46.16.061, the term "motor vehicle" will not include nonpowered vehicles, nor those vehicles registering under chapter 46.09 or 46.10 RCW. The study fee will be assessed at time of annual registration-)) **(1) There is a study fee authorized by RCW 46.16.061. Are there any vehicles not subject to this study fee?** For the purpose of assessing the study fee as applied to motor vehicles in RCW 46.16.061, the term "motor vehicle" will not include nonpowered vehicles, nor those vehicles registering under chapters 46.09 and 46.10 RCW, RCW 46.16.070 and 46.16.085.

(2) When is the study fee due? The study fee will be assessed at time of annual registration regardless of the number of months in the registration year.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-96A-162 Permanent fleet registration.

WSR 99-13-094

WITHDRAWAL OF PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

(By the Code Reviser's Office)

[Filed June 15, 1999, 8:01 a.m.]

WAC 392-134-020, proposed by the Superintendent of Public Instruction in WSR 98-24-118 appearing in issue 98-24 of the State Register, which was distributed on December 16, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 99-13-095
WITHDRAWAL OF PROPOSED RULES
UTILITIES AND TRANSPORTATION
COMMISSION

(By the Code Reviser's Office)

[Filed June 15, 1999, 8:01 a.m.]

WAC 480-123-015, 480-123-020, 480-123-030, 480-123-040, 480-123-050, 480-123-060, 480-123-070, 480-123-080, 480-123-085, 480-123-090, 480-123-100, 480-123-110, 480-123-120, 480-123-130, 480-123-140, 480-123-150, 480-123-160, 480-123-170, 480-123-180, 480-123-190, 480-123-200, 480-123-210, 480-123-220, 480-123-230, 480-123-240, 480-123-250, 480-123-260, 480-123-270, 480-123-280, 480-123-290, 480-123-300, 480-123-310, 480-123-320, 480-123-330, 480-123-340, 480-123-350, 480-123-360, 480-123-370, 480-123-380, 480-123-390, 480-123-400, 480-123-410, 480-123-420, 480-123-430, 480-123-440, 480-123-450, 480-123-460, 480-123-470, 480-123-480, 480-123-490, 480-123-500, 480-123-510, 480-123-520, 480-123-530, 480-123-540, 480-123-550, 480-123-560 and 480-123-570, proposed by the Utilities and Transportation Commission in WSR 98-24-125 appearing in issue 98-24 of the State Register, which was distributed on December 16, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 99-13-096
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(By the Code Reviser's Office)

[Filed June 15, 1999, 8:02 a.m.]

WAC 388-513-1340, 388-513-1345 and 388-515-1505, proposed by the Department of Social and Health Services in WSR 98-24-127 appearing in issue 98-24 of the State Register, which was distributed on December 16, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 99-13-101
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 98-18—Filed June 15, 1999, 12:48 p.m.]

Continuance of WSR 99-12-038.

Title of Rule: Chapter 173-230 WAC, Certification of operators of wastewater treatment plants.

Purpose: To clarify language on the original CR-102. See below.

Other Identifying Information: The hearing dates and locations are included in this CR-102 continuance for your convenience. They have not changed from the original CR-102.

RCW 34.05.328 applies to this rule adoption. This rule is significant under RCW 34.05.328 because it establishes, alters or revokes qualification or standard for the issuance, suspension or revocation of a license or permit. No changes are proposed to the qualifications or issuance of a wastewater certificate. The agency will conduct the additional analysis, the cost benefit analysis, required under RCW 34.05.328.

Hearing Location: Room 1212, Math Science Building, Big Bend Community College, 7662 Chanute Street, Moses Lake, on July 27, at 1 p.m.; and at the Department of Ecology, 300 Desmond Drive, Lacey, on July 28, at 1 p.m.

Assistance for Persons with Disabilities: Contact Myra Barker by July 9, 1999, TDD (360) 407-6006.

Submit Written Comments to: Myra Barker, P.O. Box 47696, Olympia, WA 98504-7696, e-mail mbar461@ecy.wa.gov, fax (360) 407-6426, by August 13, 1999.

Date of Intended Adoption: December 1, 1999.

June 14, 1999
 Daniel J. Silver
 Deputy Director

WSR 99-13-104
PROPOSED RULES
PERSONNEL RESOURCES BOARD

[Filed June 15, 1999, 2:29 p.m.]

Original Notice.

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

Title of Rule: WAC 356-09-040 Affirmative action program—Responsibilities—Department of Personnel and 356-22-180 Examination—Oral examining panel.

Purpose: These rules pertain to affirmative action programs and responsibilities, and oral examining panels.

Statutory Authority for Adoption: Chapter 41.06 RCW.
 Statute Being Implemented: RCW 41.06.150.

Summary: These modifications are housekeeping in nature and are intended to correct code reviser filing notes from previous filings.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules pertain to the affirmative action program and oral examining panels. The purpose of the rule regarding the affirmative action program is to outline the responsibilities of the Department of Personnel. The purpose of the rule regarding oral examining boards describes how members will

be selected and criteria of the examining panels. The modifications to both of these rules are housekeeping in nature and are intended to correct code reviser filing notes from previous filings.

Proposal Changes the Following Existing Rules: See above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 2, 1999, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by September 7, 1999.

Date of Intended Adoption: September 9, 1999.

June 10, 1999

Dennis Karras
Secretary

AMENDATORY SECTION (Amending WSR 99-05-043, filed 2/12/99, effective 4/1/99)

WAC 356-09-040 Affirmative action program—Responsibilities—Department of personnel. The department of personnel is responsible for administering the state's affirmative action program and providing technical assistance to state agencies in the development and implementation of their affirmative action programs. In keeping with these responsibilities, the department of personnel will accomplish the following:

(1) Publish guidelines that will assist agencies in developing and implementing their affirmative action plan.

(2) Provide agencies with the data required to develop and implement affirmative action goals.

(3) Review agency affirmative action plans and equal employment opportunity policy statements for compliance with applicable merit system rules and established affirmative action guidelines, and recommend changes as appropriate.

(4) When plans and policy statements are in compliance, recommend them for approval to the governor's affirmative action policy committee.

(5) With the assistance of state agencies, initiate the recruitment of affected group members, including target recruitment when appropriate.

(6) Monitor items submitted to the (~~personnel~~) board for possible negative effect on affirmative action.

(7) Monitor affected group participation in agencies' human resource development activities.

(8) Monitor agencies' progress in meeting goals and addressing problems identified in their affirmative action program.

AMENDATORY SECTION (Amending WSR 99-05-043, filed 2/12/99, effective 4/1/99)

WAC 356-22-180 Examination—Oral examining panel. (1) The members of oral examining panels shall be chosen primarily for their ability to judge the qualifications of applicants objectively. At least one member by past experience and training shall be generally familiar with the nature of the work for which the examination is being given. Emphasis will be placed on including at least one affected group member on each oral examining (~~panel~~ ~~board~~) panel.

(2) No examining panel shall have fewer than two members. No person holding political office or any officer or committee member of any political organization shall serve as a member of such panel.

(3) If conditions require establishing multiple panels, tests and instructions shall be structured to ensure uniformity of examining conditions and rating standards.

(4) Members of oral examining panels shall disclose each instance in which they know an applicant to the extent that they have formed a prior personal bias for or against an applicant and shall disqualify themselves without rating the applicant or biasing the remaining members.

WSR 99-13-105

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed June 15, 1999, 2:30 p.m.]

Original Notice.

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

Title of Rule: WAC 251-24-030 Training and development programs—Contents.

Purpose: This rule pertains to training and development programs.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: This modification is housekeeping in nature and is intended to correct code reviser filing notes from previous filings.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule pertains to training and development programs. It requires institutions of higher education to develop an employee training and development plan that contains certain criteria. This modification is housekeeping in nature and is intended to correct code reviser filing notes from previous filings.

Proposal Changes the Following Existing Rules: See above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 2, 1999, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by September 7, 1999.

Date of Intended Adoption: September 9, 1999.

June 10, 1999
Dennis Karras
Secretary

AMENDATORY SECTION (Amending WSR 99-05-042, filed 2/12/99, effective 4/1/99)

WAC 251-24-030 Training and development programs—Contents. Each institution (~~((shall))~~ ~~((will))~~) shall develop (~~((and maintain on file with the board (subject to approval by the director)))~~) an employee training and development plan (~~((, which is subject to approval by the director,))~~), which is subject to approval by the director, that provides as a minimum:

- (1) The policy and objectives of the institution concerning training and development programs;
- (2) The institution's policy regarding training program expenses;
- (3) Identification of the person(s) responsible for employee training and development programs;
- (4) Provision for the identification and appraisal of training and development needs;
- (5) The identification of proposed training activities in the following areas:
 - (a) New employee orientation;
 - (b) Functional training, such as in accounting, data processing, office administration and job skills;
 - (c) System training, such as affirmative action, labor relations and safety;
 - (d) Professional/technical training;
 - (e) Management and organizational development;
 - (f) The institution's off-hour training or continuing education program;
 - (g) Specific training in the prevention, transmission, and treatment of HIV and AIDS for those employees who have a substantial likelihood of on-the-job exposure to the human immunodeficiency virus or acquired immunodeficiency syndrome virus;
 - (h) Training of supervisors on implementation of the institution return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training employees as part of the institution's affirmative action program;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance;

(13) Provision for access to in-house training and development programs for former permanent employees returning from separation as set forth in WAC 251-10-070.

WSR 99-13-106

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed June 15, 1999, 2:32 p.m.]

Original Notice.

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

Title of Rule: WAC 251-01-435 Trial service, 251-11-130 Trial service reversion, 251-19-050 Appointment—Probationary, and 251-19-060 Trial service period.

Purpose: These rules pertain to trial service, trial service reversion, trial service period, and appointment-probationary.

Statutory Authority for Adoption: Chapter 41.06 RCW. Statute Being Implemented: RCW 41.06.150.

Summary: These modifications are housekeeping in nature. Employees appointed from a state-wide layoff list have already served a probationary period, therefore, the employee should be serving a trial service period, not a probationary period.

Name of Agency Personnel Responsible for Drafting: Sharon Peck, 521 Capitol Way South, Olympia, WA, (360) 753-0468; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules pertain to trial service periods, trial service reversion, and probationary appointments. These rules govern when an employee serves a probationary period, when an employee serves a trial service period, duration, and what occurs during these periods. These rule modifications are housekeeping in nature. Employees appointed from a state-wide layoff list already served a probationary period and have become permanent state employees. Therefore,

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there should not be a requirement for employees to serve another probationary period - they should be serving a trial service period.

Proposal Changes the Following Existing Rules: See above.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules relate to internal government operations that are not subject to violation by a nongovernmental party. Therefore, pursuant to RCW 34.05.328 [(5)](b)(ii), section 201 does not apply.

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 9, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by September 2, 1999, TDD (360) 753-4107, or (360) 586-0509.

Submit Written Comments to: Sharon Peck, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by September 7, 1999.

Date of Intended Adoption: September 9, 1999.

June 10, 1999

Dennis Karras

Secretary

AMENDATORY SECTION (Amending WSR 88-02-017, filed 12/30/87, effective 2/1/88)

WAC 251-01-435 Trial service. The initial period of employment following promotion, transfer, demotion, or lateral movement into a class in which the employee has not held permanent status at the institution or related board, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-19-060((6)).

AMENDATORY SECTION (Amending WSR 98-19-035, filed 9/10/98, effective 10/12/98)

WAC 251-11-130 Trial service reversion. An employee, prior to completing a trial service period, may be reverted by an employing official for failure to perform satisfactorily in the class. When such reversion becomes necessary, the written notice and employee rights upon reversion will be as provided in WAC 251-19-060((3)). Trial service reversion is not appealable to the personnel appeals board when the conditions of WAC 251-19-060((4)) have been satisfied.

AMENDATORY SECTION (Amending WSR 97-01-065, filed 12/13/96, effective 1/13/97)

WAC 251-19-050 Appointment—Probationary. (1) Probationary appointment shall be made only upon appointment of eligibles from the:

- (a) Open-competitive or noncompetitive list.
- (b) Institution-wide layoff list - when the employee was in probationary status at the time of layoff.
- ~~((c) State-wide layoff list.)~~

~~((4))~~ (c) Combined eligible list as provided in WAC 251-18-180((10)) and 251-18-240 ~~((3)(b)(ii))~~ when the person appointed is neither a permanent employee of the institution nor an employee moving pursuant to WAC 251-19-110.

(2) The probationary period will continue for the length of time as determined under WAC 251-06-090, unless interrupted as provided in these rules. All positions in a class shall require the same probationary period. In the event an employee is on leave without pay and/or shared leave for more than ten work days during the probationary period, the completion date of the probationary period shall be extended by an amount of time equal to the period of leave without pay and/or shared leave.

(3) Qualified probationary employees may be reappointed during the probationary period to other classes. Upon such reappointment the following shall apply:

- (a) The employee shall begin a probationary period in the new class;
- (b) The salary in the new class shall be established as provided in WAC 251-08-080;
- (c) The former periodic increment date shall be abolished and a new periodic increment date established in the same manner as provided in WAC 251-08-100((2)).

AMENDATORY SECTION (Amending WSR 98-19-035, filed 9/10/98, effective 10/12/98)

WAC 251-19-060 Trial service period. (1) A trial service period of six months shall be required upon appointment of a permanent employee to a new class at the institution, unless

- (a) During the current period of employment at the institution, permanent status has been held in the class to which the employee is moving, or
- (b) The class is lower in that same class series, or
- (c) The employee is being reallocated per the provisions of WAC 251-06-080 ~~((1)(a))~~, or
- (d) The employee is moving to the class as part of a recognized apprenticeship program as provided in WAC 251-19-140~~((5))~~.

(2) A trial service period of six months shall be required upon employee movement as specified in WAC 251-19-110.

(3) A trial service period shall be required upon appointment from an institution-wide promotional list as provided in WAC 251-18-180 ~~((3)(b))~~.

(4) A trial service period shall be required upon appointment from a statewide layoff list as provided in WAC 251-10-060.

~~((4))~~ (5) The trial service period provides the employing official an opportunity to observe and evaluate the new employee's work. Employees who do not perform satisfactorily during the trial service period may be reverted as follows:

- (a) With preemptive rights to the former position in which permanent status was last held, or to a vacant position in that class (except when reversion is from a position the appointment to which was a result of disciplinary demotion or employee movement as specified in WAC 251-19-110). The personnel officer shall determine which position to preempt. However, if the employee was in a trial service

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appointment in another class prior to the current trial service period, the personnel officer may provide the employee the opportunity to complete the first interrupted trial service period.

(b) Reversion must be preceded by written notice at least one work day (eight hours), before the effective date.

(c) If the former position to which the employee has preemptive rights has been abolished and a vacant position in the class is not available, or if there is no class to which the reverted employee has preemptive rights, the affected employee shall be accorded such bumping rights and placement on layoff lists as would be provided in layoff from his/her former class.

~~((5))~~ (6) Reversion from trial service must be preceded by:

(a) Written notice detailing deficiencies in performance, which shall include the specific changes required; and

(b) A reasonable opportunity to overcome identified deficiencies.

~~((6))~~ (7) An employee who is reverted may appeal to the personnel appeals board regarding:

(a) Whether the employer complied with the requirements of subsection ~~((5)(a) and (b))~~ (6) of this section; and

(b) Whether the claimed deficiencies existed at the time of reversion.

~~((7))~~ (8) In the event an employee is on leave without pay status and/or shared leave for more than ten work days during the trial service period, the completion date of the trial service period shall be extended by an amount of time equal to the period of leave without pay and/or shared leave.

~~((8))~~ (9) Successful completion of the trial service period shall result in permanent status in the class.

~~((9))~~ (10) Salary and periodic increment date shall be determined as follows:

(a) Upon promotional trial service appointment, the salary shall be established as provided in WAC 251-08-110; and the existing periodic increment date shall be eliminated and a new date established to be effective the date of completion of trial service;

(b) Upon trial service reversion the salary shall be established as provided in WAC 251-08-115~~((4))~~ and the former periodic increment date shall be reestablished;

(c) Upon trial service appointment to a class at the same salary level, the salary and periodic increment date shall remain unchanged.

WSR 99-13-117
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed June 16, 1999, 7:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-060.

Title of Rule: Dealer fee rules.

Purpose: Amend rule relating to license issuance fees.

Statutory Authority for Adoption: SB 5020, RCW 75.08.080.

Statute Being Implemented: RCW 77.32.050.

Summary: Sets license issuance fees that will be retained by dealers.

Reasons Supporting Proposal: Senate Bill 5020.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930, Implementation: Dave Brittell, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The minimum fee of \$2 is set for the issuance of a "standard recreational licensing document," which is the fishing license or the hunting license. The same fee is set for use of this document if more than one license is issued, or the fish and wildlife lands vehicle use permit, as the same level of work is required. A reduced fee of \$1 is set for issuance of the wearable shellfish license or tag, and 50 cents is set for the fee for tags, stamps, the Western Washington pheasant permit and the special hunt application, as the dealer involvement on these latter documents is minor. These fees will compensate license dealers for the work they do in issuing licenses.

Proposal Changes the Following Existing Rules: Changes and clarifies license issuance fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules are currently in effect for all small businesses that issue licenses, and make no change except increasing the amount the license dealers may retain for issuance of a standard recreational license document from one dollar to two dollars.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Shilo Inn, 707 Ocean Shores Boulevard N.W., Ocean Shores, WA, on August 6-7, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by June [July] 23, 1999, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501, fax (360) 902-2944 by August 4, 1999.

Date of Intended Adoption: August 7, 1999.

June 15, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

WAC 220-55-115 Recreational license dealer's fees.
~~((Dealer fees are defined as fees in excess of license fees.~~

~~((+))) License dealers may charge ((an agent fee of one dollar for the issuance of each license document and fifty cents for the issuance of each separate tag, permit, special~~

PROPOSED

hunting permit application, and the state migratory waterfowl stamp sold manually.

(2) License dealers with point of sale equipment may charge an agent fee of one dollar for each license transaction and fifty cents for each state migratory waterfowl stamp.

(3) License dealers must also collect transaction fees as calculated by the point of sale system. These transaction fees are two dollars and fifty cents for five or fewer licenses and license packages, and must be remitted to the department with the license fee remittance)) a license issuance fee as follows:

(1) Two dollars for the issuance of any of the following fishing licenses:

(a) A combination license.

(b) A saltwater license.

(c) A freshwater license.

(d) A temporary fishing license when issued in the form of a standard recreational fishing license document.

(e) A family fishing weekend license.

(f) A personal use shellfish and seaweed license when issued in the form of a standard recreational fishing license document.

(g) Notwithstanding the provisions of this subsection, if any two or more licenses are issued on the same standard recreational fishing license document, the license issuance fee for the document is two dollars.

(2) Two dollars for the issuance of any of the following hunting licenses:

(a) A big game combination license.

(b) A small game license.

(c) A three-consecutive day small game license.

(d) Notwithstanding the provisions of this subsection, if any two or more licenses are issued on the same standard recreational hunting license document, the license issuance fee for the document is two dollars.

(3) Two dollars for the issuance of a fish and wildlife lands vehicle use permit when issued separately from an annual freshwater, saltwater or combination fishing license, or separately from an annual small game hunting license, big game combination license, or trapping license. Notwithstanding the provisions of this subsection, if the fish and wildlife lands vehicle use permit is issued with any other license issued in the form of a standard recreational hunting or fishing license document, the license issuance fee for the document is two dollars.

(4) One dollar for the issuance of any of the following shellfish and seaweed licenses or tags:

(a) A personal use shellfish and seaweed license when issued in the form of a wearable license.

(b) A wearable shellfish tag issued with a combination fishing license.

(c) A wearable shellfish tag issued with a personal use shellfish and seaweed license when the license is issued in the form of a standard recreational fishing license document.

(d) A two-day personal use shellfish and seaweed license.

(5) Fifty cents for the issuance of any of the following:

(a) A deer, elk, bear, cougar, mountain goat, mountain sheep, moose, or turkey transport tag.

(b) A temporary fishing license when issued as a stamp.

(c) A state of Washington migratory bird stamp.

(d) A Western Washington pheasant permit.

(e) An application for a special permit hunt.

WSR 99-13-118
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed June 16, 1999, 7:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-24-130.

Title of Rule: Removing set seasons for sea cucumbers.

Purpose: To reduce administrative burden and reduce confusion among sea cucumber fishers.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Sea cucumber seasons are currently in permanent regulation that opens seasons in specified areas on specified dates. For the last few years, due to federal court decisions and annual negotiations with tribal managers regarding sea cucumber harvest plans, the seasons have been canceled by emergency order. After the negotiations are concluded the sea cucumber seasons are then set by emergency order. This action will remove the seasons set by permanent regulation.

Reasons Supporting Proposal: Reduces administrative burden of filing emergency orders by 50%, reduces confusion among affected constituents and reduces notification burden associated with communication of emergency changes.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 600 Capitol Way North, Olympia, WA, 99501-1091 [98501-1091], (360) 902-2826, Implementation: Bruce Crawford, 600 Capitol Way North, Olympia, WA, 99501-1091 [98501-1091], (360) 902-2325; and Enforcement: Bruce Bjork, 600 Capitol Way North, Olympia, WA, 99501-1091 [98501-1091], (360) 902-2373.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Changes sea cucumber seasons from permanent rule to emergency rule to reduce administrative burden from multiple emergency order changes due to conflicting time lines of comanagement harvest plan negotiations. The anticipated effects are a 50% reduction in emergency rules related to sea cucumber season settings and reduced confusion amongst the sea cucumber fishers over permanent rules and emergency changes.

Proposal Changes the Following Existing Rules: Changes sea cucumber seasons set by permanent rule to seasons set by emergency rule.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

PROPOSED

Small Business Economic Impact Statement

1. Description of the reporting, recordkeeping, and other compliance requirements of the proposed rule. None required.

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements. None required.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs. None, all sea cucumber fishers receive notice of season changes on department maintained hotline.

4. Will compliance with the rule cause businesses to lose sales or revenue? No.

5. Cost of compliance for the 10% of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

- Cost per employee;
 - Per hour of labor; or
 - Cost per one hundred dollars of sales.
- No compliance costs necessary.

6. Steps taken by the agency to reduce the costs of the rule on small businesses or reasonable justification for not doing so. No costs imposed on small businesses so no steps taken.

7. A description of how the agency will involve small businesses in the development of the rule. A public hearing will be held and notification of the proposed change is communicated to an industry advisory board.

8. A list of industries that will be required to comply with the rule. The commercial sea cucumber dive fishers.

A copy of the statement may be obtained by writing to Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2826, fax (360) 902-2944.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are not hydraulic rules.

Hearing Location: Shilo Inn, 707 Ocean Shores Boulevard N.W., Ocean Shores, WA, on August 6-7, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 23, 1999, TDD (360) 902-2207, or (360) 902-2226.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2944 by August 4, 1999.

Date of Intended Adoption: August 7, 1999.

June 15, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

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

(1) Sea cucumber districts:

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

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

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

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

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

(b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

(2) Sea cucumber areas and seasons:

~~((a) District 1 open May 1 through October 31, 1991.~~

~~(b) District 2 open May 1 through October 31, 1992.~~

~~(c) District 3 open May 1 through October 31, 1993, except:~~

~~(i) Marine Fish-Shellfish Management and Catch Reporting Area 26C is closed to the harvest of sea cucumbers after August 31, 1993.~~

~~(ii) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island are closed to the harvest of sea cucumbers at all times.~~

~~(iii) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis are closed to the harvest of sea cucumbers at all times.~~

~~(d) District 4 open May 1 through October 31, 1994.~~

~~(e) Other areas and times as authorized by permit issued by the director.~~

~~(f) During the seasons provided for in this subsection, harvest is restricted to Monday through Wednesday May 1 through May 14, Monday through Thursday May 15 through June 30, and Monday through Friday thereafter. Divers may not take sea cucumbers from one half hour before official sunset to official sunrise or 6:00 a.m., whichever is later.))~~
Sea cucumber areas and seasons will be set by emergency rule.

(3) Shellfish diver gear:

PROPOSED

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

(d) Licensing: A sea cucumber dive fishery license is the license required to operate the gear provided for in this section.

(4) Trawl gear:

It is unlawful to fish for or possess sea cucumbers taken with trawl gear.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a recreational rule and not subject to chapter 19.85 RCW.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulic rules.

Hearing Location: Shilo Inn, 707 Ocean Shores Boulevard N.W., Ocean Shores, WA, on August 6-7, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 23, 1999, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2944, by August 4, 1999.

Date of Intended Adoption: August 7, 1999.

June 15, 1999

Evan Jacoby

Rules Coordinator

PROPOSED

**WSR 99-13-119
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed June 16, 1999, 7:30 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-08-079.

Title of Rule: Dungeness crab catch record cards.

Purpose: To require recreational Dungeness crab fishers to possess, fill and return a catch record card designed to provide harvest data for management of the crab resource.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Requires a Dungeness crab catch record card for persons fishing for and possessing recreationally caught Dungeness crab.

Reasons Supporting Proposal: To meet the legislative intent of ESSB 5508.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2826, Implementation: Bruce Crawford, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2325; and Enforcement: Bruce Bjork, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2373.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will require recreational fishers for Dungeness crab to possess, fill out and turn in to the department a catch record card for the purpose of creating accurate crab catch estimates to manage the crab fishery to meet allocation objectives.

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

WAC 220-56-175 (~~Salmon, sturgeon, and halibut~~)
Catch record cards. It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) In order to fish for or possess for personal use any crab, anadromous salmon, Columbia River, Grays Harbor, or Willapa Bay sturgeon (including sturgeon taken from any tributary), ~~((or))~~ halibut taken from Catch Record Card Areas 5 through 13 or steelhead, a fisherman must obtain and have in his possession the appropriate catch record card (also referred to as punch card in chapter 75.25 RCW) as described in WAC ~~((220-69-237, 220-69-238, and 220-69-239))~~ 220-69-236 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, when obtaining a catch record card shall completely, accurately, and legibly complete all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card.

(3) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, the angler shall enter in ink in the appropriate space the place, date of catch, species (catch type), ~~((and,))~~ for sturgeon, length and, for halibut, vessel type.

(4) Immediately upon retaining a Dungeness crab, the fisher must enter in ink in the appropriate space the place and date of catch, and enter a tally mark for each Dungeness crab retained from each catch record card area fished.

(5) Every person possessing a catch record card shall by ~~((January 31))~~ April 30 of the year following the year printed on the card return such card to the department of ~~((fisheries))~~ fish and wildlife.

~~((5))~~ (6) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized fisheries department employee, exhibit said card to such officer or employee for inspection.

~~((6))~~ (7) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

WAC 220-69-238

Description of sturgeon catch record and required information.

WAC 220-69-239

Description of halibut catch record card and required information.

NEW SECTION

WAC 220-69-236 Description of catch record cards and required information. (1) The department shall prepare and distribute catch record cards for the following:

- (a) Anadromous salmon (salmon);
- (b) Dungeness crab;
- (c) Halibut taken from catch record card areas 5 through 13;
- (d) Steelhead;
- (e) Sturgeon taken from the Columbia River, Grays Harbor, and Willapa Bay (including sturgeon taken from any tributary).

(2) Each catch record card shall contain space for the following information, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card:

- (a) Name of fisher;
 - (b) Home address;
 - (c) City, state, and zip code;
 - (d) Date of issuance.
- (3) Each halibut, salmon, steelhead, and sturgeon catch record card shall contain space for the following information, which shall be completed immediately upon catching a fish to be retained:

- (a) Month of catch;
- (b) Day of catch;
- (c) Catch record card area, river code, or stream: Location of catch.

(4) Each salmon and sturgeon catch record card shall contain space for a species code, which shall be completed immediately upon catching a fish to be retained.

(5) Each halibut catch record card shall contain space for designating the type of vessel from which the halibut was taken, either charter (c) or personal/kicker (k) boat, which shall be completed immediately upon catching a fish to be retained.

(6) Each sturgeon catch record card shall contain space for the length of fish, which shall be completed immediately upon catching a fish to be retained.

(7) Each Dungeness crab catch record card shall contain space for the following information which shall be completed upon retaining the first Dungeness crab for each catch record card area fished:

- (a) Month of catch;
- (b) Date of catch;
- (c) Catch record card area, and the following information, which shall be recorded immediately upon retaining a Dungeness crab: Tally mark for each crab retained.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-69-237

Description of sport salmon catch record and required information.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-157

Steelhead catch record card.

WSR 99-13-120
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 16, 1999, 7:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-059.

Title of Rule: Commercial fishing rules for forage fish.

Purpose: Close commercial fishing for forage fish with dip bag net fishing gear.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Closes commercial fishing with dip bag net gear in Areas 20A, 20B, 21A, and 21B.

Reasons Supporting Proposal: Dip net fishery in these areas would adversely affect herring population.

Name of Agency Personnel Responsible for Drafting: Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2826, Implementation: Bruce Crawford, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2325; and Enforcement: Bruce Bjork, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2373.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule will close the commercial fishery for forage fish with dip bag gear in Areas 20A, 20B, 21A, and 21B. Benefits will be protection of declining herring populations in the affected areas.

Proposal Changes the Following Existing Rules: The dip bag fishery is currently open during certain months in the affected area. The proposed change will close the dip bag fishery at all times.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the reporting, recordkeeping, and other compliance requirements of the proposed rule. None.

PROPOSED

2. Kinds of professional services that a small business is likely to need in order to comply with such requirements. None.

3. Costs of compliance for businesses, including costs of equipment, supplies, labor, and increased administrative costs. None.

4. Will compliance with the rule cause businesses to lose sales or revenue? No. There has been no fishing with dip bag net gear in the affected areas for 5 years.

5. Cost of compliance for the 10% of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

a. Cost per employee - 0.

b. Cost per hour of labor - N/A.

c. Cost per one hundred dollars of sales - N/A.

6. Steps taken by the agency to reduce the costs of the rule on small businesses or reasonable justification for not doing so. The areas proposed for closure were minimized to the smallest amount needed for conservation.

7. A description of how the agency will involve small businesses in the development of the rule. A letter informing them of proposed action, a meeting in July, and a public hearing on August 6-7.

8. A list of industries that will be required to comply with the rule. Nontreaty herring fishers.

A copy of the statement may be obtained by writing to Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2930, fax (360) 902-2944.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulic rules.

Hearing Location: Shilo Inn, 707 Ocean Shores Boulevard N.W., Ocean Shores, WA, on August 6-7, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 23, 1999, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2944 by August 4, 1999.

Date of Intended Adoption: August 7, 1999.

June 15, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

WAC 220-49-020 Herring and anchovy—Seasons—Lawful gear—Purposes. It shall be unlawful to take, fish for or possess for commercial purposes herring or anchovy in Puget Sound except during lawful seasons, with lawful gear and for such purposes as provided for hereinafter in each respective fishing area:

(1) Area 20A.

(a) Closed September 1 through May 31 to all commercial fishing gear except for the spawn on kelp fishery as provided for in WAC 220-49-063.

(b) Closed June 1 through August 31 to all commercial fishing (~~gear except dip bag net~~).

(2) It is unlawful to use purse seine gear in any Puget Sound area except 23A, 23B, 23C, 23D, and 29. Areas 23A, 23B, 23C, 23D and 29 are open to purse seine gear the entire year.

(3) All other Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas - Open entire year with drag seine, lampara, and dip bag net for human consumption or bait only except for closures set out in subsections (4), (5) and (6) of this section.

(4) The following areas are closed the entire year to all gear (~~except dip bag net gear~~):

~~((a))~~ Areas 20B, 21A, 21B, 22A (~~and~~), 22B, 25A, and 25E.

~~((b) Swinomish Channel—Waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin:))~~

(5) The following areas are closed from January 16 through April 15, except to dip bag net gear:

(a) Area ~~(s 22B,))~~ 24A except for a year round closure in Swinomish Channel in those waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin, 24B, and 24D.

(b) Waters of Area 25C south of a line from Tala Point to Foulweather Bluff.

(c) Area 25D.

(d) Waters of Area 26B west of a line from Point Monroe to Point Jefferson.

(e) Area 26C.

(f) Waters of Area 26D north of a line from Neill Point to Piner Point.

(g) Waters of Area 27A north of a line from South Point to Lofall and contiguous waters of 27A south of a line projected true east from Hazel Point including all waters of Dabob and Quilcene Bays.

(h) Waters of Area 27B north of a line from Triton Head to Tekiu Point.

(i) Waters of Area 27C east of a line from Ayers Point to Union.

(j) Waters of Area 28A west of a line projected true north-south through Treble Point on Anderson Island, including Henderson Inlet.

(k) Waters of Area 28B west of a line projected true north from Penrose Point, including Mayo Cove and Von Geldern Cove.

(l) All contiguous waters of Area 28D north and east of a line projected from Dofflemeyer Point through Cooper Point to landfall on the west shore of Eld Inlet, including Totten Inlet, Hammersley Inlet and Oakland Bay.

~~((6) The following areas are closed the entire year to all gear: Areas 25A and 25E.))~~

WSR 99-13-125
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 16, 1999, 12:22 p.m.]

The Department of Social and Health Services is withdrawing WAC 388-550-5110 and 388-550-5120 filed under WSR 99-09-087 on April 21, 1999. These rules were proposed in anticipation that the legislature would pass certain budget bills to fund new hospital disproportionate share programs. The necessary budget bills were not passed, so there is no need for the proposed rules.

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-13-126
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed June 16, 1999, 12:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-22-095 [98-22-095].

Title of Rule: WAC 388-424-0005 The effect of citizenship and alien status on eligibility, 388-424-0010 Alien status, and 388-505-0210 Children's medical eligibility.

Purpose: Implement a state-funded CN scope of care medical program for alien children who arrived in the United States after August 22, 1996, and whose family income is less than 200% FPL.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08A.100.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, P.O. Box 45535, Olympia, WA 98504, (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 Purpose above.

Proposal Changes the Following Existing Rules: Adds a category of children eligible for a medical program.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses. It concerns eligibility policy and affects only staff and clients.

RCW 34.05.328 applies to this rule adoption. The rules fit the definition of a significant legislative rule but DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328(5).

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on July 27, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by July 16, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by July 27, 1999.

Date of Intended Adoption: July 28, 1999.

June 8, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-505-0210 Children's medical eligibility.

(1) A child under the age of one is eligible for ~~((newborn))~~ categorically needy (CN) ~~((children's))~~ medical assistance when:

(a) The child's mother~~((;))~~ was eligible for and receiving services under a medical ~~((assistanee))~~ program at the time of the child's birth; and

(b) ~~((The child is under one year of age; and~~
~~((;)))~~ The child remains with the mother and resides in the state.

(2) Children under the age of nineteen are eligible for CN medical assistance when they meet the requirements for:

(a) ~~((Meet the requirements of:~~

~~((;)))~~ Citizenship or immigrant status as described in ~~((chapter 388-424))~~ WAC 388-424-0010 (1) or (2); ~~((and~~

~~((;)))~~ (b) State residence as described in chapter 388-468 WAC; ~~((and~~

~~((;)))~~ (c) A social security number as described in chapter 388-476 WAC; and

~~((;)))~~ ~~((b))~~ Meet (d) Family income levels as described in WAC 388-478-0075~~((; or~~

~~((;)))~~ ~~((c))~~ Meet the requirements of WAC 388-505-0220 or 388-523-0100 (1)(c).

(3) Children under the age of nineteen who first physically entered the U.S. after August 21, 1996 are eligible for state-funded CN scope of care when they meet the:

(a) Eligibility requirements in subsection (2)(b), (c), and (d) of this section; and

(b) Qualified alien requirements for lawful permanent residents, parolees, or conditional entrants as described in WAC 388-424-0005 (3)(a), (c), or (f).

(4) Children under the age of twenty-one are eligible for CN medical assistance when they:

(a) Meet citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c) of this section; ~~((and))~~

(b) Meet income levels described in WAC 388-478-0075 when income is counted according to WAC 388-408-0055 (1)(c); and

(c) Meet one of the following criteria:

(i) Reside in ~~((an institution-))~~ a medical hospital, intermediate care facility for mentally retarded (ICF/MR), or

PROPOSED

nursing ~~((home))~~ facility ~~((as described in WAC 388-513-1320))~~ for more than thirty days; ~~((or~~

~~((d)))~~ (ii) Reside in a psychiatric or chemical dependency facility ~~((as described in WAC 388-513-1320.~~

~~(4) Children under the age of twenty one are eligible for CN if they:~~

~~((a)))~~;

~~((iii))~~ Are in foster care; or

~~((b)))~~ (iv) Receive subsidized adoption services.

~~(5) Children ~~((, regardless of age,))~~ are eligible for CN medical assistance if they ~~((are eligible to))~~;~~

~~(a) Receive Supplemental Security Income (SSI) payments based upon their own disability ~~((~~~~

~~((6) Children are eligible for CN medical if they))~~; or

~~(b) Received SSI payments for August 1996, and except for the passage of amendments to federal disability definitions, would be eligible for SSI payments.~~

~~((7)))~~ (6) Children under the age of nineteen are eligible for Medically Needy (MN) medical assistance when they:

(a) Meet citizenship, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c); and

(b) Have income at or above the income levels described in WAC ~~((388-478-0070))~~ 388-478-0075 (1)(c).

~~((8)))~~ (7) A child is eligible for SSI-related MN when the child:

(a) ~~((They meet))~~ Meets the conditions in subsection ~~((7))~~ (6)(a) ~~((and (b)))~~; ~~((and))~~

(b) ~~((They meet))~~ Meets the blind and/or disability criteria of the federal SSI program; and

(c) Has family income above the level described in WAC 388-478-0070(1).

~~((9)))~~ (8) Nonimmigrant children, including visitors or students from another country and undocumented children, under the age of eighteen are eligible for the state-funded children's health program, if ~~((they))~~:

(a) ~~((Are))~~ The department determines the child ineligible for any CN or MN scope of care medical program; ~~((and))~~

(b) ~~((Meet))~~ They meet family income levels described in WAC 388-478-0075 (1)(a); and

(c) They meet state residency requirements as described in chapter 388-468 WAC.

~~((10)))~~ (9) There are no resource standards for ~~((either))~~ the children's CN or the state-funded CN scope of care, or the children's health programs.

~~((11) The requirements in WAC 388-503-0505 (3)(c) and (d) do not apply to persons applying for the state-funded children's health program.~~

~~((12)))~~ (10) Children may also be eligible for:

(a) Temporary assistance for needy families (TANF) or state ~~((funded))~~ family assistance (SFA)-related medical as described in WAC 388-505-0220; and

(b) TANF/SFA-related medical extensions as described in WAC 388-523-0100.

~~((13)))~~ (11) Except for a client described in subsection ~~((3))~~ (4)(c) and (d), an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for CN or MN medical coverage.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-424-0005 The effect of citizenship and alien status ~~((General))~~ on eligibility ~~((conditions))~~ for benefits. (1) To receive benefits ~~((for))~~ under the temporary assistance for needy families (TANF), Medicaid, ~~((and))~~ or federal food stamp ~~((s))~~ program, a person ~~((s))~~ must be a:

(a) U.S. citizen ~~((s))~~;

(b) U.S. national ~~((s))~~; or

(c) Qualified alien ~~((s))~~ who meets the ~~((additional conditions))~~ eligibility requirements described in:

(i) WAC 388-424-0010 ~~((relative to))~~ for TANF and Medicaid ~~((and))~~; or

(ii) WAC 388-424-0020 ~~((relative to))~~ for federal food stamps.

(2) To receive benefits under the general assistance and ADATSA programs, a person must be a:

(a) U.S. citizen;

(b) U.S. national;

(c) Qualified alien; or

(d) A PRUCOL alien as defined in subsection (4) of this section.

(3) Qualified aliens are ~~((aliens))~~ any of the following:

(a) ~~((Who are))~~ Lawful permanent residents under the Immigration and Nationality Act (INA);

(b) ~~((Who are))~~ Those granted asylum under section 208 of the INA;

(c) ~~((Who are))~~ Those paroled ~~((into the U.S.))~~ under section 212 (d)(5) of the INA for at least one year;

(d) ~~((Who are))~~ Those admitted ~~((to the U.S.))~~ as refugees under section 207 of the INA;

(e) ~~((Who are))~~ Aliens whose deportation ~~((removal))~~ is being withheld under section 241(b)(3) or 243(h) of the INA;

(f) ~~((Who are))~~ Those granted conditional entry ~~((into the U.S.))~~ under section 203 (a)(7) of the INA as in effect prior to April 1, 1980;

(g) ~~((Who are))~~ Cuban and Haitian entrants as defined in section (501)(e) of the Refugee Education Assistance Act of 1980; or

(h) ~~((Who are))~~ Amerasians admitted under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 ~~((as amended))~~; or

(i) Aliens who are victims of domestic violence, or whose children are victims of domestic violence, when:

(i) The domestic violence ~~((is))~~ was committed in the U.S. by the alien's spouse, parent, or a member of the spouse or parent's family residing in the same household as the alien; ~~((and))~~

(ii) ~~((In situations where the children are the victims of domestic violence,))~~ The alien did not actively participate in the violence against his or her own children when the children are the victims of domestic violence; ~~((and))~~

(iii) The alien no longer resides with the person who committed the domestic violence; ~~((and))~~

(iv) There is a substantial connection between the domestic violence and the need for public assistance benefits; and

(v) The alien has an application with the Immigration and Naturalization Service (INS) either approved or pending for:

(A) Legal immigration status under section((s)) 204 (a)(1)(A)((~~iii~~)(~~i~~ and)) or section 204 (a)((~~+~~)(A)(iv)) (1)(B) of the INA; or

(B) ~~((Suspension of deportation of))~~ Cancellation of removal under section 244 (a)(3) of the INA as in effect prior to April 1, 1997 or section 240A (b)(2) of the INA.

~~((3) To receive benefits under the general assistance and ADATSA programs, persons must be:~~

- ~~(a) U.S. citizens;~~
- ~~(b) U.S. nationals;~~
- ~~(c) Qualified aliens; or~~
- ~~(d) Aliens permanently residing in the U.S. under color of law (PRUCOL);)~~

(4) ~~((Aliens are considered to be PRUCOL when))~~ A PRUCOL alien must meet all of the following conditions:

- ~~(a) They are permanently residing in the U.S.((~~-who~~));~~
- ~~(b) They do not meet ((the)) a definition of a qualified alien as defined in subsection ((2)) (3) of this section((~~-and~~);~~
- ~~(c) The INS knows they are residing in the U.S.((~~-~~)); and~~
- ~~((b)) (d) The INS is not likely to enforce their departure.~~

(5) During the application process, one of the following persons must indicate on the application for benefits whether each household member is a U.S. citizen or qualified alien:

- (a) An adult applicant in the household; or
- (b) The person applying for benefits when there are no adults in the household.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-424-0010 Alien status—Eligibility requirements for the temporary assistance for needy families program and medical benefits. (1) Qualified aliens as described in WAC 388-424-0005(3) who were residing in the U.S. before August 22, 1996 ~~((ean))~~ may receive temporary assistance for needy families (TANF) and Medicaid benefits.

(2) Qualified aliens who first physically ~~((enter))~~ entered the U.S. ~~((on or))~~ after August ~~((22))~~ 21, 1996 cannot receive TANF or Medicaid for five years after their date of entry, unless they are any of the following:

- ~~(a) ((Refugees admitted to the U.S. under section 207 of the Immigration and Nationality Act (INA);~~
- ~~(b) Aliens granted asylum under section 208 of the INA;~~
- ~~(c) Aliens whose deportation is being withheld under section 243(h) of the INA;~~
- ~~(d) Cuban and Haitian entrants as defined in section (501)(e) of the Refugee Education Assistance Act of 1980;~~
- ~~(e) Amerasians admitted to the U.S. under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as amended); or~~
- ~~(f)) An alien as described under WAC 388-424-0005~~

- ~~(3)(b), (d), (e), (g), or (h); or~~
- ~~(b) A lawful permanent resident((s who are)) who is:~~
 - (i) On active duty in the U.S. military, other than active duty for training;

- (ii) An honorably discharged U.S. veteran((s));
- (iii) A veteran((s)) of the military forces of the Philippines who served prior to July 1, 1946, as described in Title 38, section 107 of the U.S. code;

(iv) A Hmong ~~((and))~~ or Highland Lao veteran((s)) who served in the military on behalf of the U.S. Government during the Vietnam conflict; or

(v) The spouse or unmarried dependent ~~((children))~~ child(ren) of a person described in subsection((s)) (2)(f)(i) through (iv) of this section.

(3) ~~((An))~~ Aliens who ~~((would))~~ qualify for Medicaid benefits, but ~~((is))~~ are determined ineligible ~~((solely))~~ because of ~~((his or her))~~ alien status or requirements for a Social Security Number, ~~((ean))~~ may receive medical coverage as follows:

- (a) State-funded categorically needy (CN) scope of care for:
 - (i) Pregnant women, as specified in WAC 388-462-0015;
 - (ii) Children~~((, through the children's health program,))~~ as specified in WAC 388-505-0210;
 - (iii) Persons eligible for or receiving cash assistance under the state family assistance program (SFA); ~~((and))~~ or
 - (iv) ~~((Persons))~~ Aliens who were lawfully residing in the U.S. ~~((prior to))~~ before August 22, 1996, including PRUCOL aliens as defined in WAC 388-424-0005(4).
- (b) Alien emergency medical services as specified in WAC 388-438-0110.
- (4) ~~((A person's))~~ Alien status ~~((is not used to determine))~~ does not effect eligibility for the medically indigent program ~~((as))~~ described in WAC 388-438-0100.

WSR 99-13-127
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Professional Athletics)
 [Filed June 17, 1999, 11:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-083.

Title of Rule: WAC 36-12-364 Rule exceptions boxing bouts and 36-14-100 Rule exceptions.

Purpose: To allow the department to expand and clarify safety standards to be used for professional boxing world title and martial arts contests.

Statutory Authority for Adoption: RCW 67.08.017(1).

Statute Being Implemented: RCW 67.08.017(9).

Summary: Rules define safety standards for professional boxing world title and martial arts contests.

Reasons Supporting Proposal: The professional athletics program regulates boxing including martial arts events. Professional safety rules for these professions are developed by national and international sanctioning bodies. This proposed rule allows the Department of Licensing to use the rules developed by these sanctioning bodies for title boxing contests or any martial arts contest.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael Schneider, 405 Black Lake Boulevard, Building #2, Olympia, WA 98502, (360) 753-3713.

Name of Proponent: Washington State Boxing Officials Association and United Full Contact Federation, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Set standards of professional practice for boxing and martial arts contests. World boxing contests and martial arts contests can be held in this state using national and international standards for safety.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There are fewer than fifty businesses affected by this rule.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: Department of Licensing, 405 Black Lake Boulevard, Building #2, BPD Conference Room #1, Olympia, WA, on July 29, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Jim Hood by July 19, 1999, TDD (360) 586-2788, or (360) 753-3713.

Submit Written Comments to: Michael Schneider, Program Manager, Department of Licensing, Professional Athletics Section, P.O. Box 9649, Olympia, WA 98507-9649, fax (360) 644-2550, by July 23, 1999.

Date of Intended Adoption: August 13, 1999.

June 17, 1999

Michael W. Schneider
Manager

NEW SECTION

WAC 36-12-364 Rule exceptions boxing bouts. If boxing events involving world championships are held, in addition to chapter 36-12 WAC, the department may use the *Unified Championship Rules* as adopted by the World Boxing Association, World Boxing Council, World Boxing Organization, and International Boxing Federation, or rules established by any other professional boxing organization that afford a similar level of safety to participants. A copy of any world championship boxing rules used by the department may be obtained through correspondence to the Washington state department of licensing.

Chapter 36-14 WAC

Professional Martial Arts

NEW SECTION

WAC 36-14-100 Rule exceptions. If a martial arts, kickboxing, muay thai or pankration event is held, in addition to chapter 36-12 WAC, the department may use the *Rules of Competition* as established by the United Full Contact Federation, or rules of competition established by any other professional martial arts organization that afford a similar level of

safety to participants. A copy on any *Rules of Competition* used by the department may be obtained through correspondence to the Washington state department of licensing.

WSR 99-13-133

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed June 17, 1999, 4:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-021.

Title of Rule: WAC 204-32-020 Standards for signal lamps, 204-32-040 Mounting and activation of warning devices, and 204-32-060 Warning sign.

Purpose: To change the reference from "commission on equipment" to the agency name "Washington State Patrol." To exempt buses that do not stop upon the roadway to load or discharge passengers from the requirements of this section.

Statutory Authority for Adoption: RCW 46.37.005, 46.37.290.

Summary: To exempt buses that do not discharge or load passengers on the roadway from the requirement to have warning signs and lamps mounted on the bus.

Reasons Supporting Proposal: The requirement is an unnecessary expense for bus owners.

Name of Agency Personnel Responsible for Drafting: Ms. Carol Morton, P.O. Box 42635, (360) 412-8934; Implementation and Enforcement: Captain Colleen McIntyre, P.O. Box 42614, (360) 753-0302.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Rule: Standard for signal lamps, the change would state the agency by name that is responsible for equipment approval.

Rule: Mounting and activation of warning devices, the change would make an exception to the rule and save bus owners (i.e. churches) money without affecting safety.

Proposal Changes the Following Existing Rules: The "commission on equipment" is a unit within the state patrol. The change will identify the agency in charge of equipment changes to assist the public.

An exception has been added to two rules: "Buses that do not stop upon the roadway to load or discharge passengers are exempt from the requirements of this section."

No small business economic impact statement has been prepared under chapter 19.85 RCW. The change benefits churches and bus owners, less expense involved.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Patrol Commercial Conference Room, Ground Floor, General Administration Building, 210 11th S.W., Olympia, WA 98504, on August 3, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Cami Feek by August 2, 1999, TDD (360) 753-0678.

PROPOSED

Submit Written Comments to: Ms. Carol Morton, P.O. Box 42635, Olympia, WA 98504, fax (360) 493-9090, by July 27, 1999.

Date of Intended Adoption: August 4, 1999.

June 10, 1999

R. M. Leichner

for Annette M. Sandberg
Chief

AMENDATORY SECTION (Amending Order 7001, filed 6/10/70, effective 7/15/70)

WAC 204-32-020 Standards for signal lamps. The signal lamps required on private carrier buses shall be constructed in conformance with the society of automotive engineers standard for "school bus red signal lamps," in effect at the time of manufacture of such lamps. All lamps used as signal lamps shall be of a type approved by the (~~state commission on equipment~~) Washington state patrol.

AMENDATORY SECTION (Amending Order 7001, filed 6/10/70, effective 7/15/70)

WAC 204-32-040 Mounting and activation of warning devices. (1) Stop signal

(a) The stop signal shall be mounted on the left side of the bus just below the window line and adjacent to the driver of the bus.

(b) The stop signal shall be hinged at the front edge of the sign.

(c) The stop signal shall be manually controlled by the driver of the bus and shall be so constructed as to lock in an extended position perpendicular to the side of the bus and to also lock in the closed position parallel to the side of the bus.

(2) Signal lamps

(a) The signal lamps shall be mounted on the front and rear of the bus, above the windows, as high and as widely spaced laterally as practicable but in no case shall the lateral spacing of these lamps be less than 40 inches.

(b) Signal lamps shall be mounted so that the vision of front signals to the front and rear signals to the rear shall be unobstructed by any part of the vehicle from 5 degrees above to 10 degrees below the horizontal and from 30 degrees to the right to 30 degrees to the left of the center line of the bus.

(c) The switch which activates the signal lamps shall be actuated by movement of the stop signal to the extended position.

(d) There shall be no switch between the signal lamps and the switch which activates these lamps when the stop signal is extended.

(e) There shall be a flashing red indicator lamp on the instrument panel of the vehicle which will indicate to the driver that the signal lamps are operating.

(f) The signal lamps shall operate through a flasher unit which will cause the front signal lamps to flash alternately and the rear signal lamps to flash alternately at a rate no slower than 60 nor faster than 120 times per minute. The "on" period of the flasher shall be long enough to permit the bulb filament to come up to a full brightness.

(g) Signal lamps shall be aimed 2 inches below level at 25 feet and straight ahead. An aiming tolerance of from 3 inches up to 7 inches down and 10 inches right or left will be allowed.

EXCEPTION: Buses that do not stop upon the roadway to load or discharge passengers are exempt from the requirements of this section.

AMENDATORY SECTION (Amending Order 7001, filed 6/10/70, effective 7/15/70)

WAC 204-32-060 Warning sign. Every private carrier bus shall be equipped with a sign on the rear of the bus which shall bear the words "**unlawful to pass bus when red lights flash.**" The sign shall be 16 inches vertically and 32 inches horizontally. The sign shall have a background of silver retrodirective-reflex reflective sheeting. The lettering shall all be size 3 inch B. Line one shall have the letters "**unlawful to**" in black. Line two shall have the letters "**pass bus when**" in black. Line three shall have the letters "**red lights flash**" in red.

EXCEPTION: Buses that do not stop upon the roadway to load or discharge passengers are exempt from the requirements of this section.

WSR 99-13-134

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed June 17, 1999, 4:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-048.

Title of Rule: WAC 204-96-010 Vehicle impounds.

Purpose: To make agency rules as described in chapter 46.113 RCW and RCW 46.55.120.

Statutory Authority for Adoption: RCW 46.55.113, 46.55.120.

Summary: RCW 46.55.113 requires an agency rule to make impounding DUI and suspended drivers' vehicles mandatory in the agency. RCW 46.55.120 requires an agency rule to allow for hardship cases when impounding a suspended drivers' vehicle.

Reasons Supporting Proposal: Session Laws of 1997.

Name of Agency Personnel Responsible for Drafting: Ms. Kymm Cox, Assistant Attorney General, P.O. Box 40100, (360) 753-2579; Implementation and Enforcement: Commander Jim LaMunyon, P.O. Box 42600, (360) 586-2340.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To enforce the legislative intent - impoundment of DUI and suspended drivers' vehicles. This should impact repeat offenders by taking more of them off the highways.

Proposal Changes the Following Existing Rules: It changes the "may" impound a DUI, suspended drivers' vehicle to "shall." The change allows for hardship cases involving suspended drivers' spouses.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The new law should assist business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Patrol Commercial Vehicle Conference Room, Ground Floor, General Administration Building, 210 11th S.W., Olympia, WA 98504, on August 3, 1999, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Cami Feek by August 2, 1999, (360) 753-0678.

Submit Written Comments to: Lieutenant Glen Cramer, P.O. Box 42600, Olympia, WA 98504, fax (360) 586-1628, by July 28, 1999.

Date of Intended Adoption: August 4, 1999.

June 10, 1999

R. M. Leichner

for Annette M. Sandberg
Chief

Chapter 204-96 WAC

VEHICLE IMPOUNDS

NEW SECTION

WAC 204-96-010 Vehicle impounds. When a driver of a vehicle is arrested for a violation of:

- RCW 46.61.502
Driving under the influence,
- RCW 46.61.504
Physical control of vehicle under the influence,
- RCW 46.20.342
Driving while license suspended or revoked,
- RCW 46.20.420
Operation of motor vehicle under other license/permit prohibited while suspended or revoked,

the arresting officer shall cause the vehicle to be impounded.

If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle shall be impounded, but no suspended driver hold shall be placed on the vehicle. If the driver is also the registered owner then the vehicle shall be held until all outstanding penalties, fines, and forfeitures owed by him/her are satisfied. The driver/registered owner must present proof from a court of law that he/she has no outstanding penalties, fines, or forfeitures.

If the driver is arrested for a violation of RCW 46.20.342 (1)(c) (3rd degree suspended/revoked) and has any prior convictions for violations of RCW 46.20.342 in the past five years, the vehicle shall be held for thirty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree sus-

pended/revoked) and has no convictions for violations of RCW 46.20.342 in the past five years, the vehicle shall be held for thirty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) in the past five years, the vehicle shall be held for sixty days.

If the driver of the vehicle is arrested for a violation of RCW 46.20.342 (1)(a) or (b) (1st or 2nd degree suspended/revoked) and has been convicted of a violation of RCW 46.20.342 (1)(a) or (b) two or more times in the past five years, the vehicle shall be held for ninety days.

The release of all vehicles impounded under this WAC shall be governed by RCW 46.55.120. Commercially rented vehicles may be impounded, however no suspended driver holds shall be placed upon the vehicle. The rental company shall be notified by phone.

A vehicle may be released prior to the mandated hold period if the spouse of the arrested driver establishes economic or personal hardship with the district commander of the district in which the vehicle was impounded. In making a hardship determination, the district commander shall consider public safety factors, including the driver's criminal history and driving record. All hardship release requests shall be in writing. Any denial or approval of a hardship release shall be in writing and shall include factors considered by the district commander in reaching the decision.

WSR 99-13-135

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed June 17, 1999, 4:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-049.

Title of Rule: WAC 204-10-020 Lighting devices and 204-90-140 Electrical system requirements.

Purpose: To regulate headlamps according to federal motor vehicle safety standards (FMVSS).

Statutory Authority for Adoption: RCW 46.37.005, 46.37.320.

Summary: To allow slightly blue tinted headlamps that meet FMVSS and SAE standards.

Reasons Supporting Proposal: To meet a National Highway Traffic Safety Association (NHTSA) recommendation.

Name of Agency Personnel Responsible for Drafting: Ms. Carol Morton, P.O. Box 42635, (360) 412-8934; Implementation and Enforcement: Commander Jim LaMunyon, P.O. Box 42600, (360) 586-2340.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule regulates headlamps.

PROPOSED

The change updates the WAC to current practices and standards of safety set by FMVSS and SAE.

Proposal Changes the Following Existing Rules: It deletes the Canadian standard which no longer exist.

It allows slightly blue tinted headlamps which meet FMVSS standards and SAE.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The change allows newer headlamps which benefit business and consumers.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State Patrol Commercial Vehicle Conference Room, Ground Floor, General Administration Building, 210 11th S.W., Olympia, WA 98504, on August 3, 1999, at 10 a.m.

Assistance for Persons with Disabilities: Contact Cami Feek by August 2, 1999, (360) 753-0678.

Submit Written Comments to: Ms. Carol Morton, P.O. Box 42635, Olympia, WA 98504, fax (360) 493-9090.

Date of Intended Adoption: August 4, 1999.

June 10, 1999

R. M. Leichner

for Annette M. Sandberg

Chief

AMENDATORY SECTION (Amending WSR 98-19-040, filed 9/11/98, effective 10/12/98)

WAC 204-10-020 Lighting devices. Aftermarket neon lighting devices may not be used on motor vehicles while they are in motion on public roadways.

(1) Federal Motor Vehicle Safety Standard (FMVSS) 108 ~~((is))~~ and Society of Automotive Engineers (SAE) J 578 are hereby adopted by reference as the standards for the following aftermarket lighting devices:

(a) Headlamps ~~((shall be white only) (SAE J578))~~

(b) Taillamps

(c) Stoplamps

(d) License plate lamps

(e) Turn signal lamps

(f) Side marker lamps

(g) Intermediate side marker lamps

(h) Backup lamps

(i) Identification lamps

(j) Clearance lamps

(k) Parking lamps

(l) Reflex reflectors

(m) Intermediate reflex reflectors

(n) Intermediate side reflex reflectors

(o) Intermediate side marker reflectors

(p) Turn signal operating units

(q) Turn signal flashers

(r) Vehicular hazard warning signal operating units

(s) Vehicular hazard warning signal flashers

~~((2) Canadian Standards Association Standard D106.2 is hereby adopted by reference as the standard for the following lighting devices:~~

~~(a) Aftermarket headlamps (quartz halogen nonsealed beam shall be white only).~~

~~(i) Motorcycle headlamps may comply with either Federal Motor Vehicle Safety Standard 108 or Canadian Standard D106.2.~~

~~(b) Fog lamps. Fog lamps may comply with either Standard D106.2 or SAE Standard J583 as set forth in subsection (3)(a) of this section.~~

~~(3))~~ (2) Society of Automotive Engineers standards are hereby adopted by reference as the standard for the following lighting devices:

(a) Fog lamps (SAE J583), aftermarket fog lamps shall be white to amber only

(b) Fog tail lamps (SAE J1319)

(c) Auxiliary driving lamps (SAE J581), shall be white only and are not intended to be used alone or with the lower beam of a standard headlamp system

(d) Auxiliary low beam lamps (or auxiliary passing lamps) (SAE J582)

(e) Spot lamps (SAE J591)

(f) Cornering lamps (SAE J852)

(g) Supplemental high-mounted stop and rear turn signal lamps (SAE J1957 and J2068)

(h) Side turn signal lamps (SAE J914)

(i) 360 degree emergency warning lamps (SAE J845)

(j) Flashing warning lamps for agricultural equipment (SAE J974)

(k) Flashing warning lamps for authorized emergency, maintenance, and service vehicles (SAE J595)

(l) Flashing warning lamp for industrial equipment (SAE J96)

(m) Warning lamp alternating flashers (J1054)

(n) Green lamp for use on volunteer fireman's private vehicle (SAE J595) - flashing warning lamps for authorized emergency, maintenance, and service vehicles.

(i) Color of the lens shall be green as that color is described in SAE Standard J578 (Color specifications for electric signal lighting devices) rather than red or amber as specified in SAE J595.

(o) Side cowl, fender, or running board courtesy lamps (SAE J575)

~~((4))~~ (3) Standards promulgated by the commission on equipment for the following lighting devices shall be as set forth in the Washington Administrative Code chapters as indicated:

(a) Deceleration alert lamp system (chapter 204-62 WAC)

(b) Headlamp modulator (chapter 204-78 WAC)

(c) Headlamp flashing system (chapter 204-80 WAC)

(d) School bus warning lamps (chapter 204-74 WAC)

(e) Additional hazard strobe lamp. Municipal transit vehicles (as defined in RCW 46.04.355) may be equipped with a single additional hazard strobe lamp. Such lamps must meet the Class I requirements of SAE Standard J1318

(i) A clear lens strobe lamp, less than eight inches in height, may be mounted on the centerline of the roof in the rear one-half of the bus

(ii) The hazard strobe lamp will be activated by a switch independent of all other lamp switches. The hazard strobe lamp switch shall be plainly labeled and have a pilot lamp that shall indicate when the lamp is in operation

(iii) The use of a hazard strobe lamp is permitted only when the bus is occupied with passengers and one or more of the following conditions exist:

(A) The bus is in motion in inclement, sight obscuring conditions, including, but not limited to rain, fog, snow, and smoke;

(B) There is a need to improve the visibility of the bus when stopping, standing, or starting onto a highway or there is limited visibility caused by geographic hazards, such as winding roadways, hills, trees, etc.

The strobe lamp shall not be activated solely because of darkness.

AMENDATORY SECTION (Amending WSR 98-04-052, filed 1/30/98, effective 3/2/98)

WAC 204-90-140 Electrical system requirements.

NOTE: The lamps on special motor vehicles shall comply with standards contained in chapter 204-72 WAC.

(1) Dimmer switch: The headlamp circuit shall be equipped with a driver-controlled high and low beam selector switch unless the vehicle is equipped with single beam headlamps.

(2) Hazard warning switch: A Type II special motor vehicle shall be equipped with a hazard warning switch causing all turn signal lamps to flash simultaneously.

(3) Headlamp switch: The headlamp switch shall activate the headlamps, tail lamps, license plate lamp, and when required, marker lamps simultaneously.

(4) Headlamp system: Aftermarket headlamps shall ~~((be white only))~~ comply with Federal Motor Vehicle Safety Standard (FMVSS) 108 and Society of Automotive Engineer (SAE) J578. A special motor vehicle shall be equipped with two headlamp units or two pairs of headlamp units mounted at the same height, equidistant of each side of the vertical centerline, and as far apart as practical. Headlamp systems shall conform to the requirements of chapter 46.37 RCW. The headlamps shall be mounted on the front forward of the windshield in a plane through the longitudinal centerline of the vertical. The headlamps shall be mounted not less than 24 inches nor more than 54 inches (72 inches for trucks) above the road surface when measured to the headlamp center. Lamp sub-body(ies) shall be constructed with adequate adjustments to afford proper aiming of the headlamp(s) in compliance with chapter 204-72 WAC. Alternative headlamp systems shall comply with FMVSS 108.

(5) High beam indicator: An indicator shall be provided which indicates to the driver when the high beams of the headlamp system are energized. The indicator shall emit a light other than white plainly visible to the driver under normal driving conditions.

(6) Horn: A special motor vehicle shall be equipped with an operable horn capable of emitting sound audible under normal conditions from a distance of not less than 200 feet. No horn or other warning device shall emit an unreasonably loud or harsh sound or whistle nor shall a bell or siren be used as a warning device. The device used to actuate the horn shall be easily accessible to the driver when operating the vehicle.

(7) License plate lamp: At least one white lamp shall be provided at the rear license plate which clearly illuminates the license plate to a distance of 50 feet.

(8) A special motor vehicle, if equipped with an automatic transmission, shall be equipped with a safety switch that prevents the starter motor from being actuated except when the gear selector is in the neutral or park position.

(9) Parking lamps: Two white to yellow (amber) parking lamps, in compliance with FMVSS 108, shall be mounted on the front, one on each side and equidistant from the vertical centerline, at the same height, and as far apart as practical. The parking lamps shall be mounted not less than 15 inches nor more than 72 inches above the roadway. Type I vehicles not originally equipped with parking lamps are exempt from this requirement.

(10) Reflex reflectors: Two red Class A reflectors, in compliance with FMVSS 108, shall be mounted on the rear, symmetrically disposed about the vertical centerline. The reflex reflectors shall be mounted not less than 15 inches nor more than 72 inches above the roadway.

(11) Stop lamps: Two red stop lamps, in compliance with FMVSS 108, shall be mounted on the rear, one on each side equidistant from the vertical centerline of the vehicle, at the same height, and as far apart as practical. The stop lamps shall be mounted not less than 15 inches nor more than 72 inches above the roadway. Type I vehicles, which were originally equipped with only one stop lamp, need not be equipped with two lamps, providing the lamp is located in accordance with the original design configuration.

(12) Tail lamp system: Two red lamps, in compliance with FMVSS 108, shall be mounted on the rear, one on each side equidistant from the vertical centerline, at the same height, and as far apart as practical. The tail lamps shall be mounted not less than 15 inches nor more than 72 inches above the roadway. Type I vehicles, which were originally equipped with only one tail lamp, need not be equipped with two tail lamps providing the original lamp is located in accordance with the original design configuration.

(13) Turn signal lamps (combination lighting devices are acceptable.): Two Class A red or yellow (amber) turn signal lamps and two Class A yellow (amber) turn signal lamps, in compliance with FMVSS 108, shall be mounted as follows: At or near the front, one yellow (amber) lamp on each side equidistant from the vertical centerline, at the same height, and as far apart as practical. On the rear, one red or yellow (amber) lamp on each side equidistant from the vertical centerline, at the same height, and as far apart as practical. All turn signal lamps shall be mounted not less than 15 inches nor more than 83 inches above the roadway. Type I vehicles are exempt from turn signal requirements if not originally equipped.

(14) Turn signal switch: A special motor vehicle (if equipped with turn signals) shall be equipped with a switch controlled by the operator of the vehicle which shall cause the turn signal lamps to function. The switch shall be self-cancelling and capable of cancellation by a manually-operated control.

(15) Turn signal indicator: If the front signal lamp(s) are not readily visible to the driver, there shall be an illumination indicator to give the operator a clear, unmistakable indication

that the turn signal system is on. The illumination indicator shall consist of one or more bright lights flashing at the same frequency as the signal lamps, and it shall emit a light other than white.

(16) Aftermarket neon lighting devices may not be used on motor vehicles while they are in motion on public roadways.

WSR 99-13-136

PROPOSED RULES

DEPARTMENT OF LICENSING

(Board of Funeral Directors and Embalmers)

[Filed June 18, 1999, 10:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-016.

Title of Rule: Funeral director/embalmer fees.

Purpose: To amend WAC 308-48-800 to bring Board of Funeral Directors and Embalmers revenues into line with expenditures.

Statutory Authority for Adoption: RCW 18.39.181.

Statute Being Implemented: Chapter 18.39 RCW.

Summary: This amendment will allow the Board of Funeral Directors and Embalmers to raise its fees by 3.32% as allowed by statute in order to bring its revenues more closely into line with its expenditures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Donnellan, Department of Licensing, 405 Black Lake Boulevard, Olympia, (360) 586-4905.

Name of Proponent: Board of Funeral Directors and Embalmers, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-48-800 provides for application, renewal, and miscellaneous fees in connection with the licensing of the funeral profession. This amendment will provide a 3.32% increase in all fees as allowed under Initiative 601.

Proposal Changes the Following Existing Rules: Increases application and renewal fees by 3.32%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These fee increases are permitted by Initiative 601.

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing is exempt from this statute.

Hearing Location: Department of Licensing, Conference Room #1, 405 Black Lake Boulevard, Olympia, WA 98504, on July 29, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jon Donnellan, TDD (360) 586-2788, or (360) 586-4905.

Submit Written Comments to: Jon Donnellan, Administrator, Cemetery Board, P.O. Box 9012, Olympia, WA 98507-9012, (360) 586-4905, fax (360) 664-2550.

Date of Intended Adoption: July 29, 1999.

June 15, 1999

Jon Donnellan

Administrator

AMENDATORY SECTION (Amending WSR 98-21-056, filed 10/19/98, effective 11/19/98)

WAC 308-48-800 Funeral director/embalmer fees.
The following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Embalmer:	
State examination or reexamination	((\$150.00)) <u>\$154.98</u>
Renewal	((100.00)) <u>103.32</u>
Late renewal penalty	((50.00)) <u>51.66</u>
Duplicate	((15.00)) <u>15.50</u>
Certification	((25.00)) <u>25.83</u>
Embalmer apprentice:	
Apprentice application	((75.00)) <u>77.49</u>
Apprentice renewal	((45.00)) <u>46.49</u>
Duplicate	((15.00)) <u>15.50</u>
Certification	((25.00)) <u>25.83</u>
Funeral director:	
State examination or reexamination	((150.00)) <u>154.98</u>
Renewal	((100.00)) <u>103.32</u>
Late renewal penalty	((50.00)) <u>51.66</u>
Duplicate	((15.00)) <u>15.50</u>
Certification	((25.00)) <u>25.83</u>
Funeral director apprentice:	
Apprentice application	((75.00)) <u>77.49</u>
Apprentice renewal	((45.00)) <u>46.49</u>

PROPOSED

Title of Fee	Fee
Duplicate	((15.00)) <u>15.50</u>
Certification	((25.00)) <u>25.83</u>
Funeral establishment:	
Original application	((350.00)) <u>361.62</u>
Renewal	((300.00)) <u>309.96</u>
Branch registration and renewal	((250.00)) <u>258.30</u>
Preneed application	((200.00)) <u>206.64</u>
Preneed renewal:	
0-25 sales	((25.00)) <u>25.83</u>
26-99 sales	((100.00)) <u>103.32</u>
100 or more sales	((150.00)) <u>154.98</u>
Financial statement fee	((50.00)) <u>51.66</u>
Crematory endorsement registration	((100.00)) <u>103.32</u>
Crematory endorsement renewal	
((50.00 plus fifty)) <u>fifty-one dollars and sixty-six cents plus fifty-two cents per cremation performed during previous calendar year.</u>	

WSR 99-13-137
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Cemetery Board)
 [Filed June 18, 1999, 10:24 a.m.]

Original Notice.
 Preproposal statement of inquiry was filed as WSR 99-10-017.
 Title of Rule: Fees.
 Purpose: To amend WAC 98-70-010 to bring Cemetery Board revenues into line with expenditures.
 Statutory Authority for Adoption: RCW 68.05.105.
 Statute Being Implemented: Title 68 RCW.
 Summary: This amendment will allow the Cemetery Board to raise its application and renewal fees by 3.32% in 2000 as allowed by statute in order to bring its revenues more closely into line with its expenditures.
 Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jon Donnellan, Depart-

ment of Licensing, 405 Black Lake Boulevard, Olympia, (360) 586-4905.

Name of Proponent: Cemetery Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 98-70-010 provides for application and renewal fees for the certificate of authority to operate a cemetery, crematory license or endorsement, prearrangement sales license, exemption from prearrangement sales license, and the cremated remains disposition permit or endorsement. This amendment will provide a 3.32% increase in all fees as allowed under Initiative 601.

Proposal Changes the Following Existing Rules: Increases application and renewal fees by 3.32%.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These fee increases are permitted by Initiative 601.

RCW 34.05.328 does not apply to this rule adoption. Department of Licensing is exempt from this statute.

Hearing Location: Department of Licensing Conference Room #1, 405 Black Lake Boulevard, Olympia, WA 98504, on July 29, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jon Donnellan, TDD (360) 586-2788, or (360) 586-4905.

Submit Written Comments to: Jon Donnellan, Administrator, Cemetery Board, P.O. Box 9012, Olympia, WA 98507-9012, (360) 586-4905, fax (360) 664-2550.

Date of Intended Adoption: July 29, 1999.

June 15, 1999
 Jon Donnellan
 Administrator

AMENDATORY SECTION (Amending WSR 98-19-053, filed 9/15/98, effective 10/16/98)

WAC 98-70-010 Fees. The following fees shall be charged by the department of licensing:

Title of Fee	Fee
Certificate of authority	
Application	((\$270.87)) <u>\$279.86</u>
Renewal	((4.06)) <u>4.19</u>
Charge per each interment, entombment and inurnment during preceding calendar year	
Crematory license/endorsement	
Application	((108.35)) <u>111.95</u>
Renewal	

PROPOSED

~~((Fifty-four))~~ Fifty-five dollars and ~~((seventeen))~~ ninety-seven cents plus ~~((fifty-four))~~ fifty-six cents per cremation performed during the preceding calendar year

Prearrangement sales license

Application ~~((108.35))~~ 111.95
 Renewal ~~((54.17))~~ 55.97

Exemption from prearrangement sales license

Application ~~((54.17))~~ 55.97
 Renewal ~~((27.09))~~ 28.00

Cremated remains disposition permit or endorsement

Application ~~((54.17))~~ 55.97
 Renewal ~~((27.09))~~ 28.00

WSR 99-13-142

**WITHDRAWAL OF PROPOSED RULES
 DEPARTMENT OF AGRICULTURE**

(Red Raspberry Commission)

[Filed June 18, 1999, 2:55 p.m.]

At its May 26 special meeting, the Washington Red Raspberry Commission's board of directors voted to withdraw the rule it was considering: Washington state red raspberry grade, labeling and handling standards (WSR 99-12-013).

Anne Seeger
 Executive Director

WSR 99-13-144

**PROPOSED RULES
 DEPARTMENT OF
 LABOR AND INDUSTRIES**

[Filed June 18, 1999, 4:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-07-014 on March 9, 1999.

Title of Rule: General occupational health standards, chapter 296-62 WAC, Part M (Confined spaces).

Purpose: Chapter 296-62 WAC, Part M, General occupational health standards (WAC 296-62-141 Confined spaces):

The Federal Register, Volume 63, No. 230, December 1, 1998, adopted an OSHA final rule to amend 29 C.F.R. 1910.146, Permit-Required Confined Spaces. It provides for:

- Enhanced employee participation in the employer's permit space program,
- Authorized permit space entrants or their authorized representatives with an opportunity to observe any testing or monitoring of permit spaces,
- Increases and clarifies the criteria employers must satisfy when preparing for the timely rescue of incapacitated permit space entrants, and
- Criteria for the selection and evaluation of a rescue team or rescue service.

As a result of this new rule, the department must adopt rules identical or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. The criteria in Appendix F in this proposal eliminates the need for WRD 12.45, Host Employers and Public Rescue Service for Confined Spaces Incidents.

The following is a summary of the federal-initiated amendments being proposed:

New section WAC 296-62-14100 Scope and application:

- Repealed as WAC 296-62-14500 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.

New section WAC 296-62-14110 Definitions:

- Repealed as WAC 296-62-14500 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.
- To enclose within quotation marks each word being defined.
- To change the word "aspirated" to "inhaled" within the definition for "engulfment" for clarity.
- To insert a "Note" that provides additional clarity to the definition for "entry."
- To clarify "general occupational health standards" by specifying "Parts F, G, H, and I in the definition for 'hazardous atmosphere.'"

New section WAC 296-62-14110 General requirements:

- Repealed as WAC 296-62-14503 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.
- To reformat and reorganize the section for clarity and easier understanding, for example, previous subsection (7), Alternate procedures for entering permit confined spaces, has been moved to subsection (2).
- To readjust wording to reflect changes in requirements and references.
- To add "nonpermit-required spaces" as a space the employer must evaluate.
- To add a subsection for "Alternate procedures for entering permit confined spaces."

PROPOSED

- To add a requirement to allow the "employee's authorized representative" to observe confined space evaluation, testing, and/or to receive the associated documentation.
- To add wording that specifies the employer must follow the requirements in WAC 296-62-14115 through WAC 296-62-14125 when deciding when employees can enter permit spaces.
- To add wording that the employer must train, under the provisions of WAC 296-62-14130, those employees conducting work applicable to this section.

New section WAC 296-62-14115 Permit-required confined space program:

- Repealed as WAC 296-62-14505 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.
- To add a requirement to allow the "employee's authorized representative" the opportunity to observe any monitoring or testing of permit spaces.
- To add a requirement that each authorized entrant or authorized representative has an opportunity to observe the pre-entry and any subsequent testing or monitoring of permit spaces.
- To add a requirement allowing the authorized entrant or authorized representative to request the employer to reevaluate the space because it is believed the initial evaluation may not have been adequate.
- To add a requirement that the employer must provide each authorized entrant or authorized representative with the results of any space testing.

New section WAC 296-62-14120 Permit system:

- Repealed as WAC 296-62-14507 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.
- To add a requirement that the completed permit be made available at the time of entry to all authorized representatives.

New section WAC 296-62-14125 Required entry permit information:

- Repealed as WAC 296-62-14509 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.

New section WAC 296-62-14130 Training:

- Repealed as WAC 296-62-14511 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.

New section WAC 296-62-14135 Duties of authorized entrants:

- Repealed as WAC 296-62-14513 to accommodate a change in numbering.

- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.

New section WAC 296-62-14140 Duties of attendants:

- Repealed as WAC 296-62-14515 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.

New section WAC 296-62-14145 Duties of entry supervisors:

- Repealed as WAC 296-62-14517 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.

New section WAC 296-62-14150 Rescue and emergency services:

- Repealed as WAC 296-62-14519 to accommodate a change in numbering.
- To change "shall" to "must" for clarity, deleted redundant language, also clear rule writing principles were included to clarify requirements.
- To add requirements that an employer can consider a rescue team or a rescue service to provide emergency services.
- To add requirements specifying what an employer must consider when evaluating and selecting a rescue team or rescue service.
- To clarify requirements specifying what an employer must provide to a rescue team and rescue service.
- To add a requirement during a nonentry rescue that a retrieval line must be attached at a point on the entrant which would present a profile small enough for their successful removal.

New section WAC 296-62-14155 Employee participation:

- To add requirements for employers to consult with affected employees and their authorized representatives on all aspects of the permit space program.
- To add requirements for employers to make all permit space information available to affected employees and their authorized representatives.

New section WAC 296-62-14170 Appendices to WAC 296-62-141:

- To identify appendices applicable to WAC 296-62-145.
- Repealed as WAC 296-62-14520 to accommodate a change in numbering.

New section WAC 296-62-14171 Appendix A—Permit-required confined space decision flow chart:

- To add three flow charts: Confined space identification, Permit space entry, Permit space management.
- Wording was in repealed WAC 296-62-14521.

New section WAC 296-62-14172 Appendix B—Procedures for atmospheric testing:

- To add procedures for evaluation of hazards of permit space and verification that acceptable entry conditions exist for entry into that space.
- Wording was in repealed WAC 296-62-14523.

New section WAC 296-62-14173 Appendix C—Examples of permit-required confined space programs:

- To add examples of programs for: Workplace-Sewer entry, Workplace-Meat and poultry rendering plants, and Workplace-Tank cars, trucks and trailers, dry bulk tanks and trailers, railroad tank cars, and similar portable tanks are fabricated or serviced.
- Wording was in repealed WAC 296-62-14525.

New section WAC 296-62-14174 Appendix D—Sample permits:

- To add sample permits as examples for employers.
- Wording was in repealed WAC 296-62-14527.

New section WAC 296-62-14175 Appendix E—Sewer system entry:

- To add procedures that consider the differences in sewer system entry from other confined spaces.
- Wording was in repealed WAC 296-62-14529.

New section WAC 296-62-14176 Appendix F—Rescue team or rescue service evaluation criteria:

- To insert guidance to employers in choosing an appropriate rescue service.
- Replaces WRD 12.45, Host Employers and Public Rescue Service for Confined Spaces Incidents.

Repealed section WAC 296-62-14520 Appendices applicable to WAC 296-62-145:

- To accommodate a change in numbering. Reinserted as new section WAC 296-62-14170.

Repealed section WAC 296-62-14521 Appendix A—Permit-required confined space decision flow chart:

- To accommodate a change in numbering. Reinserted as new section WAC 296-62-14171.

Repealed section WAC 296-62-14523 Appendix B—Procedures for atmospheric testing:

- To accommodate a change in numbering. Reinserted as new section WAC 296-62-14172.

Repealed section WAC 296-62-14525 Appendix C—Examples of permit-required confined space programs:

- To accommodate a change in numbering. Reinserted as new section WAC 296-62-14173.

Repealed section WAC 296-62-14527, Appendix D—Sample permits:

- To accommodate a change in numbering. Reinserted as new section WAC 296-62-14174.

Repealed section WAC 296-62-14529 Appendix E—Sewer system entry:

- To accommodate a change in numbering. Reinserted as new section WAC 296-62-14175.

Statutory Authority for Adoption: RCW 49.17.010 [49.17].040, and [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, 29 C.F.R. 1910.146, December 1, 1999 (Fed. Reg. 63, 66018 - 66040, December 1, 1998).

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 proposed changes to chapter 296-62 WAC, Part M, may exceed the minor impact threshold. However, in situations where a proposed rule adopts by reference, without material change, federal statutes or regulations, or where amendments are made to clarify the rule without changing its effect, the department is not required to conduct an SBEIS (RCW 19.85.025(2) referencing RCW 34.05.310 (4)(c) and (d) and RCW 19.85.061)). Therefore, an SBEIS is not required for the proposed changes to WAC 296-62-141.

RCW 34.05.328 applies to this rule adoption. Yes, but exempt. Even though the proposed rule has increased requirements for the employer it is adopting by reference, without material change, federal OSHA regulations. This exemption is outlined in RCW 34.05.328 (5)(b)(iii).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on July 28, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by July 21, 1999, at (360) 902-5484.

Submit Written Comments to: Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, by 5:00 p.m. on August 11, 1999. 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: October 29, 1999.

June 9, 1999

Gary Moore

Director

NEW SECTION

WAC 296-62-14100 Scope and application. (1) Scope. This part contains minimum requirements for practices and procedures to protect employees in all industries from the hazards of entry and/or work in permit-required confined spaces.

(2) Application. Part M (Permit-required confined spaces) applies to all employers under the jurisdiction of the Washington Industrial Safety and Health Act, chapter 49.17 RCW. Part M may be augmented by more protective requirements for confined spaces or areas in vertical standards. Certain industry specific vertical standards are more protective than chapter 296-62 WAC, Part M. Where there is a conflict between an industry specific vertical standard and chapter 296-62 WAC, Part M, the vertical standard will apply.

NEW SECTION

WAC 296-62-14105 Definitions. "Acceptable entry conditions" means the conditions that must exist in a permit

space to allow entry and to ensure that employees involved with a permit-required confined space entry can safely enter into and work within the space.

"Attendant" means an individual stationed outside one or more permit spaces who monitors the authorized entrants and who performs all attendant's duties assigned in the employer's permit space program.

"Authorized entrant" means an employee who is authorized by the employer to enter a permit space.

"Blanking or blinding" means the absolute closure of a pipe, line, or duct by the fastening of a solid plate (such as a spectacle blind or a skillet blind) that completely covers the bore. It is capable of withstanding the maximum pressure of the pipe, line, or duct with no leakage beyond the plate.

"Confined space" means a space that:

- Is large enough and so configured that an employee can bodily enter and perform assigned work; and
- Has limited or restricted means for entry or exit (For example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

- Is not designed for continuous employee occupancy.

"Double block and bleed" means the closure of a line, duct, or pipe by closing and locking or tagging two in-line valves and by opening and locking or tagging a drain or vent valve in the line between the two closed valves.

"Emergency" means any occurrence (including any failure of hazard control or monitoring equipment) or event internal or external to the permit space that could endanger entrants.

"Engulfment" means the surrounding and effective capture of a person by a liquid or finely divided (flowable) solid substance that can be inhaled to cause death by filling or plugging the respiratory system or that can exert enough force on the body to cause death by strangulation, constriction, or crushing.

"Entry" means the action by which a person passes through an opening into a permit-required confined space and includes work activities in that space. Entry is considered to have occurred as soon as any part of the entrant's body breaks the plane of an opening into the space.

Note: If the opening is large enough for the worker to fully enter the space a permit is required even for partial body entry. Permits are not required for partial body entry where the opening is not large enough for full entry, although other standards such as lockout-tagout or respiratory protection may apply.

"Entry permit (permit)" means the written or printed document that is provided by the employer to allow and control entry into a permit space and that contains the information specified in WAC 296-62-14509.

"Entry supervisor" means the person (such as the employer, crew leader, or crew chief) responsible for:

- Determining if acceptable entry conditions are present at a permit space where entry is planned;
- Authorizing entry and overseeing entry operations; and
- Terminating entry as required by this part.

Note: An entry supervisor also may serve as an attendant or as an authorized entrant, as long as that person is trained and equipped as required by this section for each role he or she

fills. Also, the duties of entry supervisor may be passed from one individual to another during the course of an entry operation.

"Hazardous atmosphere" means an atmosphere that may expose employees to the risk of death, incapacitation, impairment of ability to self-rescue (that is, escape unaided from a permit space), injury, or acute illness from one or more of the following causes:

- Flammable gas, vapor, or mist in excess of ten percent of its lower flammable limit (LFL);
- Airborne combustible dust at a concentration that meets or exceeds its LFL;

Note: This concentration may be approximated as a condition in which the dust obscures vision at a distance of five feet (1.52 m) or less.

- Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;

- Atmospheric concentration of any substance which may exceed a permissible exposure limit is published in chapter 296-62 WAC, Parts F, G, H, and I, general occupational health standards;

Note: An atmospheric concentration of any substance that is not capable of causing death, incapacitation, impairment of ability to self-rescue, injury, or acute illness due to its health effects is not covered by this provision.

- Any other atmospheric condition that is immediately dangerous to life or health.

Note: For air contaminants for which WISHA has not determined a dose or permissible exposure limit, other sources of information, such as material safety data sheets that comply with the Hazard Communication Standard, chapter 296-62 WAC, Part C, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.

"Hot work permit" means the employer's written authorization to perform operations (for example, riveting, welding, cutting, burning, and heating) capable of providing a source of ignition.

"Immediately dangerous to life or health (IDLH)" means any condition that:

- Poses an immediate or delayed threat to life; or
- Would cause irreversible adverse health effects; or
- Would interfere with an individual's ability to escape unaided from a permit space.

Note: Some materials - hydrogen fluoride gas and cadmium vapor, for example - may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse 12-72 hours after exposure. The victim "feels normal" from recovery from transient effects until collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health.

"Inerting" means the displacement of the atmosphere in a permit space by a noncombustible gas (such as nitrogen) to such an extent that the resulting atmosphere is noncombustible.

Note: This procedure produces an IDLH oxygen-deficient atmosphere.

"Isolation" means the process by which a permit space is removed from service and completely protected against the release of energy and material into the space by such means as: Blanking or blinding; misaligning or removing sections of lines, pipes, or ducts; a double block and bleed system; lockout or tagout of all sources of energy; or blocking or disconnecting all mechanical linkages.

"Line breaking" means the intentional opening of a pipe, line, or duct that is or has been carrying flammable, corrosive, or toxic material, an inert gas, or any fluid at a volume, pressure, or temperature capable of causing injury.

"Nonpermit confined space" means a confined space that does not contain any physical hazards or any actual or potential atmospheric hazards capable of causing death or serious physical harm.

"Oxygen deficient atmosphere" means an atmosphere containing less than 19.5 percent oxygen by volume.

"Oxygen enriched atmosphere" means an atmosphere containing more than 23.5 percent oxygen by volume.

"Permit-required confined space (permit space)" means a confined space that has one or more of the following characteristics:

- Contains or has a potential to contain a hazardous atmosphere;
- Contains a material that has the potential for engulfing an entrant;
- Has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or
- Contains any other recognized serious safety or health hazard.

"Permit-required confined space program (permit space program)" means the employer's overall program for:

- Controlling, and, where appropriate, for protecting employees from, permit space hazards; and
- Regulating employee entry into permit spaces.

"Permit system" means the employer's written procedure for:

- Preparing and issuing permits for entry; and
- Returning the permit space to service following termination of entry.

"Prohibited condition" means any condition in a permit space that is not allowed by the permit during the period when entry is authorized.

"Rescue service" means the personnel designated to rescue employees from permit spaces.

"Retrieval system" means the equipment (including a retrieval line, chest or full-body harness, wristlets, if appropriate, and a lifting device or anchor) used for nonentry rescue of persons from permit spaces.

"Testing" means the process by which the hazards that may confront entrants of a permit space are identified and evaluated. Testing includes specifying the tests that are to be performed in the permit space.

Note: Testing enables employers both to devise and implement adequate control measures for the protection of authorized entrants and to determine if acceptable entry conditions are present immediately prior to, and during, entry.

NEW SECTION

WAC 296-62-14110 General requirements. (1) The employer must evaluate the workplace to determine if any confined spaces are permit-required confined spaces or non-permit-required spaces. A confined space must be assumed to be a permit-required space unless it can be documented to be a nonpermit-confined space as required in subsection (2) of this section.

Note: Proper application of the decision flow chart in WAC 296-62-14171, Appendix A, would facilitate compliance with this requirement.

(2) A confined space may be classified as a nonpermit-confined space under the following conditions and procedures:

(a) If the confined space poses no actual or potential atmospheric hazards.

(b) If the confined space has no other recognized health or safety hazards including engulfment in solid or liquid material, electrical shock, or moving parts.

(c) If all hazards within the space are eliminated without entry into the space, the confined space may be classified as a nonpermit confined space for as long as the hazards remain eliminated.

(d) If it is necessary to enter the confined space to eliminate hazards, it must be assumed to be a permit space and such entry must be performed under WAC 296-62-14115 through 296-62-14150. If testing and inspection during that entry demonstrate that the hazards within the permit space have been eliminated, the permit space may be reclassified as a nonpermit confined space for as long as the hazards remain eliminated.

Note: Control of atmospheric hazards through forced air ventilation does not constitute elimination of the hazards. Subsections (6) and (7) of this section cover permit space entry where the employer can demonstrate that forced air ventilation alone will control all hazards in the space.

(e) The employer must:

(i) Document that all hazards in a permit space have been eliminated, through a certification that contains the date, the location of the space, and the signature of the person making the determination.

(ii) Make the certification available to each employee entering the space or to that employee's authorized representative.

(f) When there are changes in the use or configuration of a nonpermit confined space that might increase the hazards to entrants, the employer must reevaluate that space and, if necessary, reclassify it as a permit-required confined space.

(g) If hazards arise within a confined space that has been classified as a nonpermit space under this subsection, each employee in the space must exit the space. The employer must then reevaluate the space and determine whether it must be reclassified as a permit space, in accordance with chapter 296-62 WAC, Part M.

(3) If the workplace contains permit-required confined spaces, the employer must inform exposed employees, by posting danger signs or by any other equally effective means, of the existence and location of and the danger posed by the permit spaces.

PROPOSED

Note: A sign reading "DANGER-PERMIT-REQUIRED CONFINED SPACE, DO NOT ENTER" or using other similar language would satisfy the requirement for a sign.

(4) If the employer decides that its employees will not enter permit spaces, the employer must:

- Take effective measures to prevent its employees from entering the permit spaces; and
- Comply with subsections (1), (3), and (8) of this section.

(5) If the employer decides that its employees will enter permit spaces, the employer must:

(a) Follow the procedures outlined in WAC 296-62-14115 through 296-62-14155; and

(b) Develop and implement a written permit space program that complies with this part; and

(c) Make the written program available for inspection by employees and their authorized representatives.

(6) An employer may use the alternate entry procedures specified in subsection (7) of this section for entering a permit space under the following conditions:

(a) The employer can demonstrate that the only hazard posed by the permit space is an actual or potential hazardous atmosphere;

(b) The employer can demonstrate that continuous forced air ventilation alone is sufficient to maintain that permit space safe for entry;

(c) The employer develops or has monitoring and inspection data that supports the demonstrations required by (a) and (b) of this subsection;

(d) If an initial entry of the permit space is necessary to obtain the data required by (c) of this subsection, the entry must be performed in compliance with the permit required confined space procedures outlined in WAC 296-62-14115 through 296-62-14150; and

(e) The determinations and supporting data required by (a), (b), and (c) of this subsection are documented by the employer and are made available to each employee who enters the permit space or to that employee's authorized representative.

(7) Alternate procedures for entering permit confined spaces.

The following alternate procedures apply to entry into permit spaces that meet the conditions set forth in subsection (6) of this section.

(a) During permit space entry using these alternate procedures an employer need not comply with WAC 296-62-14115 through 296-62-14125 and WAC 296-62-14135 through 296-62-14150. Training and employee participation requirements of WAC 296-62-14130 and 296-62-14155 still apply.

(b) Any conditions making it unsafe to remove an entrance cover must be eliminated before the cover is removed.

(c) When entrance covers are removed, the opening must be promptly guarded by a railing, temporary cover, or other temporary barrier that will prevent an accidental fall through the opening and will protect each employee working in the confined space from objects falling into the space.

(d) Before an employee enters the confined space, the internal atmosphere must be tested, with a calibrated direct-reading instrument, for the following conditions in the order given below:

Any employee who enters the space, or that employee's authorized representative, must be provided an opportunity to observe the preentry testing required by this paragraph.

- (i) Oxygen content,
- (ii) Flammable gases and vapors, and
- (iii) Potential toxic air contaminants.

(e) There must be no hazardous atmosphere within the space whenever any employee is inside the space.

(f) Continuous forced air ventilation must be used, as follows:

(i) An employee must not enter the space until the forced air ventilation has eliminated any hazardous atmosphere;

(ii) The forced air ventilation must:

- Be directed to ventilate the immediate areas where an employee is or will be present within the space; and

- Continue until all employees have left the space;

(iii) The air supply for the forced air ventilation must be from a clean source and may not increase the hazards in the space.

(g) The atmosphere within the space must be periodically tested as necessary to ensure that the continuous forced air ventilation is preventing the accumulation of a hazardous atmosphere. Any employee who enters the space, or that employee's authorized representative, shall be provided with an opportunity to observe the periodic testing required by this subsection.

(h) If a hazardous atmosphere is detected during entry:

- (i) Each employee must leave the space immediately;

- (ii) The space must be evaluated to determine how the hazardous atmosphere developed; and

- (iii) Measures must be implemented to protect employees from the hazardous atmosphere before any subsequent entry takes place.

(i) The employer must verify that:

- The space is safe for entry; and

- The preentry measures required by (a), (b), and (c) of this subsection have been taken, through a written certification that contains the date, the location of the space, and the signature of the person providing the certification. The certification is made before entry and available to each employee entering the space.

(8) When an employer (host employer) arranges to have employees of another employer (contractor) perform work that involves permit space entry, the host employer must:

(a) Inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program meeting the requirements of this standard;

(b) Apprise the contractor of the elements, including the hazards identified and the host employer's experience with the space, that make the space a permit space;

(c) Apprise the contractor of any precautions or procedures that the host employer requires for the protection of employees in or near permit spaces where contractor personnel will be working;

(d) Coordinate entry operations with the contractor, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by WAC 296-62-14115(11); and

(e) Debrief the contractor at the conclusion of the entry operations regarding the permit space program followed and regarding any hazards confronted or created in permit spaces during entry operations.

(9) In addition to complying with the permit space requirements that apply to all employers, each contractor who is retained to perform permit space entry operations must:

(a) Obtain any available information regarding permit space hazards and entry operations from the host employer;

(b) Coordinate entry operations with the host employer, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by WAC 296-62-14115(11); and

(c) Inform the host employer either through a debriefing or during the entry operation of the permit space program that the contractor will follow and of any hazards confronted or created in permit spaces.

NEW SECTION

WAC 296-62-14115 Permit-required confined space program (permit space program). When the employer decides employees will enter a permit-required confined space, the employer must:

(1) Implement the measures necessary to prevent unauthorized entry;

(2) Identify and evaluate the hazards of permit spaces before employees enter them;

(3) Develop and implement the means, procedures, and practices necessary for safe permit space entry operations, including, but not limited to, the following:

(a) Specify acceptable entry conditions;

(b) Provide each authorized entrant or that employee's authorized representative with the opportunity to observe any monitoring or testing of permit spaces;

(c) Isolate the permit space;

(d) Purge, inert, flush, or ventilate the permit space as necessary to eliminate or control atmospheric hazards;

(e) Provide pedestrian, vehicle, or other barriers as necessary to protect entrants from external hazards; and

(f) Verify that conditions in the permit space are acceptable for entry throughout the duration of an authorized entry.

(4) Provide the following equipment (specified in (a) through (i) of this subsection) at no cost to employees, maintain that equipment properly, and ensure that employees use that equipment properly:

(a) Testing and monitoring equipment needed to comply with subsection (5) of this section;

(b) Ventilating equipment needed to obtain acceptable entry conditions;

(c) Communications equipment necessary for compliance with WAC 296-62-14135(3) and 296-62-14140(5);

(d) Personal protective equipment when feasible engineering and work practice controls will not adequately protect employees;

(e) Lighting equipment needed to enable employees to see well enough to work safely and to exit the space quickly in an emergency;

(f) Barriers and shields as required by subsection (3)(d) of this section;

(g) Equipment, such as ladders, needed for safe entry and exit by authorized entrants;

(h) Rescue and emergency equipment needed to comply with subsection (9) of this section, except when the equipment is provided by rescue services; and

(i) Any other equipment necessary for safe entry into and rescue from permit spaces.

(5) Evaluate permit space conditions as follows when entry operations are conducted:

(a) Test conditions in the permit space to determine if acceptable entry conditions exist before entry is authorized to begin;

(b) If isolation of the space is infeasible because the space is large or is part of a continuous system (such as a sewer), preentry testing shall be performed to the extent feasible before entry is authorized. If entry is authorized, entry conditions shall be continuously monitored in the areas where authorized entrants are working;

(c) Test or monitor the permit space as necessary to determine if acceptable entry conditions are being maintained during the course of entry operations;

(d) When testing for atmospheric hazards, test first for oxygen, then for combustible gases and vapors, and then for toxic gases and vapors;

(e) Provide each authorized entrant or that employee's authorized representative an opportunity to observe the preentry and any subsequent testing or monitoring of permit spaces;

(f) Reevaluate the permit space in the presence of any authorized entrant or that employee's authorized representative who requests that the employer conduct such reevaluation because the entrant or representative has reason to believe that the evaluation of that space may not have been adequate; and

(g) Immediately provide each authorized entrant or that employee's authorized representative with the results of any testing conducted in accord with (d) of this subsection.

Note: Atmospheric testing conducted in accordance with WAC 296-62-14172, Appendix B, would be considered as satisfying the requirements of this paragraph. For permit space operations in sewers, atmospheric testing conducted in accordance with Appendix B, as supplemented by WAC 296-62-14175, Appendix E, would be considered as satisfying the requirements of this subdivision.

(6) Provide at least one attendant outside the permit space into which entry is authorized during entry operations;

Note: Attendants may be assigned to monitor more than one permit space provided the duties described in WAC 296-62-14140 can be effectively performed for each permit space that is monitored. Likewise, attendants may be stationed at any location outside the permit space to be monitored as long as the duties described in WAC 296-62-14140 can be effectively performed for each permit space that is monitored. However, it is important to assess if it is appropriate or possible to have multiple permit spaces monitored by a single attendant or have attendants stationed at a location outside the monitored permit space. Due to the variability

of permit space work environments, the appropriateness of how a permit space is monitored should be tailored to the requirements of the permit space and the work being performed.

(7) If multiple spaces are to be monitored by a single attendant, include in the permit program the means and procedures to enable the attendant to respond to an emergency affecting one or more of the permit spaces being monitored without distraction from the attendant's responsibilities under WAC 296-62-14140;

(8) Designate the persons who are to have active roles (for example, authorized entrants, attendants, entry supervisors, or persons who test or monitor the atmosphere in a permit space) in entry operations, identify the duties of each such employee, and provide each such employee with the training required by WAC 296-62-14130;

(9) Develop and implement procedures for:

- Summoning rescue and emergency services;
- Rescuing entrants from permit spaces;
- Providing necessary emergency services to rescued employees; and
- Preventing unauthorized personnel from attempting a rescue;

(10) Develop and implement a system for the preparation, issuance, use, and cancellation of entry permits as required by this part;

(11) Develop and implement procedures to coordinate entry operations when employees of more than one employer are working simultaneously as authorized entrants in a permit space, so they do not endanger each other;

(12) Develop and implement procedures (such as closing off a permit space and canceling the permit) to end the entry after entry operations have been completed;

(13) Review entry operations when the employer has reason to believe that the measures taken under the permit space program may not protect employees and revise the program to correct deficiencies found to exist before subsequent entries are authorized; and

Note: Examples of circumstances requiring the review of the permit space program are: Any unauthorized entry of a permit space, the detection of a permit space hazard not covered by the permit, the detection of a condition prohibited by the permit, the occurrence of an injury or near-miss during entry, a change in the use or configuration of a permit space, and employee complaints about the effectiveness of the program.

(14) Review the permit space program, using the canceled permits retained under WAC 296-62-14120(6) within one year after each entry and revise the program as necessary, to ensure that employees participating in entry operations are protected from permit space hazards.

Note: Employers may perform a single annual review covering all entries performed during a twelve-month period. If no entry is performed during a twelve-month period, no review is necessary.

Note: WAC 296-62-14173, Appendix C, presents examples of permit space programs that are considered to comply with the requirements of WAC 296-62-14115.

NEW SECTION

WAC 296-62-14120 Permit system. (1) Before entry is authorized, the employer must document the completion of measures required by WAC 296-62-14115(3) by preparing an entry permit.

Note: WAC 296-62-14174, Appendix D, presents examples of permits whose elements are considered to comply with the requirements of this part.

(2) Before entry begins, the entry supervisor identified on the permit must sign the entry permit to authorize entry.

(3) The completed permit must be made available at the time of entry to all authorized entrants or their authorized representatives, by posting it at the entry portal or by any other equally effective means, so that the entrants can confirm that preentry preparations have been completed.

(4) The duration of the permit may not exceed the time required to complete the assigned task or job identified on the permit in accordance with WAC 296-62-14125(2).

(5) The entry supervisor must terminate entry and cancel the entry permit when:

- (a) The entry operations covered by the entry permit have been completed; or
- (b) A condition that is not allowed under the entry permit arises in or near the permit space.

(6) The employer must retain each canceled entry permit for at least one year to facilitate the review of the permit-required confined space program required by WAC 296-62-14115(14). Any problems encountered during an entry operation must be noted on the pertinent permit so that appropriate revisions to the permit space program can be made.

NEW SECTION

WAC 296-62-14125 Required entry permit information. The entry permit that documents compliance with this standard and authorizes entry to a permit space must identify the following:

- (1) The permit space to be entered;
- (2) The purpose of the entry;
- (3) The date and the authorized duration of the entry permit;
- (4) The authorized entrants within the permit space, by name or by such other means (for example, through the use of rosters or tracking systems) as will enable the attendant to determine quickly and accurately, for the duration of the permit, which authorized entrants are inside the permit space;

Note: This requirement may be met by inserting a reference on the entry permit as to the means used, such as a roster or tracking system, to keep track of the authorized entrants within the permit space.

(5) The personnel, by name, currently serving as attendants;

(6) The individual, by name, currently serving as entry supervisor, with a space for the signature or initials of the entry supervisor who originally authorized entry;

(7) The hazards of the permit space to be entered;

(8) The measures used to isolate the permit space and to eliminate or control permit space hazards before entry;

Note: Those measures can include the lockout or tagging of equipment and procedures for purging, inerting, ventilating, and flushing permit spaces.

(9) The acceptable entry conditions;

(10) The results of initial and periodic tests performed under WAC 296-62-14115(5), accompanied by the names or initials of the testers and by an indication of when the tests were performed;

(11) The rescue and emergency services that can be summoned and the means (such as the equipment to use and the numbers to call) for summoning those services;

(12) The communication procedures used by authorized entrants and attendants to maintain contact during the entry;

(13) Equipment, such as personal protective equipment, testing equipment, communications equipment, alarm systems, and rescue equipment, to be provided for compliance with this part;

(14) Any other necessary information, given the circumstances of the particular confined space, in order to ensure employee safety; and

(15) Any additional permits, such as for hot work, that have been issued to authorize work in the permit space.

Note: See WAC 296-62-14174, Appendix D, for a sample entry permit form.

NEW SECTION

WAC 296-62-14130 Training. (1) The employer must provide training so that all employees whose work is regulated by this section acquire the understanding, knowledge, and skills necessary for the safe performance of the duties assigned under this standard.

(2) Training must be provided to each affected employee in the following instances:

(a) Before the employee is first assigned duties under this section;

(b) Before there is a change in assigned duties;

(c) Whenever there is a change in permit space operations that presents a hazard about which an employee has not previously been trained;

(d) Whenever the employer has reason to believe that:

- There are deviations from the permit space entry procedures required by WAC 296-62-14115(3); or

- There are inadequacies in the employee's knowledge or use of these procedures.

(3) The training must establish employee proficiency in the duties required by this standard and must introduce new or revised procedures, as necessary, for compliance with this part.

(4) The employer must certify that the training required by subsections (1) through (3) of this section has been accomplished. The certification must:

- Contain each employee's name, the signatures or initials of the trainers, and the dates of training;

- Be available for inspection by employees and their authorized representatives.

NEW SECTION

WAC 296-62-14135 Duties of authorized entrants.

The employer must ensure that all authorized entrants:

(1) Know the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure;

(2) Properly use equipment as required by WAC 296-62-14115(4);

(3) Communicate with the attendant as necessary to enable the attendant to:

- Monitor entrant status; and

- Alert entrants of the need to evacuate the space as required by WAC 296-62-14140(6);

(4) Alert the attendant whenever:

(a) The entrant recognizes any warning sign or symptom of exposure to a dangerous situation; or

(b) The entrant detects a prohibited condition; and

(5) Exit from the permit space as quickly as possible whenever:

(a) An order to evacuate is given by the attendant or the entry supervisor;

(b) The entrant recognizes any warning sign or symptom of exposure to a dangerous situation;

(c) The entrant detects a prohibited condition; or

(d) An evacuation alarm is activated.

NEW SECTION

WAC 296-62-14140 Duties of attendants. The employer must ensure that each attendant:

(1) Knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure;

(2) Is aware of possible behavioral effects of hazard exposure in authorized entrants;

(3) Continuously maintains an accurate count of authorized entrants in the permit space and ensures that the means used to identify authorized entrants under WAC 296-62-14125(4) accurately identifies who is in the permit space;

(4) Remains outside the permit space during entry operations until relieved by another attendant;

Note: When the employer's permit entry program allows attendant entry for rescue, attendants may enter a permit space to attempt a rescue if they have been trained and equipped for rescue operations as required by WAC 296-62-14150(1) and if they have been relieved as required by subsection (4) of this section.

(5) Communicates with authorized entrants as necessary to monitor entrant status and to alert entrants of the need to evacuate the space under subsection (6) of this section;

(6) Monitors activities inside and outside the space to determine if it is safe for entrants to remain in the space and orders the authorized entrants to evacuate the permit space immediately under any of the following conditions:

(a) If the attendant detects a prohibited condition;

(b) If the attendant detects the behavioral effects of hazard exposure in an authorized entrant;

(c) If the attendant detects a situation outside the space that could endanger the authorized entrants; or

PROPOSED

tory protection while in work areas defined as IDLH atmospheres.

(d) If the attendant cannot effectively and safely perform all the duties required under this section;

(7) Summon rescue and other emergency services as soon as the attendant determines that authorized entrants may need assistance to escape from permit space hazards;

(8) Takes the following actions when unauthorized persons approach or enter a permit space while entry is underway:

(a) Warn the unauthorized persons that they must stay away from the permit space;

(b) Tell the unauthorized persons that they must exit immediately if they have entered the permit space; and

(c) Inform the authorized entrants and the entry supervisor if unauthorized persons have entered the permit space;

(9) Performs nonentry rescues as specified by the employer's rescue procedure; and

(10) Performs no other duties that might interfere with the attendant's primary duty to monitor and protect the authorized entrants.

(b) Evaluate a prospective rescue service's ability, in terms of proficiency with rescue-related tasks and equipment, to function appropriately while rescuing entrants from the particular permit space or types of permit spaces identified;

(c) Select a rescue team or service from those evaluated that:

(i) Has the capability to reach the victim(s) within a time frame that is appropriate for the permit space hazard(s) identified;

(ii) Is equipped for and proficient in performing the needed rescue services;

(d) Inform each rescue team or service of the hazards they may confront when called on to perform rescue at the site; and

(e) Provide the rescue team or service with access to all permit spaces from which rescue may be necessary so that the rescue service can develop appropriate rescue plans and practice rescue operations.

Note: Nonmandatory WAC 296-62-14176, Appendix F, contains examples of criteria which employers can use in evaluating prospective rescue services.

(2) An employer whose employees have been designated to provide permit space rescue and emergency services must take the following measures.

(a) Provide affected employees with the personal protective equipment (PPE) needed to conduct permit space rescues safely and train affected employees so they are proficient in the use of that PPE, at no cost to those employees;

(b) Train affected employees to perform assigned rescue duties. The employer must ensure that such employees successfully complete the training required to establish proficiency as an authorized entrant, as provided by WAC 296-62-14130 and 296-62-14135;

(c) Train affected employees in basic first-aid and cardiopulmonary resuscitation (CPR). The employer must ensure that at least one member of the rescue team or service holding a current certification in first-aid and CPR is available; and

(d) Ensure that affected employees practice making permit space rescues at least once every twelve months, by means of simulated rescue operations in which they remove dummies, manikins, or actual persons from the actual permit spaces or from representative permit spaces. These representative permit spaces must, with respect to opening size, configuration, and accessibility, simulate the types of permit spaces from which rescue is to be performed.

(3) Nonentry rescue. To facilitate nonentry rescue, retrieval systems or methods must be used whenever an authorized entrant enters a permit space, unless the retrieval equipment would increase the overall risk of entry or would not contribute to the rescue of the entrant. Retrieval systems must meet the following requirements.

(a) Each authorized entrant must use a chest or full-body harness, with a retrieval line attached at the center of the entrant's back near shoulder level, or above the entrant's head or at another point which the employer can establish presents

NEW SECTION

WAC 296-62-14145 Duties of entry supervisors. The employer must ensure that each entry supervisor:

(1) Knows the hazards that may be faced during entry, including information on the mode, signs or symptoms, and consequences of the exposure;

(2) Verifies, by checking:

- That the appropriate entries have been made on the permit;
- That all tests specified by the permit have been conducted; and

- That all procedures and equipment specified by the permit are in place before endorsing the permit and allowing entry to begin;

(3) Terminates the entry and cancels the permit as required by WAC 296-62-14120(5);

(4) Verifies that rescue services are available and that the means for summoning them are operable;

(5) Removes unauthorized individuals who enter or who attempt to enter the permit space during entry operations; and

(6) Determines, whenever responsibility for a permit space entry operation is transferred and at intervals dictated by the hazards and operations performed within the space, that entry operations remain consistent with terms of the entry permit and that acceptable entry conditions are maintained.

NEW SECTION

WAC 296-62-14150 Rescue and emergency services.

(1) An employer who designates rescue and emergency services, under WAC 296-62-14115(9) of this part must:

(a) Evaluate a prospective rescuer's ability to respond to a rescue summons in a timely manner, considering the hazard(s) identified;

Note: What will be considered timely will vary according to the specific hazards involved in each entry. For example, chapter 296-62 WAC, Part E, Respiratory protection, requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) wearing respira-

a profile small enough for the successful removal of the entrant.

(b) Wristlets may be used in lieu of the chest or full-body harness if the employer can demonstrate that the use of a chest or full-body harness is infeasible or creates a greater hazard and that the use of wristlets is the safest and most effective alternative.

(c) The other end of the retrieval line must be attached to a mechanical device or fixed point outside the permit space in such a manner that rescue can begin as soon as the rescuer becomes aware that rescue is necessary.

(d) A mechanical device must be available to retrieve personnel from vertical type permit spaces more than five feet (1.52 m) deep.

(4) If an injured entrant is exposed to a substance for which a material safety data sheet (MSDS) or other similar written information is required to be kept at the worksite, that MSDS or written information must be made available to the medical facility treating the exposed entrant.

NEW SECTION

WAC 296-62-14155 Employee participation. (1) Employers must consult with affected employees and their authorized representatives on the development and implementation of all aspects of the permit space program required by WAC 296-62-14503.

(2) Employers must make available to affected employees and their authorized representatives all information required to be developed by this part.

NEW SECTION

WAC 296-62-14170 Appendices to WAC 296-62-145—Permit-required confined spaces.

Note: Appendices A through F serve to provide information and nonmandatory guidelines to assist employers and employees in complying with the appropriate requirements of this part.

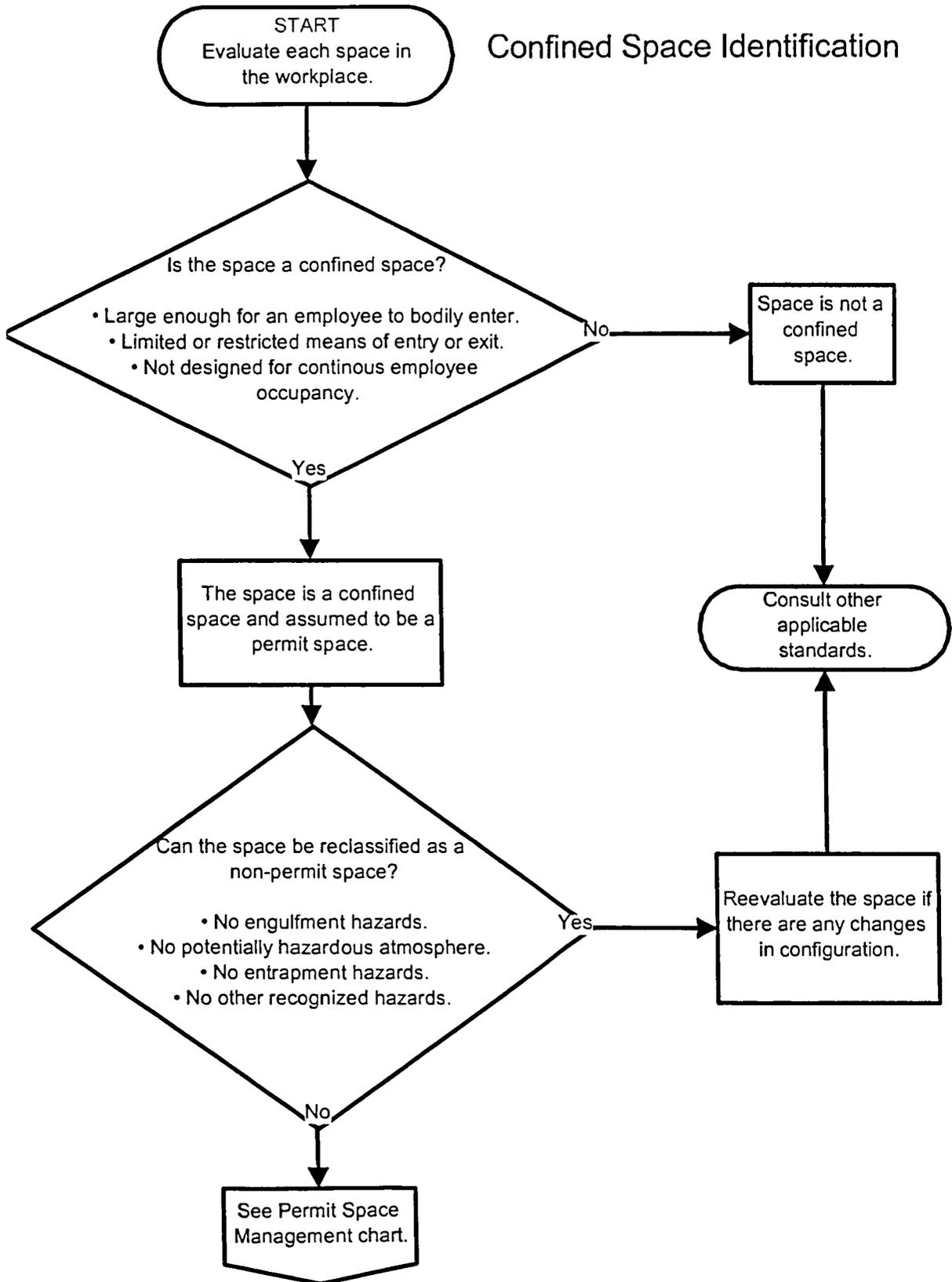
PROPOSED

NEW SECTION

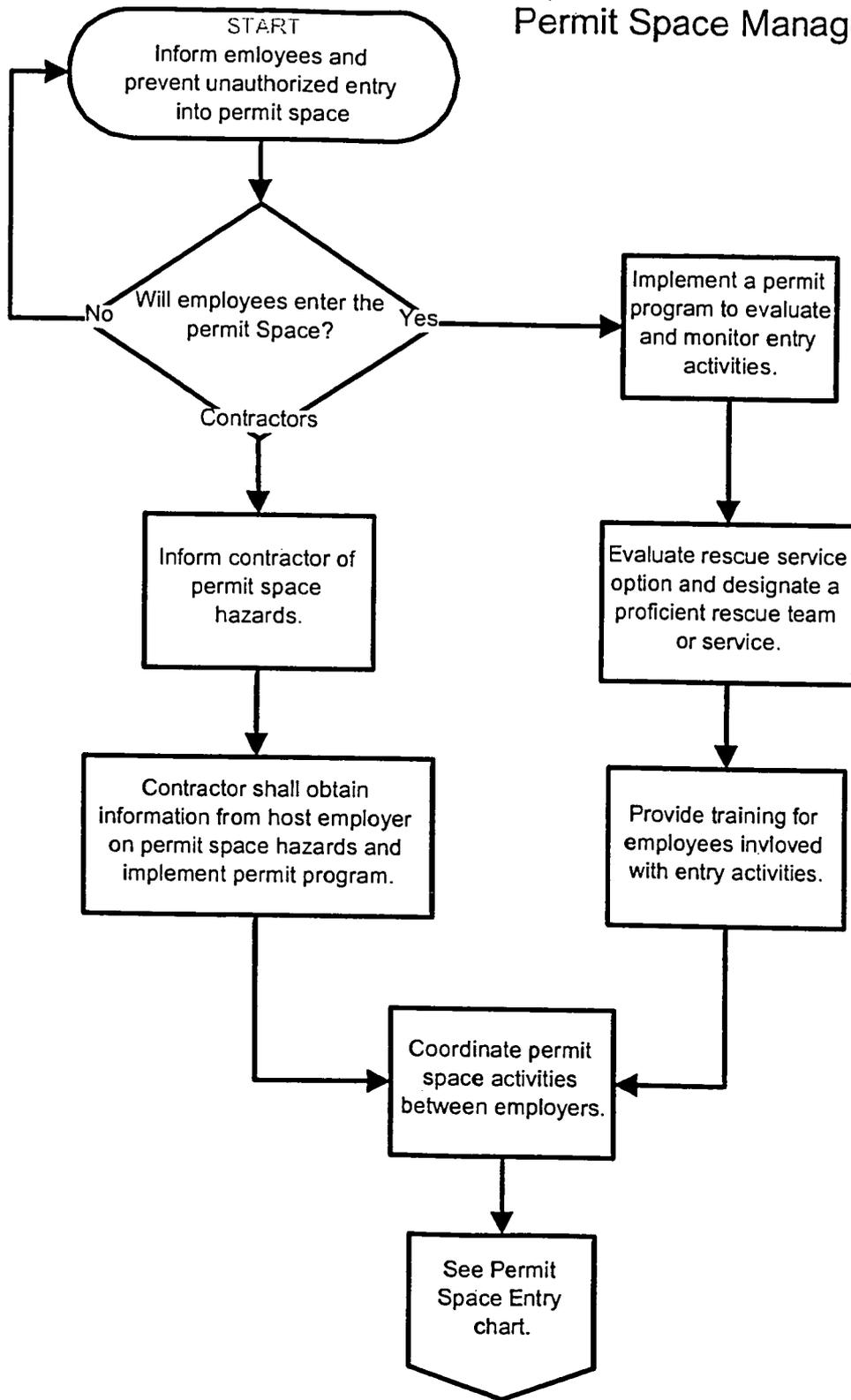
WAC 296-62-14171 Appendix A—Permit-required confined space decision flow chart.

PROPOSED

Confined Space Identification

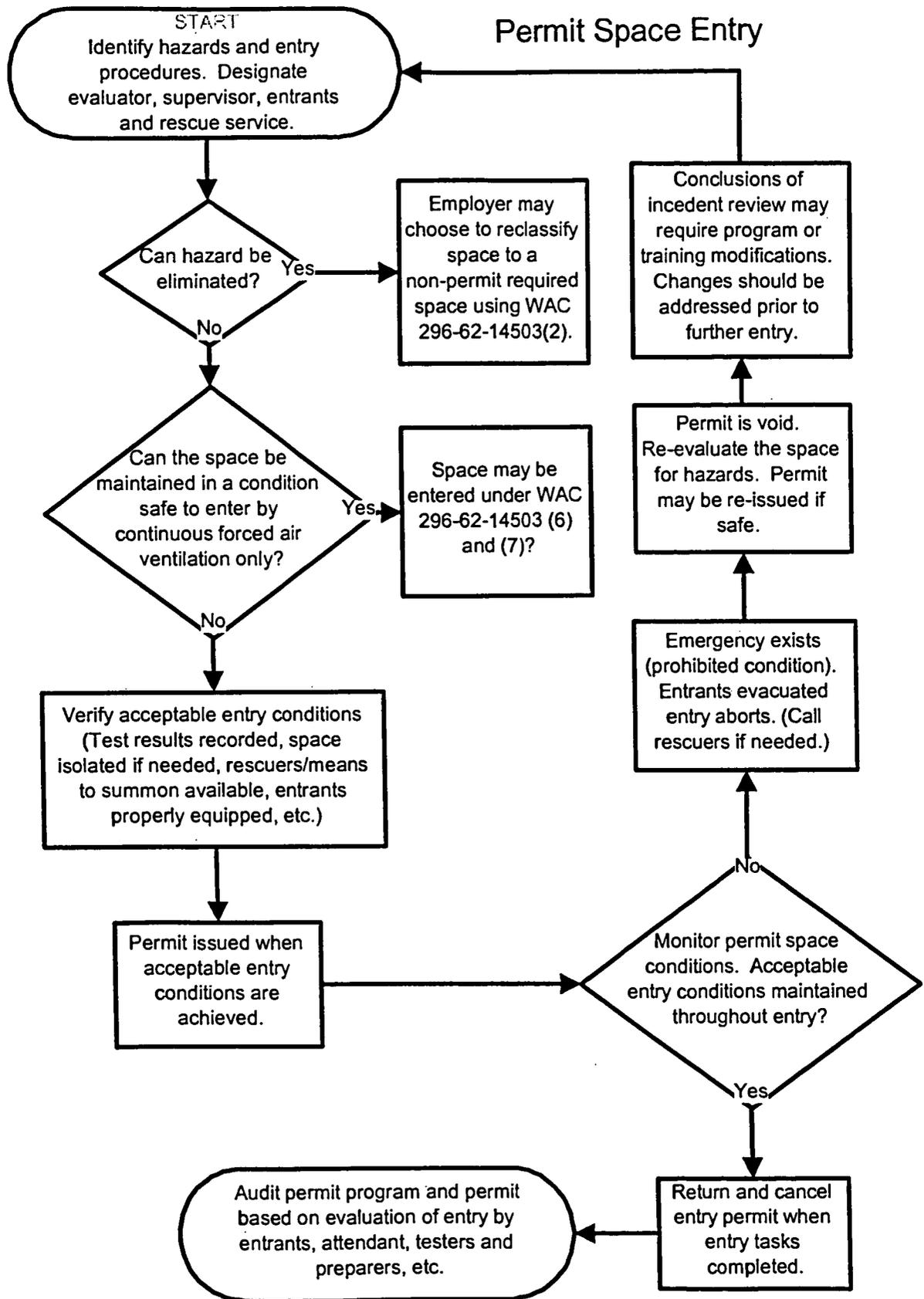


Permit Space Management



PROPOSED

PROPOSED



NEW SECTION

WAC 296-62-14172 Appendix B—Procedures for atmospheric testing. Atmospheric testing is required for two distinct purposes:

- Evaluation of the hazards of the permit space; and
- Verification that acceptable entry conditions into that space exist.

(1) Evaluation testing.

• The atmosphere of a confined space should be analyzed using equipment of sufficient sensitivity and specificity to identify and evaluate any hazardous atmospheres that may exist or arise, so that appropriate permit entry procedures can be developed and acceptable entry conditions stipulated for that space.

• Evaluation and interpretation of these data, and development of the entry procedure, should be done by, or reviewed by, a technically qualified professional (e.g., WISHA consultation service, or certified industrial hygienist, registered safety engineer, certified safety professional, certified marine chemist, etc.) based on evaluation of all serious hazards.

(2) Verification testing.

• The atmosphere of a permit space which may contain a hazardous atmosphere should be tested for residues of all contaminants identified by evaluation testing using permit specified equipment to determine that residual concentrations at the time of testing and entry are within the range of acceptable entry conditions.

• Results of testing (i.e., actual concentration, etc.) should be recorded on the permit in the space provided adjacent to the stipulated acceptable entry condition.

(3) Duration of testing. Measurement of values for each atmospheric parameter should be made for at least the minimum response time of the test instrument specified by the manufacturer.

(4) Testing stratified atmospheres.

• When monitoring for entries involving a descent into atmospheres that may be stratified, the atmospheric envelope should be tested a distance of approximately four feet (1.22 m) in the direction of travel and to each side.

• If a sampling probe is used, the entrant's rate of progress should be slowed to accommodate the sampling speed and detector response.

(5) Order of testing.

• A test for oxygen is performed first because most combustible gas meters are oxygen dependent and will not provide reliable readings in an oxygen deficient atmosphere.

• Combustible gases are tested for next because the threat of fire or explosion is both more immediate and more life threatening, in most cases, than exposure to toxic gases and vapors.

• If tests for toxic gases and vapors are necessary, they are performed last.

NEW SECTION

WAC 296-62-14173 Appendix C—Examples of permit-required confined space programs. Example 1. Workplace. Sewer entry.

(1) Potential hazards. The employees could be exposed to the following:

(a) Engulfment.

(b) Presence of toxic gases. Equal to or more than 10 ppm hydrogen sulfide measured as an eight-hour time-weighted average. If the presence of other toxic contaminants is suspected, specific monitoring programs will be developed.

(c) Presence of explosive/flammable gases. Equal to or greater than ten percent of the lower flammable limit (LFL).

(d) Oxygen deficiency. A concentration of oxygen in the atmosphere equal to or less than 19.5% by volume.

(2) Entry without permit/attendant:

(a) Certification.

• Confined spaces may be entered without the need for a written permit or attendant provided that the space can be maintained in a safe condition for entry by mechanical ventilation alone, as provided in WAC 296-62-14110(5).

• All spaces must be considered permit-required confined spaces until the preentry procedures demonstrate otherwise.

• Any employee required or permitted to precheck or enter an enclosed/confined space must have successfully completed, as a minimum, the training as required by the following sections of these procedures.

• A written copy of operating and rescue procedures as required by these procedures must be at the worksite for the duration of the job.

• The confined space preentry checklist must be completed by the LEAD WORKER before entry into a confined space. This list verifies completion of items listed below. This checklist must be kept at the job site for duration of the job.

• If circumstances dictate an interruption in the work, the permit space must be reevaluated and a new checklist must be completed.

(b) Control of atmospheric and engulfment hazards.

(i) Pumps and lines.

• All pumps and lines which may reasonably cause contaminants to flow into the space must be disconnected, blinded and locked out, or effectively isolated by other means to prevent development of dangerous air contamination or engulfment.

• Not all laterals to sewers or storm drains require blocking. However, where experience or knowledge of industrial use indicates there is a reasonable potential for contamination of air or engulfment into an occupied sewer, then all affected laterals must be blocked.

• If blocking and/or isolation requires entry into the space the provisions for entry into a permit-required confined space must be implemented.

(ii) Surveillance. The surrounding area must be surveyed to avoid hazards such as drifting vapors from the tanks, piping, or sewers.

(iii) Testing.

• The atmosphere within the space will be tested to determine whether dangerous air contamination and/or oxygen deficiency exists.

- Detector tubes, alarm only gas monitors and explosion meters are examples of monitoring equipment that may be used to test permit space atmospheres.

- Testing must be performed by the LEAD WORKER who has successfully completed the gas detector training for the monitor to be used. The minimum parameters to be monitored are oxygen deficiency, LFL, and hydrogen sulfide concentration.

- A written record of the preentry test results must be made and kept at the worksite for the duration of the job.

- The supervisor will certify in writing, based upon the results of the preentry testing, that all hazards have been eliminated.

- Affected employees must be able to review the testing results.

- The most hazardous conditions must govern when work is being performed in two adjoining, connecting spaces.

(c) Entry procedures. Entry into and work within may proceed if:

- There are no nonatmospheric hazards present; and

- The preentry tests show there is no dangerous air contamination and/or oxygen deficiency within the space; and

- There is no reason to believe that any is likely to develop.

- Continuous testing of the atmosphere in the immediate vicinity of the workers within the space must be accomplished.

- The workers will immediately leave the permit space when any of the gas monitor alarm set points are reached as defined.

- Workers will not return to the area until a SUPERVISOR who has completed the gas detector training has used a direct reading gas detector to evaluate the situation and has determined that it is safe to enter.

(d) Rescue. Arrangements for rescue services are not required where there is no attendant. See the rescue portion of subsection (3), below, for instructions regarding rescue planning where an entry permit is required.

(3) Entry permit required.

(a) Permits. Confined space entry permit.

- All spaces must be considered permit-required confined spaces until the preentry procedures demonstrate otherwise.

- Any employee required or permitted to precheck or enter a permit-required confined space must have successfully completed, as a minimum, the training as required by the following sections of these procedures.

- A written copy of operating and rescue procedures as required by these procedures must be at the worksite for the duration of the job.

- The confined space entry permit must be completed before approval can be given to enter a permit-required confined space.

- This permit verifies completion of items listed below.

- This permit must be kept at the job site for the duration of the job.

- If circumstances cause an interruption in the work or a change in the alarm conditions for which entry was approved, a new confined space entry permit must be completed.

(b) Control of atmospheric and engulfment hazards.

(i) Surveillance. The surrounding area must be surveyed to avoid hazards such as drifting vapors from tanks, piping or sewers.

(ii) Testing.

- The confined space atmosphere must be tested to determine whether dangerous air contamination and/or oxygen deficiency exists.

- A direct reading gas monitor must be used.

- Testing must be performed by the SUPERVISOR who has successfully completed the gas detector training for the monitor used.

- The minimum parameters to be monitored are oxygen deficiency, LFL and hydrogen sulfide concentration.

- A written record of the preentry test results must be made and kept at the worksite for the duration of the job.

- Affected employees must be able to review the testing results.

- The most hazardous conditions must govern when work is being performed in two adjoining, connected spaces.

(iii) Space ventilation.

- Mechanical ventilation systems, where applicable, must be set at one hundred percent outside air.

- Where possible, open additional manholes to increase air circulation.

- Use portable blowers to augment natural circulation if needed.

- After a suitable ventilating period, repeat the testing.

- Entry may not begin until testing has demonstrated that the hazardous atmosphere has been eliminated.

(c) Entry procedures. The following procedure must be observed under any of the following conditions:

(i) Testing demonstrates the existence of dangerous or deficient conditions and additional ventilation cannot reduce concentrations to safe levels;

(ii) The atmosphere tests as safe but unsafe conditions can reasonably be expected to develop;

(iii) It is not feasible to provide for ready exit from spaces equipped with automatic fire suppression systems and it is not practical or safe to deactivate such systems; or

(iv) An emergency exists and it is not feasible to wait for preentry procedures to take effect.

(d) All personnel must be trained.

- A self-contained breathing apparatus must be worn by any person entering the space.

- At least one worker must stand by the outside of the space ready to give assistance in case of emergency.

- The standby worker must have a self-contained breathing apparatus available for immediate use.

- There must be at least one additional worker within sight or call of the standby worker.

- Continuous powered communications must be maintained between the worker within the confined space and standby personnel.

(e) If at any time there is any questionable action or non-movement by the worker inside, a verbal check will be made. If there is no response, the worker will be moved immediately.

Exception: If disabled due to falling or impact, the worker must not be removed from the confined space unless there is immediate danger to the worker's life. Local fire department rescue

personnel must be notified immediately. The standby worker may only enter the confined space in case of an emergency (wearing the self-contained breathing apparatus) and only after being relieved by another worker. Safety belt or harness with attached lifeline must be used by all workers entering the space with the free end of the line secured outside the entry opening. The standby worker must use the lifeline when attempting to remove a disabled worker before entering the space.

(f) When practical, these spaces must be entered through side openings - those within three and one-half feet (1.07 m) of the bottom. When entry must be through a top opening, the safety belt must be of the harness type that suspends a person upright and a hoisting device or similar apparatus must be available for lifting workers out of the space.

(g) In any situation where their use may endanger the worker, use of a hoisting device or safety belt and attached lifeline may be discontinued.

(h) When dangerous air contamination is attributable to flammable and/or explosive substances, lighting and electrical equipment must be Class 1, Division 1 rated per National Electrical Code and no ignition sources must be introduced into the area.

(i) Continuous gas monitoring must be performed during all confined space operations. If alarm conditions change adversely, entry personnel shall exit the confined space and a new confined space permit issued.

(j) Rescue. Call the fire department services for rescue. Where immediate hazards to injured personnel are present, workers at the site must implement emergency procedures to fit the situation.

Example 2. Workplace. Meat and poultry rendering plants.

Cookers and dryers are either batch or continuous in their operation. Multiple batch cookers are operated in parallel. When one unit of a multiple set is shut down for repairs, means are available to isolate that unit from the others which remain in operation.

Cookers and dryers are horizontal, cylindrical vessels equipped with a center, rotating shaft and agitator paddles or discs. If the inner shell is jacketed, it is usually heated with steam at pressures up to 150 psig (1034.25 kPa). The rotating shaft assembly of the continuous cooker or dryer is also steam heated.

(1) Potential hazards. The recognized hazards associated with cookers and dryers are the risk that employees could be:

- (a) Struck or caught by rotating agitator;
- (b) Engulfed in raw material or hot, recycled fat;
- (c) Burned by steam from leaks into the cooker/dryer steam jacket or the condenser duct system if steam valves are not properly closed and locked out;
- (d) Burned by contact with hot metal surfaces, such as the agitator shaft assembly, or inner shell of the cooker/dryer;
- (e) Heat stress caused by warm atmosphere inside cooker/dryer;
- (f) Slipping and falling on grease in the cooker/dryer;
- (g) Electrically shocked by faulty equipment taken into the cooker/dryer;
- (h) Burned or overcome by fire or products of combustion; or
- (i) Overcome by fumes generated by welding or cutting done on grease covered surfaces.

(2) Permits.

- The supervisor in this case is always present at the cooker/dryer or other permit entry confined space when entry is made.

- The supervisor must follow the preentry isolation procedures described in the entry permit in preparing for entry, and ensure that the protective clothing, ventilating equipment and any other equipment required by the permit are at the entry site.

(3) Control of hazards. Mechanical.

- Lock out main power switch to agitator motor at main power panel.

- Affix tag to the lock to inform others that a permit entry confined space entry is in progress.

(4) Engulfment.

- Close all valves in the raw material blow line.

- Secure each valve in its closed position using chain and lock.

- Attach a tag to the valve and chain warning that a permit entry confined space entry is in progress.

- The same procedure must be used for securing the fat recycle valve.

(5) Burns and heat stress.

- Close steam supply valves to jacket and secure with chains and tags.

- Insert solid blank at flange in cooker vent line to condenser manifold duct system.

- Vent cooker/dryer by opening access door at discharge end and top center door to allow natural ventilation throughout the entry.

- If faster cooling is needed, use a portable ventilation fan to increase ventilation.

- Cooling water may be circulated through the jacket to reduce both outer and inner surface temperatures of cooker/dryers faster.

- Check air and inner surface temperatures in cooker/dryer to assure they are within acceptable limits before entering, or use proper protective clothing.

(6) Fire and fume hazards.

- Careful site preparation, such as cleaning the area within four inches (10.16 cm) of all welding or torch cutting operations, and proper ventilation are the preferred controls.

- All welding and cutting operations must be done in accordance with the requirements of chapter 296-24 WAC, Part I, Welding, cutting, and brazing.

- Proper ventilation may be achieved by local exhaust ventilation, or the use of portable ventilation fans, or a combination of the two practices.

(7) Electrical shock. Electrical equipment used in cooker/dryers must be in serviceable condition.

(8) Slips and falls. Remove residual grease before entering cooker/dryer.

(9) Attendant. The supervisor must be the attendant for employees entering cooker/dryers.

(10) Permit. The permit must specify how isolation must be done and any other preparations needed before making entry. This is especially important in parallel arrangements of cooker/dryers so that the entire operation need not be shut down to allow safe entry into one unit.

(11) Rescue. When necessary, the attendant must call the employer's trained rescue team or the local fire services as previously arranged.

Example 3. Workplace. Workplaces where tank cars, trucks, and trailers, dry-bulk tanks and trailers, railroad tank cars, and similar portable tanks are fabricated or serviced.

(1) During fabrication. These tanks and dry-bulk carriers are entered repeatedly throughout the fabrication process. These products are not configured identically, but the manufacturing processes by which they are made are very similar.

(a) Sources of hazards. In addition to the mechanical hazards arising from the risks that an entrant would be injured due to contact with components of the tank or the tools being used, there is also the risk that a worker could be injured by breathing fumes from welding materials or mists or vapors from materials used to coat the tank interior. In addition, many of these vapors and mists are flammable, so the failure to properly ventilate a tank could lead to a fire or explosion.

(b) Control of hazards.

(i) Welding. Local exhaust ventilation must be used to remove welding fumes once the tank or carrier is completed to the point that workers may enter and exit only through a manhole. (Follow the requirements of chapter 296-24 WAC, Part I, Welding, cutting and brazing, at all times.) Welding gas tanks may never be brought into a tank or carrier that is a permit entry confined space.

(ii) Application of interior coatings/linings.

- Atmospheric hazards must be controlled by forced air ventilation sufficient to keep the atmospheric concentration of flammable materials below ten percent of the lower flammable limit (LFL) (or lower explosive limit (LEL), whichever term is used locally):

- The appropriate respirators are provided and shall be used in addition to providing forced ventilation if the forced ventilation does not maintain acceptable respiratory conditions.

(c) Permits. Because of the repetitive nature of the entries in these operations, an "area entry permit" will be issued for a one-month period to cover those production areas where tanks are fabricated to the point that entry and exit are made using manholes.

(d) Authorization. Only the area supervisor may authorize an employee to enter a tank within the permit area. The area supervisor must determine that conditions in the tank trailer, dry-bulk trailer or truck, etc., meet permit requirements before authorizing entry.

(e) Attendant.

- The area supervisor must designate an employee to maintain communication by employer specified means with employees working in tanks to ensure their safety.

- The attendant may not enter any permit entry confined space to rescue an entrant or for any other reason, unless authorized by the rescue procedure and, and even then, only after calling the rescue team and being relieved by an attendant by another worker.

(f) Communications and observation.

- Communications between attendant and entrant(s) must be maintained throughout entry.

- Methods of communication that may be specified by the permit include voice, voice-powered radio, tapping or

rapping codes on tank walls, signaling tugs on a rope, and the attendant's observation that work activities such as chipping, grinding, welding, spraying, etc., which require deliberate operator control continue normally.

- These activities often generate so much noise that the necessary hearing protection makes communication by voice difficult.

(g) Rescue procedures.

- Acceptable rescue procedures include entry by a team of employee-rescuers, use of public emergency services, and procedures for breaching the tank.

- The area permit specifies which procedures are available, but the area supervisor makes the final decision based on circumstances. (Certain injuries may make it necessary to breach the tank to remove a person rather than risk additional injury by removal through an existing manhole.

- However, the supervisor must ensure that no breaching procedure used for rescue would violate terms of the entry permit. For instance, if the tank must be breached by cutting with a torch, the tank surfaces to be cut must be free of volatile or combustible coatings within four inches (10.16 cm) of the cutting line and the atmosphere within the tank must be below the LFL.)

(h) Retrieval line and harnesses.

- The retrieval lines and harnesses generally required under this standard are usually impractical for use in tanks because the internal configuration of the tanks and their interior baffles and other structures would prevent rescuers from hauling out injured entrants.

- However, unless the rescue procedure calls for breaching the tank for rescue, the rescue team must be trained in the use of retrieval lines and harnesses for removing injured employees through manholes.

(2) Repair or service of "used" tanks and bulk trailers.

(a) Sources of hazards. In addition to facing the potential hazards encountered in fabrication or manufacturing, tanks or trailers which have been in service may contain residues of dangerous materials, whether left over from the transportation of hazardous cargoes or generated by chemical or bacterial action on residues of nonhazardous cargoes.

(b) Control of atmospheric hazards. A "used" tank must be brought into areas where tank entry is authorized only after the tank has been emptied, cleansed (without employee entry) of any residues, and purged of any potential atmospheric hazards.

(c) Welding. In addition to tank cleaning for control of atmospheric hazards, coating and surface materials must be removed four inches (10.16 cm) or more from any surface area where welding or other torch work will be done and care taken that the atmosphere within the tank remains well below the LFL. (Follow the requirements of chapter 296-24 WAC, Part I, Welding, cutting and brazing, at all times.)

(d) Permits.

- An entry permit valid for up to one year must be issued prior to authorization of entry into used tank trailers, dry-bulk trailers or trucks.

- In addition to the preentry cleaning requirement, this permit must require the employee safeguards specified for new tank fabrication or construction permit areas.

(e) Authorization.

- Only the area supervisor may authorize an employee to enter a tank trailer, dry-bulk trailer or truck within the permit area.
- The area supervisor must determine that the entry permit requirements have been met before authorizing entry.

PROPOSED

NEW SECTION

WAC 296-62-14174 Appendix D—Sample permits.

WAC 296-62-14174, Appendix D, Sample A

Confined Space Entry Permit

Date & Time Issued: _____
Job Site/Space I.D.: _____
Equipment to be worked on: _____
Stand-by personnel: _____

Date & Time Expires: _____
Job Supervisor: _____
Work to be performed: _____

- 1. Atmospheric Checks: Time, Oxygen, Explosives, Toxic
2. Tester's signature
3. Source isolation (No Entry): Pumps or lines blinded, disconnected, or blocked
4. Ventilation Modification: Mechanical, Natural Ventilation only
5. Atmospheric check after isolation and ventilation: Oxygen, Explosive, Toxic, Time, Tester's signature

- 8. Entry, standby, and back up persons: Successfully completed required training?, Is it current?
9. Equipment: Direct reading gas monitor-tested, Safety harnesses and lifelines for entry and standby persons, Hoisting equipment, Powered communications, SCBA's for entry and standby persons, Protective Clothing, All electric equipment listed Class I, Division I, Group D and Non-sparking tools

- 6. Communication procedures:
7. Rescue procedures:

- 10. Periodic atmospheric tests: Oxygen, Explosive, Toxic (multiple entries with % and Time)

We have reviewed the work authorized by this permit and the information contained here-in. Written instructions and safety procedures have been received and are understood. Entry cannot be approved if any squares are marked in the "No" column. This permit is not valid unless all appropriate items are completed.

Permit Prepared By: (Supervisor)
Approved By: (Unit Supervisor)
Reviewed By: (Cs Operations Personnel) (printed name) (signature)

This permit to be kept at job site. Return job site copy to Safety Office following job completion.

Table with 5 columns: Entrant Name, Sign In, Sign Out, Sign In, Sign Out. Multiple rows for entries.



WAC 296-62-14174, Appendix D, Sample B
Entry Permit

PERMIT VALID FOR 8 HOURS ONLY. ALL PERMIT COPIES REMAIN AT THE SITE UNTIL JOB COMPLETED.

DATE: - - SITE LOCATION/DESCRIPTION

PURPOSE OF ENTRY

SUPERVISOR(S) in charge of crews. Type of Crew Phone #

COMMUNICATIONS PROCEDURES

RESCUE PROCEDURES (PHONE NUMBER AT BOTTOM)

BOLD DENOTES MINIMUM REQUIREMENTS TO BE COMPLETED AND REVIEWED PRIOR TO ENTRY

Table with 6 columns: REQUIREMENTS COMPLETED, DATE, TIME, REQUIREMENTS COMPLETED, DATE, TIME. Lists safety requirements like LockOut/De-energize, Full Body Harness, etc.

Note: Items that do not apply enter N/A in the blank.

RECORD CONTINUOUS MONITORING RESULTS EVERY 2 HOURS

Table for CONTINUOUS MONITORING** with columns for TEST(S) TO BE TAKEN, PERCENT OF OXYGEN, LOWER FLAMMABLE LIMIT, CARBON MONOXIDE, and various gas levels.

- Short-term exposure limit: Employee can work in the area up to 15 minutes.
• 8 hr. Time Weighted Avg. Employee can work in the area 8 hrs. (longer with appropriate respiratory protection).

REMARKS:

GAS TESTER NAME & CHECK # INSTRUCTION(S) USED MODEL &/OR TYPE SERIAL &/OR UNIT #

SAFETY STANDBY PERSON IS REQUIRED FOR ALL CONFINED SPACE WORK

SAFETY STANDBY PERSON(S) CHECK# CONFINED SPACE ENTRANT(S) CHECK# CONFINED SPACE ENTRANT(S) CHECK#

SUPERVISOR AUTHORIZATION - ALL CONDITIONS SATISFIED DEPARTMENT/PHONE#

AMBULANCE# FIRE# SAFETY# GAS COORDINATOR#

Place Illustration Here (WAC 296-62-14174, Illus. 2) Place illustration here.

NEW SECTION

WAC 296-62-14175 Appendix E—Sewer system entry. Sewer entry differs in three vital respects from other permit entries:

- There rarely exists any way to completely isolate the space (a section of a continuous system) to be entered;
- Because isolation is not complete, the atmosphere may suddenly and unpredictably become lethally hazardous (toxic, flammable or explosive) from causes beyond the control of the entrant or employer; and
- Experienced sewer workers are especially knowledgeable in entry and work in their permit spaces because of their frequent entries. Unlike other employments where permit space entry is a rare and exceptional event, sewer workers' usual work environment is a permit space.

(1) Adherence to procedure. The employer should designate as entrants only employees who are thoroughly trained in the employer's sewer entry procedures and who demonstrate that they follow these entry procedures exactly as prescribed when performing sewer entries.

(2) Atmospheric monitoring. Entrants should be trained in the use of, and be equipped with, atmospheric monitoring equipment which sounds an audible alarm, in addition to its visual readout, whenever one of the following conditions is encountered:

- Oxygen concentration less than 19.5 percent; flammable gas or vapor at ten percent or more of the lower flammable limit (LFL); or
- Hydrogen sulfide or carbon monoxide at or above 10 ppm or 35 ppm, respectively, measured as an eight-hour time-weighted average.

Atmospheric monitoring equipment needs to be calibrated according to the manufacturer's instructions. The oxygen sensor/broad range sensor is best suited for initial use in situations where the actual or potential contaminants have not been identified, because broad range sensors, unlike substance-specific sensors, enable employers to obtain an overall reading of the hydrocarbons (flammables) present in the space.

However, such sensors only indicate that a hazardous threshold of a class of chemicals has been exceeded. They do not measure the levels of contamination of specific substances. Therefore, substance-specific devices, which measure the actual levels of specific substances, are best suited for use where actual and potential contaminants have been identified.

The measurements obtained with substance-specific devices are of vital importance to the employer when decisions are made concerning the measures necessary to protect entrants (such as ventilation or personal protective equipment) and the setting and attainment of appropriate entry conditions. However, the sewer environment may suddenly and unpredictably change, and the substance-specific devices may not detect the potentially lethal atmospheric hazards which may enter the sewer environment.

(a) Although WISHA considers the information and guidance provided above to be appropriate and useful in most sewer entry situations, the department emphasizes that each employer must consider the unique circumstances, including

the predictability of the atmosphere, of the sewer permit spaces in the employer's workplace in preparing for entry. Only the employer can decide, based upon his or her knowledge of, and experience with permit spaces in sewer systems, what the best type of testing instrument may be for any specific entry operation.

(b) The selected testing instrument should be carried and used by the entrant in sewer line work to monitor the atmosphere in the entrant's environment, and in advance of the entrant's direction of movement, to warn the entrant of any deterioration in atmospheric condition. Where several entrants are working together in the same immediate location, one instrument, used by the lead entrant, is acceptable.

(3) Surge flow and flooding. Sewer crews should develop and maintain liaison, to the extent possible, with the local weather bureau and fire and emergency services in their area so that sewer work may be delayed or interrupted and entrants withdrawn whenever sewer lines might be suddenly flooded by rain or fire suppression activities, or whenever flammable or other hazardous materials are released into sewers during emergencies by industrial or transportation accidents.

(4) Special equipment. Entry into large bore sewers may require the use of special equipment. Such equipment might include such items as atmosphere monitoring devices with automatic audible alarms, escape self-contained breathing apparatus (ESCSA) with at least ten minute air supply (or other NIOSH approved self-rescuer), and waterproof flashlights, and may also include boats and rafts, radios and rope stand-offs for pulling around bends and corners as needed.

NEW SECTION

WAC 296-62-14176 Appendix F—Rescue team or rescue service evaluation criteria. (1) This appendix provides guidance to employers in choosing an appropriate rescue service. It contains criteria that may be used to evaluate the capabilities both of prospective and current rescue teams. Before a rescue team can be trained or chosen, however, a satisfactory permit program, including an analysis of all permit-required confined spaces to identify all potential hazards in those spaces, must be completed. WISHA believes that compliance with all the provisions of chapter 296-62 WAC, Part M will enable employers to conduct permit space operations without recourse to rescue services in nearly all cases. However, experience indicates that circumstances will arise where entrants will need to be rescued from permit spaces. It is therefore important for employers to select rescue services or teams, either on-site or off-site, that are equipped and capable of minimizing harm to both entrants and rescuers if the need arises.

(2) For all rescue teams or services, the employer's evaluation should consist of two components:

- An initial evaluation, in which employers decide whether a potential rescue service or team is adequately trained and equipped to perform permit space rescues of the kind needed at the facility and whether such rescuers can respond in a timely manner; and

- A performance evaluation, in which employers measure the performance of the team or service during an actual or practice rescue.

For example, based on the initial evaluation, an employer may determine that maintaining an on-site rescue team will be more expensive than obtaining the services of an off-site team, without being significantly more effective, and decide to hire a rescue service. During a performance evaluation, the employer could decide, after observing the rescue service perform a practice rescue, that the service's training or preparedness was not adequate to effect a timely or effective rescue at his or her facility and decide to select another rescue service, or to form an internal rescue team.

(a) Initial evaluation.

(i) The employer should meet with the prospective rescue service to facilitate the evaluations required by WAC 296-62-14150 (1)(a) and (b).

- At a minimum, if an off-site rescue service is being considered, the employer must contact the service to plan and coordinate the evaluations required by the standard.

- Merely posting the service's number or planning to rely on the 911 emergency phone number to obtain these services at the time of a permit space emergency would not comply with WAC 296-62-14150(1).

(ii) The capabilities required of a rescue service vary with the type of permit spaces from which rescue may be necessary and the hazards likely to be encountered in those spaces. Answering the questions below will assist employers in determining whether the rescue service is capable of performing rescues in the permit spaces present at the employer's workplace.

(A) What are the needs of the employer with regard to response time (time for the rescue service to receive notification, arrive at the scene, and set up and be ready for entry)?

For example, if entry is to be made into an IDLH atmosphere, or into a space that can quickly develop an IDLH atmosphere (if ventilation fails or for other reasons), the rescue team or service would need to be standing by at the permit space. On the other hand, if the danger to entrants is restricted to mechanical hazards that would cause injuries (e.g., broken bones, abrasions) a response time of ten or fifteen minutes might be adequate.

(B) How quickly can the rescue team or service get from its location to the permit spaces from which rescue may be necessary?

Relevant factors to consider would include:

- The location of the rescue team or service relative to the employer's workplace;
- The quality of roads and highways to be traveled, potential bottlenecks or traffic congestion that might be encountered in transit;
- The reliability of the rescuer's vehicles; and
- The training and skill of its drivers.

(C) What is the availability of the rescue service?

- Is it unavailable at certain times of the day or in certain situations?
- What is the likelihood that key personnel of the rescue service might be unavailable at times?
- If the rescue service becomes unavailable while an entry is underway, does it have the capability of notifying the

employer so that the employer can instruct the attendant to abort the entry immediately?

(D) Does the rescue service meet all the requirements of WAC 296-62-14150(2) of the standard?

- If not, has it developed a plan that will enable it to meet those requirements in the future?

- If so, how soon can the plan be implemented?

(E) For off-site services, is the service willing to perform rescues at the employer's workplace? (An employer may not rely on a rescuer who declines, for whatever reason, to provide rescue services.)

(F) Is an adequate method for communications between the attendant, employer and prospective rescuer available so that a rescue request can be transmitted to the rescuer without delay? How soon after notification can a prospective rescuer dispatch a rescue team to the entry site?

(G) For rescues into spaces that may pose significant atmospheric hazards and from which rescue entry, patient packaging and retrieval cannot be safely accomplished in a relatively short time (fifteen to twenty minutes), employers should consider using airline respirators (with escape bottles) for the rescuers and to supply rescue air to the patient. If the employer decides to use SCBA, does the prospective rescue service have an ample supply of replacement cylinders and procedures for rescuers to enter and exit (or be retrieved) well within the SCBA's air supply limits?

(H) If the space has a vertical entry over five feet in depth, can the prospective rescue service properly perform entry rescues? Does the service have the technical knowledge and equipment to perform rope work or elevated rescue, if needed?

(I) Does the rescue service have the necessary skills in medical evaluation, patient packaging and emergency response?

(J) Does the rescue service have the necessary equipment to perform rescues, or must the equipment be provided by the employer or another source?

(b) Performance evaluation.

Rescue services are required by WAC 296-62-14150 (2)(c) of the standard to practice rescues at least once every twelve months, provided that the team or service has not successfully performed a permit space rescue within that time. As part of each practice session, the service should perform a critique of the practice rescue, or have another qualified party perform the critique, so that deficiencies in procedures, equipment, training, or number of personnel can be identified and corrected. The results of the critique, and the corrections made to respond to the deficiencies identified, should be given to the employer to enable it to determine whether the rescue service can quickly be upgraded to meet the employer's rescue needs or whether another service must be selected. The following questions will assist employers and rescue teams and services evaluate their performance.

(i) Have all members of the service been trained as permit space entrants, at a minimum, including training in the potential hazards of all permit spaces, or of representative permit spaces, from which rescue may be needed? Can team members recognize the signs, symptoms, and consequences of exposure to any hazardous atmospheres that may be present in those permit spaces?

(ii) Is every team member provided with, and properly trained in, the use and need for PPE, such as SCBA or fall arrest equipment, which may be required to perform permit space rescues in the facility? Is every team member properly trained to perform his or her functions and make rescues, and to use any rescue equipment, such as ropes and backboards, that may be needed in a rescue attempt?

(iii) Are team members trained in the first aid and medical skills needed to treat victims overcome or injured by the types of hazards that may be encountered in the permit spaces at the facility?

(iv) Do all team members perform their functions safely and efficiently? Do rescue service personnel focus on their own safety before considering the safety of the victim?

(v) If necessary, can the rescue service properly test the atmosphere to determine if it is IDLH?

(vi) Can the rescue personnel identify information pertinent to the rescue from entry permits, hot work permits, and MSDSs?

(vii) Has the rescue service been informed of any hazards to personnel that may arise from outside the space, such as those that may be caused by future work near the space?

(viii) If necessary, can the rescue service properly package and retrieve victims from a permit space that has a limited size opening (less than twenty-four inches (60.9 cm) in diameter), limited internal space, or internal obstacles or hazards?

(ix) If necessary, can the rescue service safely perform an elevated (high angle) rescue?

(x) Does the rescue service have a plan for each of the kinds of permit space rescue operations at the facility? Is the plan adequate for all types of rescue operations that may be needed at the facility? Teams may practice in representative spaces, or in spaces that are "worst-case" or most restrictive with respect to internal configuration, elevation, and portal size. The following characteristics of a practice space should be considered when deciding whether a space is truly representative of an actual permit space:

(A) Internal configuration.

(I) Open — There are no obstacles, barriers, or obstructions within the space. One example is a water tank.

(II) Obstructed — The permit space contains some type of obstruction that a rescuer would need to maneuver around. An example would be a baffle or mixing blade. Large equipment, such as a ladder or scaffold, brought into a space for work purposes would be considered an obstruction if the positioning or size of the equipment would make rescue more difficult.

(B) Elevation.

(I) Elevated — A permit space where the entrance portal or opening is above grade by four feet or more. This type of space usually requires knowledge of high angle rescue procedures because of the difficulty in packaging and transporting a patient to the ground from the portal.

(II) Nonelevated — A permit space with the entrance portal located less than four feet above grade. This type of space will allow the rescue team to transport an injured employee normally.

(C) Portal size.

(I) Restricted — A portal of twenty-four inches or less in the least dimension. Portals of this size are too small to allow a rescuer to simply enter the space while using SCBA. The portal size is also too small to allow normal spinal immobilization of an injured employee.

(II) Unrestricted — A portal of greater than twenty-four inches in the least dimension. These portals allow relatively free movement into and out of the permit space.

(D) Space access.

(I) Horizontal — The portal is located on the side of the permit space. Use of retrieval lines could be difficult.

(II) Vertical — The portal is located on the top of the permit space, so that rescuers must climb down, or the bottom of the permit space, so that rescuers must climb up to enter the space. Vertical portals may require knowledge of rope techniques, or special patient packaging to safely retrieve a downed entrant.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-14500	Scope and application.
WAC 296-62-14501	Definitions.
WAC 296-62-14503	General requirements.
WAC 296-62-14505	Permit-required confined space program (permit space program).
WAC 296-62-14507	Permit system.
WAC 296-62-14509	Entry permit.
WAC 296-62-14511	Training.
WAC 296-62-14513	Duties of authorized entrants.
WAC 296-62-14515	Duties of attendants.
WAC 296-62-14517	Duties of entry supervisors.
WAC 296-62-14519	Rescue and emergency services.
WAC 296-62-14520	Appendices to WAC 296-62-145—Permit-required confined spaces.
WAC 296-62-14521	Appendix A—Permit-required confined space decision flow chart.
WAC 296-62-14523	Appendix B—Procedures for atmospheric testing.
WAC 296-62-14525	Appendix C—Examples of permit-required confined space programs.
WAC 296-62-14527	Appendix D—Sample permits.
WAC 296-62-14529	Appendix E—Sewer system entry.

WSR 99-13-148
PROPOSED RULES
LOTTERY COMMISSION

[Filed June 21, 1999, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-051.

Title of Rule: WAC 315-34-057 and 315-06-120(12), Cash option—Sixty-day choice.

Purpose: To allow winners of annuity prizes to choose a cash option up to sixty days after validation of their claim (or up to sixty days after the drawing in which they won their prize), new WAC 315-34-057; amend WAC 315-06-120(12); and repeal WAC 315-34-055.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 664-4833; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 664-4800.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new rule and the amendment will permit winners of annuity prizes to choose a cash option up to sixty days after validation of their claim (or up to sixty days after the drawing in which they won their prize).

Proposal Changes the Following Existing Rules: The new rule and the amendment will permit winners of annuity prizes to choose a cash option up to sixty days after validation of their claim (or up to sixty days after the drawing in which they won their prize).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

RCW 34.05.328 does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: SeaTac Airport, on September 17, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by September 15, 1999, (360) 664-4833.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by September 15, 1999.

Date of Intended Adoption: September 17, 1999.

June 18, 1999

Mary Jane Ferguson

Rules Coordinator

[NEW SECTION]

WAC 315-34-057 Lotto prize claim and payment methods. The following sets forth requirements for claims and payment of Lotto prizes:

(1) Claims for prize payment shall be made in accordance with WAC 315-30-030(6).

(2) Prize payments shall be made as follows:

(a) **Cash option:** After a player has claimed a jackpot prize or a share of a jackpot prize and after the claim has been validated (including a debt check pursuant to WAC 315.06.125), the player may elect to be paid a one-time single cash payment of fifty percent of his or her share of the announced jackpot, provided:

(i) the player must elect this cash option within sixty (60) days of the validation of his or her prize, by following the procedure required by the Lottery;

(ii) if the federal tax code is interpreted by federal authorities to require that this cash option be exercised within sixty (60) days of the drawing for the prize, then (i) above will not apply and instead, the player must elect this cash option within sixty (60) days of the date of the drawing for the prize.

(iii) the player's choice of payment method as designated by signing the appropriate Lottery form is final and may not be changed by the player at a later date. The only exception to this final choice may be a one time opportunity designated by the Lottery for winners to choose to cash out their prize annuities during some period from July 1, 1999 to December 31, 2000.

(b) **Annuity:** A player who chooses not to elect the cash option or who does not elect the cash option within the sixty day limit will be paid his or her prize in twenty-five annual installment payments.

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

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 97-20-052, filed 9/24/97)]

WAC 315-06-120 Payment of prizes—General provisions. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of one claimant, which shall be either a natural person, association, corporation, general or limited partnership, club, trust, estate, society, company, joint stock company, receiver, trustee, or another acting in a fiduciary or representative capacity whether appointed by a court or otherwise. A claim which includes one or more tickets with an address label or stamp on the back of the ticket shall be deemed to have been entered

in the name of one claimant; *PROVIDED*, That if the address label or stamp contains the name of more than one claimant, the prize payment will be made to the one who has signed the ticket and/or claim form or, if there is no signature or two signatures, to the first claimant listed on the address label or stamp. The claimant must submit his or her Social Security number (SSN) or the federal employer's identification number (FEIN) when claiming any prize exceeding six hundred dollars.

(3) A claim may be entered in the name of a claimant other than a natural person only if the claimant is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the Internal Revenue Service, such number is shown on the claim form and the entity's terms comply with subsection (4) of this section. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one natural person or one legal entity in whose name the claim is to be entered.

(4) The terms governing a claimant other than a natural person, i.e., articles of incorporation, trust terms, etc. shall be submitted to the director for approval. Terms not in compliance with lottery statutes or rules shall not be approved. Payment shall not be made to a claimant other than a natural person until the director has approved the terms.

All claimants other than natural persons shall have governing terms which:

(a) prohibit deletion, amendment, or addition of terms without the director's approval,

(b) state the names of all natural persons who have a direct or indirect right or interest in the claimant, each of their percentage interests and their social security numbers,

(c) acknowledge that the debt collection process mandated by RCW 67.70.255 and WAC 315-06-125 shall be applied to the natural persons who hold interests in the claimant through their social security numbers, and

(d) provide that in the event the claimant ceases to exist prior to the full payout of the prize, the lottery will not make further payment without court order.

(5) The lottery shall not make payment to a claimant other than a natural person unless the terms governing the claimant include those enumerated subsection (4) of this section.

(6) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket or submit a request for reconstruction of an alleged winning ticket and sufficient evidence to enable reconstruction and that the claimant had submitted a claim for the prize, if any, for that ticket. The claimant, by submitting the claim or request for reconstruction, agrees to the following provisions:

(a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize; and

(b) The authorization to use the claimant's name and, upon written permission, photograph for publicity purposes by the lottery.

(7) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than one hundred eighty days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.

(8) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or retailers, or from a lottery retailer; or

(c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.

(9) No natural person or legal entity entitled to a prize may assign the right to payment, except under the following limited circumstances:

(a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; and

(b) When payment of all or part of the remainder of an annuity and the right to receive future annual prize payments has been voluntarily assigned to another person, pursuant to an appropriate judicial order that meets the requirements of RCW 67.70.100(2).

(10) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

(11) A ticket that has been legally issued by a lottery retailer is a bearer instrument until signed. The person who signs the ticket or has possession of an unsigned ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

(12) All prizes shall be paid within a reasonable time after the claims are validated by the director and a winner is determined. Provided, prizes paid for claims validated pursuant to WAC 315-10-070(2) shall not be paid prior to one hundred eighty-one days after the official end of that instant game. The date of the first installment payment of each prize to be paid in installment payments shall be the date the claim is ~~validated~~ validated, or the date the winner makes a choice of payment by annual payments or by single cash payment pursuant to WAC 315.34.057. Subsequent installment payments shall be made as follows:

(a) If the prize was awarded as the result of a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date of the drawing in accordance with the type of prize awarded, ~~except that when a drawing occurs during the last week of the calendar year and it is impossible to claim the prize in the calendar year of the drawing solely due to weekend or extraordinary closure of the lottery's offices, installment payments shall be made~~

~~weekly, monthly, or annually, in accordance with the type of prize awarded, from the date prize is claimed; awarded, or~~

(b) If the prize was awarded in a manner other than a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date the claim is validated in accordance with the type of prize awarded.

(13) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each originally scheduled payment date thereafter.

(14) If any prize is payable for the life of the winner, only a natural person may claim such a prize. Such "win for life" type prizes shall cease upon the death of the winner or the end of a guaranteed payment period (if any), whichever is later. Win for life prizes may be assigned; and the following conditions apply to such assignments:

(a) The original winner's actual life shall determine when prize payments cease; and

(b) The assignee shall be responsible for notifying the lottery of the original winner's death.

(15) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.

(16) Each lottery retailer shall pay all prizes authorized to be paid by the lottery retailer by these rules during its normal business hours at the location designated on its license.

(17) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

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

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

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 99-13-152
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY

[Filed June 21, 1999, 2:38 p.m.]

Continuance of WSR 99-10-097.

Title of Rule: Amend Regulation II, Sections 1.05, 2.04, 2.05, 2.07, and 2.08; repeal Regulation II, Section 2.06; and adopt Regulation II, Section 2.01.

Purpose: Continue adoption date from June 10, 1999, to July 8, 1999.

Date of Intended Adoption: July 8, 1999.

June 17, 1999

David S. Kircher
 Manager - Engineering

WSR 99-13-153
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY

[Filed June 21, 1999, 2:39 p.m.]

Continuance of WSR 99-10-098.

Title of Rule: Amend Regulation I, Sections 5.03, 6.03, and 9.16.

Purpose: Continue adoption date from June 10, 1999, to July 8, 1999.

Date of Intended Adoption: July 8, 1999.

June 17, 1999

David S. Kircher
 Manager - Engineering

WSR 99-13-156
PROPOSED RULES
FREIGHT MOBILITY
STRATEGIC INVESTMENT BOARD

[Filed June 21, 1999, 3:10 p.m.]

Original Notice.

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

Title of Rule: Freight Mobility Strategic Investment Board.

Purpose: To adopt reasonable rules and procedures necessary to implement the freight mobility program. Legislative appropriation gives authority to the Freight Mobility Strategic Investment Board to fund projects starting July 1, 1999.

Statutory Authority for Adoption: Chapter 47.06A RCW.

Statute Being Implemented: Chapter 47.06A RCW.

Summary: To establish administrative rules and procedures to implement the state of Washington's freight mobility program.

Name of Agency Personnel Responsible for Drafting and Implementation: Stephanie Tax, Transportation Building, (360) 705-7389; and Enforcement: Paula J. Hammond, P.E., Transportation Building, (360) 705-7871.

Name of Proponent: Freight Mobility Strategic Investment Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Emergency WACs were adopted and funding becomes available on July 1, 1999, for the new freight mobility program.

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

PROPOSED

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 226-01 WAC, Description of organization; chapter 226-02 WAC, Public access to information and records; chapter 226-12 WAC, Submission of proposed freight mobility projects to freight mobility strategic investment board; chapter 226-16 WAC, Requirements for freight mobility project development; and chapter 226-20 WAC, Financial and payment requirements.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact on small business. Freight Mobility Strategic Investment Board program affect state and local transportation agencies.

RCW 34.05.328 does not apply to this rule adoption. Subsection (5)(b)(ii) exempts rules that are not subject to violation by a nongovernment party. Only governments are eligible for this funding program.

Hearing Location: Sea-Tac International Airport, Mezzanine Level, Large Auditorium, Seattle, Washington, on July 30, 1999, at 10:15 a.m.

Assistance for Persons with Disabilities: Contact Kimberly Colburn by July 16, 1999, (360) 705-7879.

Submit Written Comments to: Stephanie Tax, (360) 705-6822, by July 21, 1999.

Date of Intended Adoption: July 30, 1999.

June 21, 1999

Paula J. Hammond, P.E.

Assistant Secretary

Highways and Local Programs

Title 226 WAC

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD

Chapter 226-01 WAC

DESCRIPTION OF ORGANIZATION

NEW SECTION

WAC 226-01-010 Purpose and authority. Chapter 175, Laws of 1998 provides that the freight mobility strategic investment board shall adopt reasonable rules and procedures necessary to implement the freight mobility program.

NEW SECTION

WAC 226-01-020 Freight mobility program intent. It is the policy of the state of Washington that limited public transportation funding and competition between freight and general mobility improvements for the same fund sources require strategic, prioritized freight investments that reduce barriers to freight movement, maximize cost-effectiveness, yield a return on the state's investment, require complementary investments by public and private interests, and solve regional freight mobility problems. State financial assistance for freight mobility projects must leverage other funds from

all potential partners and sources, including federal, county, city, port district, and private capital.

NEW SECTION

WAC 226-01-030 Organization of the freight mobility strategic investment board. The freight mobility strategic investment board (FMSIB) is a twelve-member board, organized under the provisions of chapter 175, Laws of 1998. The board administers the freight mobility strategic investment program for the purpose of financing freight mobility projects. The following board members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years:

(1) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the association of Washington cities or its successor;

(2) Two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor;

(3) Two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor;

(4) One member representing the office of financial management;

(5) One member appointed as a representative of the trucking industry;

(6) One member appointed as a representative of the railroads;

(7) The secretary of the department of transportation;

(8) One member representing the steamship industry; and

(9) One member of the general public.

NEW SECTION

WAC 226-01-040 Time and place of meetings. Regular public meetings of the board shall be held on the third Friday of every odd numbered month. Each such regular meeting shall be held in SeaTac, Washington, and begin at the hour of 9:00 a.m. or at such other time and place as designated by the board.

A special meeting of the board may be called by the chairperson or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting, and all provisions of chapter 42.30 RCW shall apply.

NEW SECTION

WAC 226-01-050 Address of board. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

PROPOSED

Executive Director, Freight Mobility Strategic
Investment Board
Washington State Department of Transportation
TransAid Service Center
Post Office Box 47390
Olympia, Washington 98504-7390

to the freight mobility strategic investment program shall be paid from the biennial appropriation.

Chapter 226-02 WAC

PUBLIC ACCESS TO INFORMATION AND RECORDS

NEW SECTION

WAC 226-01-060 Definitions. For purposes of implementing the requirements of chapter 175, Laws of 1998, relative to the freight mobility strategic investment board, the following definitions shall apply:

- (1) "Board" means the freight mobility strategic investment board (FMSIB).
- (2) "Department" means the department of transportation.
- (3) "Freight mobility" means the safe, reliable, and efficient movement of goods within and through the state to ensure the state's economic vitality.
- (4) "Director" is the executive director of the freight mobility strategic investment board.
- (5) "Local governments" means cities, towns, counties, special purpose districts, port districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts.
- (6) "Public entity" means a state agency, city, town, county, port district, or municipal or regional planning organization.
- (7) "Partnership" means the public entities sponsoring a project. The partnership as used in this chapter does not include the board.
- (8) "Lead agency" refers to the agency selected by the project partnership to be the point of contact with the board for a particular project.
- (9) "Original matching ratio" refers to the board's share of the project cost when it was initially approved for funding.
- (10) "Strategic freight corridor" means a transportation corridor of great economic importance within an integrated freight system that:

- (a) Serves international and domestic interstate and intrastate trade;
- (b) Enhances the state's competitive position through regional and global gateways;
- (c) Carries freight tonnages of at least:
 - (i) Four million gross tons annually on state highways, city streets, and county roads;
 - (ii) Five million gross tons annually on railroads; or
 - (iii) Two and one-half million net tons on waterways;
- and
- (d) Has been designated a strategic corridor by the board. However, new alignments to, realignments of, and new links to strategic corridors that enhance freight movement may qualify, even though no tonnage data exists for facilities to be built in the future.

NEW SECTION

WAC 226-01-070 Administration costs. The board costs for necessary services and facilities that are attributable

NEW SECTION

WAC 226-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the board with the provisions of RCW 42.17.250 through 42.17.348 dealing with public records.

NEW SECTION

WAC 226-02-020 Public records officer. The freight mobility strategic investment board public records shall be in the charge of the executive director, who shall be the public records officer for the board. The person so designated shall be officed in the board's office in Olympia, Washington. The public records officer shall be responsible for implementation of the board's rules and regulations regarding release of public records, coordinating staff efforts of the board in this regard and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973 (chapter 42.17 RCW).

NEW SECTION

WAC 226-02-030 Public records available. All public records of the board, as defined in chapter 42.17 RCW, are available for public inspection and copying as provided in these rules, unless the record falls within the specific exemptions of RCW 42.17.310 or other statute exempting or prohibiting disclosure of specific information or records.

NEW SECTION

WAC 226-02-040 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

- (1) A request shall be addressed to the public records officer. Such request shall include the following:
 - (a) The name of the person requesting the record.
 - (b) The time of day and calendar date on which the request was made.
 - (c) The nature of the request.
 - (d) If the matter requested is referenced within the current index maintained by the board, a reference to the requested record as it is described in such current index.
 - (e) If the requested matter is not identifiable by reference to the board's current index, a statement that identifies the specific record requested.
 - (f) A verification that the records requested shall not be used to compile a commercial sales list.
- (2) The public records officer shall inform the member of the public making the request whether the requested record

PROPOSED

is available for inspection or copying at the board's office in Olympia, Washington.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the board is also a party or when such a request is made by or on behalf of an attorney for such a party, the request shall be referred to the assistant attorney general assigned to the board for appropriate response.

NEW SECTION

WAC 226-02-050 Availability for public inspection and copying of public records—Office hours. Public records shall be available for inspection and copying during the normal business hours of the board. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 226-02-060 Inspection and copying cost. (1) No fee shall be charged for inspection of public records.

(2) The board shall impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy records; such charges shall not exceed the amount necessary to reimburse the board for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost and paper cost necessary to provide copies of requested records.

NEW SECTION

WAC 226-02-070 Protection of public records. In order to implement the provisions of RCW 42.17.290, requiring agencies to enact reasonable rules to protect public records from damage or disorganization, the following rules have been adopted.

(1) Copying of public documents shall be done by board personnel and under the supervision of said personnel, upon the request of members of the public under the procedures specified in WAC 226-02-040.

(2) No document shall be physically removed by a member of the public from the area designated by the board for the public inspection of documents for any reason whatever.

(3) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the board shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein, and the board shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

NEW SECTION

WAC 226-02-080 Denial of request. (1) The board shall determine which public records requested in accordance

with these rules are exempt under the provisions of RCW 42.17.310 or other statute.

(2) Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record specifying the reasons for denial, including a statement of the specific exemption authorizing the withholding of the record, in whole or in part, and a brief explanation of how the exemption applies to the record or portion of record withheld.

NEW SECTION

WAC 226-02-090 Review of agency denial. Whenever a person objects to a conclusion that a public record is exempt from disclosure, the person may request the attorney general to review the matter in accordance with RCW 42.17.325.

NEW SECTION

WAC 226-02-100 Records index. (1) The board has available for public inspection and copying at its offices in Olympia a current index of the following records:

(a) State legislation and proposed rules and regulations pertaining to board standards.

(b) Those statements of policy and interpretations of policy, statute and bylaws which have been adopted by the board;

(c) Minutes of board meetings;

(d) Resolutions approved by the board;

(e) FMSIB program guidelines;

(f) Program reports and publications;

(g) Budgets and expenditures;

(h) FMSIB project administration and accounting files.

(2) A system of indexing shall be as follows:

(a) The indexing system will be administered by the board's public records officer.

(b) Copies of the index shall be available for public inspection and copying in the manner provided in this chapter.

(c) The public records officer shall update the index at least once a year and shall revise the index when deemed necessary by the board.

NEW SECTION

WAC 226-02-110 Availability. The board's current index shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

Chapter 226-12 WAC

SUBMISSION OF PROPOSED FREIGHT MOBILITY PROJECTS TO BOARD (FMSIB)

NEW SECTION

WAC 226-12-010 Designation of lead agency. The agencies involved in a multiagency project shall designate one agency as the lead agency. The lead agency must be a

city, town, county, port or the Washington state department of transportation.

NEW SECTION

WAC 226-12-040 Applications for freight mobility projects. When requested by the board, applications for proposed projects shall be submitted to the board by public entities seeking allocation of funds from the FMSIB. The application form will be provided by the board.

NEW SECTION

WAC 226-12-080 Priority criteria for freight mobility projects. From the effective date of this act through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the board and contained in the January 16, 1998, report entitled "*Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program.*" The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. For projects funded after June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the board.

Chapter 226-16 WAC

REQUIREMENTS FOR FREIGHT MOBILITY PROJECT DEVELOPMENT

NEW SECTION

WAC 226-16-010 Methods of construction. All construction by a public entity using board funds shall be done by advertisement, competitive bid and contract, except:

- (1) Utility and railroad relocations and adjustments; and
- (2) Installation of traffic control devices.

If federal funds are included in the project, the negotiated contract shall include the applicable provisions of federal highway administration policies and procedures prescribed in 23 C.F.R. 140, 23 C.F.R. 645 and 23 C.F.R. 646, *Federal Aid Policy Guide*.

NEW SECTION

WAC 226-16-020 Registered engineer in charge. All projects using board funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.

NEW SECTION

WAC 226-16-040 Standard specifications. The current edition of the WSDOT/APWA *Standard Specifications*

for Road, Bridge, and Municipal Construction shall be included in any contract using board funds.

NEW SECTION

WAC 226-16-050 Value engineering study requirements. Value engineering studies shall be required in accordance with the policy adopted by the board.

NEW SECTION

WAC 226-16-100 Design standards for freight mobility strategic investment board projects. All board funded projects shall be prepared using currently applicable design standards.

NEW SECTION

WAC 226-16-110 Allocation of freight mobility strategic investment program funds to regions. For the purpose of allocating funds for the freight mobility strategic investment program, the board shall allocate the first fifty-five percent of funds to the highest priority projects, without regard to location. The remaining funds shall be allocated equally among three regions of the state pursuant to RCW 47.06A.050.

NEW SECTION

WAC 226-16-150 Freight mobility program management. The board will implement reasonable controls on project development as it deems necessary to allocate funds within the program funding level to prioritized projects.

NEW SECTION

WAC 226-16-160 Work progress on freight mobility projects. The lead agency must begin work on a project within twelve months of the date the board approves the project, unless the board grants an extension. To determine if work has begun, the board will assess the project progress as compared to the information provided the board when the project was authorized for funding. If project activity has not started and it appears the project is falling behind the proposed schedule, the board may review the project status to determine if board funds should be withdrawn from the project and reallocated to another proposed project.

NEW SECTION

WAC 226-16-170 Phase approval of freight mobility projects. The board will authorize freight mobility project approvals by phase for the purpose of controlling project expenditures and assuring that projects experiencing delay will not unduly tie up freight mobility funds. The three phases are design, right-of-way, and construction. Each phase normally will be funded by separate board approvals on forms provided by the board.

PROPOSED

NEW SECTION

WAC 226-16-180 Cost increases on freight mobility projects. Increases in freight mobility funds will not be available.

NEW SECTION

WAC 226-16-200 Lack of performance on freight mobility projects. To assure that freight mobility projects remain on schedule, the board will monitor the project progress based on at least semi-annual reports and reimbursement payments on the project.

Chapter 226-20 WAC**FINANCIAL AND PAYMENT REQUIREMENTS**NEW SECTION

WAC 226-20-010 Matching ratios for freight mobility program funds. The board gives preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall give a higher priority to projects with at least a thirty-five percent partnership contribution. The maximum amount of funding on a project from the freight mobility board shall be fifty million dollars. The board may allow the use of matching ratios greater than the original matching ratio on any phase of a project to facilitate project development, with the understanding that the total payments made by project completion shall not exceed the original matching ratio. The board allows other state funds to be considered part of the local matching funds.

NEW SECTION

WAC 226-20-020 Certification of nonprogram funds. The lead agency shall certify that nonprogram funds are available for the funding phase being considered.

NEW SECTION

WAC 226-20-030 Reimbursable costs. Project costs eligible for reimbursement from the account shall be those proper and allowable costs incurred on a project after the project is authorized by the board.

NEW SECTION

WAC 226-20-040 Audit of freight mobility program projects. Project records for each project developed through the use of freight mobility funding shall be audited to determine that the amount of freight mobility funds paid in connection with the project can be attributed to the project and supported by project records. The audit shall determine whether the lead agency has materially complied with the rules of the board and whether any failures to comply are significant in nature or effect. The board shall audit projects at

the time of the project completion or at such additional times as may be directed by the board.

NEW SECTION

WAC 226-20-050 Recovery of freight mobility program funds on canceled projects. Authorized projects that are subsequently canceled by the agency or the board may be eligible for reimbursement from the board. If the agency developed the project in good faith, with a reasonable expectation of completion, the board may allow reimbursement. If the board does allow reimbursement for a canceled project, the board share of the project cannot exceed the original matching ratio.

NEW SECTION

WAC 226-20-060 Partial or progress payments for project costs. The board will not make payments of freight mobility funds on projects unless the following tasks are complete:

- (1) The board has approved the phase of the project.
- (2) Local matching funds are certified to be available for the phase of the project that is being billed.

Requests for payment may be submitted from time to time as the work progresses. Payments less than five hundred dollars will not be made unless it is the final request for payment. The final request for payment must be submitted within six months of the completion of work.

The board will make an adjustment to the final payment, if necessary to assure that the original board matching ratio is not exceeded.

WSR 99-13-164**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed June 22, 1999, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-039.

Title of Rule: Chapter 16-200 WAC, Feeds and fertilizers.

Purpose: To revise current rules to update references to the Code of Federal Regulations and the Association of American Feed Control Officials (AAFCO) publications, dated 1998.

Statutory Authority for Adoption: RCW 15.53.9012.

Statute Being Implemented: Chapter 15.53 RCW.

Summary: The proposed revisions will update references to Title 21, parts 500-599, 225, and 226 under the Federal Food, Drug and Cosmetic Act as published in the 1998 edition, and definition of feed ingredients and feed terms as adopted by the association of American Feed Control Officials as appear in their 1998 official publication.

Reasons Supporting Proposal: Establishes consistency and uniformity with the federal requirements and Association

of American Feed Control Officials publication for safety of animal products and ease of interstate trade.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ali Kashani, 1111 Washington Street, Olympia, WA, (360) 902-2028.

Name of Proponent: American Feed Industry Association, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this proposal is to update sections of rules relating to commercial feeds with references to Title 21, parts 500-599, 225, and 226 under the Federal Food, Drug and Cosmetic Act as published in the 1998 edition, and official definition of feed ingredients and official feed terms as adopted by the Association of American Feed Control Officials as appear in their 1998 official publication.

Federal regulations have been amended since rules relating to commercial feeds were revised in 1996. One of the major revisions in the federal rules is adoption of the final rule prohibiting the use of protein derived from mammals (with certain exceptions) in ruminant feed, (Federal Register of June 5, 1997, 62 FR 30936) for the prevention of occurrence and amplification of bovine spongiform encephalopathy in cattle in the United States.

Additionally new definitions and terms have been adopted by the Associations of American Feed Control Officials since 1996. Rules relating to commercial feeds need to be updated accordingly to remain in conformity with federal regulations and national standards and uniformity. Effects of these revisions will be minimal since inspection of feed mills and rendering plants indicated that the industry is well aware of the requirements of the rules and they are complying for the most part.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed revisions will not create any additional requirements other than the current rules under the federal authorities. The department, under a partnership agreement with the Food and Drug Administration, has been educating the industry and has observed good compliance with the requirements of the rules. No additional requirements will be established under the state rules, other than what is already in existence to comply with the federal rules.

Several definitions of feed ingredients and feed terms have been adopted by the Association of American Feed Control Officials since the rules relating to commercial feeds were revised. These definitions of feed ingredients and feed terms are not expected to impact the industry economically to any significant extent.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a named agency under section 201.

Hearing Location: DIS Interactive Technologies, 1107 S.W. Grady Way, Suite 112, Renton, WA 98055, on July 27, 1999, at 2:00 p.m.; and at DIS Interactive Technologies, North 1101 Argonne, Suite 109, Spokane, WA 99201, on July 27, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen, TDD (360) 902-1996.

Submit Written Comments to: Laurie Mauerman, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504, fax (360) 902-2093, by August 11, 1999, 5:00 p.m.

Date of Intended Adoption: August 13, 1999.

June 21, 1999

Bob Arrington

Assistant Director

AMENDATORY SECTION (Amending Order 5098, filed 7/9/96)

WAC 16-200-750 Definitions and terms. (1) The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), as they appear in the ((1996)) 1998 official publication of the association, except as the department designates otherwise in specific cases.

Note: A copy of the ((1996)) 1998 official publication of the association of American Feed Control Officials is on file with the department. Copies may be obtained from AAFCO Treasurer; Georgia Department of Agriculture; Plant Food, Feed and Grain Division; Capitol Square; Atlanta, GA 30334.

(2) The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, as they appear in the ((1996)) 1998 official publication of the association, except as the department designates otherwise in specific cases.

(3) The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of RCW 15.53.901(2): Raw meat, loose salt, hay, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials: Provided, That these commodities are not adulterated within the meaning of RCW 15.53.902.

(4) The term "quality statement" means the net weight (mass) as defined in RCW 19.94.010 (1)(i), net volume (liquid or dry) or count.

(5) The following definitions, in addition to the official definitions adopted by AAFCO, as published in the ((1996)) 1998 edition, are adopted:

(a) Pea meal is a pea product resulting from the grinding of whole peas which are reasonably free of other crop seeds, weeds, and mold. It shall contain not less than twenty percent crude protein and not more than eight percent crude fiber.

(b) Pea by-products meal is a product containing light and broken peas, and offal from pea cleaning, which includes chips, pea powder, pea hulls, and screenings. It shall contain not less than fifteen percent crude protein nor more than thirty percent crude fiber.

(c) Pea screenings meal consists primarily of the various separates obtained from the screening and cleaning of peas. It shall contain not less than ten percent crude protein nor more than thirty-eight percent crude fiber.

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(d) Pea bran consists primarily of the various separates obtained from the pea splitting operation. It shall contain not less than ten percent crude protein nor more than thirty-eight percent crude fiber.

(e) Grass seed by-products meal or pellets is a ground product consisting of light and broken seeds, hulls, chaff, straw, and a portion of the weed seeds; excluding sand, dirt, and heavy weed seeds.

(f) Grass seed screenings meal or pellets is the product obtained from the cleaning of various grass seed and shall be comprised chiefly of hulls.

(g) Dehydrated grass meal is the aerial portion of the plant cut prior to formation of seed reasonably free of other crop plants, weeds, and mold, which has been finely ground and dried by thermal (artificial) means. If a species name is used, the product must correspond thereto.

(h) Facility is defined as any place where a commercial feed is manufactured, sold or stored for later distribution.

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 5098, filed 7/9/96)

WAC 16-200-755 Label format. (1) Except as provided for in subsection (2) of this section, commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this section on the principal display panel of the product and in the following general format:

- (a) Product name and brand name if any;
- (b) If a drug is used, the label shall include:
 - (i) The word "medicated" directly following and below the product name in type size, no smaller than one-half the type size of the product name;
 - (ii) The purpose of the medication (claim statement);
 - (iii) An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with WAC 16-200-770(5);
- (c) Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by WAC 16-200-795 and 16-200-830 appear elsewhere on the label;
- (d) The guaranteed analysis of the feed required under the provisions of RCW 15.53.9016 (1)(b). This shall include the following items, unless exempted in subsection (2) of this section, in the order listed:
 - (i) Minimum percentage of crude protein;
 - (ii) Maximum or minimum percentage of equivalent protein from nonprotein nitrogen as required in WAC 16-200-770(8);
 - (iii) Minimum percentage of crude fat;
 - (iv) Maximum percentage of crude fiber;
 - (v) Moisture guarantees shall be shown as a part of the guaranteed analysis on the labels of all canned pet foods and specialty pet foods. When water is added in the preparation of canned foods for animals, water must be listed as an ingredient;

(vi) For mineral feeds the guaranteed analysis shall include the following, if added:

- (A) Minimum and maximum percentages of calcium (Ca);
- (B) Minimum percentage of phosphorus (P);
- (C) Minimum and maximum percentages of salt (NaCl); and
- (D) Other minerals;
- (vii) Vitamins in such terms as specified in WAC 16-200-770(4);

(viii) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

(ix) Viable lactic acid producing microorganisms for use in silages in terms specified in WAC 16-200-770(10);

(e) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of RCW 15.53.9016 (1)(c):

(i) The name of each ingredient as defined in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the department;

(ii) Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients: Provided, That:

(A) When a collective term of a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

(B) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state;

(f) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however the street address may be omitted if it is shown in the current city directory or telephone directory;

(g) Quantity statement.

(2) Exemptions.

(a) A mineral guarantee is not required when the feed or feed ingredient is not intended, or represented or does not serve as a principal source of that mineral to the animal.

(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for, nor represented in any manner as a vitamin supplement.

(c) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(d) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

(3) The information required by subsection (1)(a) and (b) and (d) through (g) of this section must appear in its entirety on one side of the label or container.

(4) The information required by subsection (1)(c) of this section shall be displayed in a prominent place on the label or container but not necessarily on the same side as the above information. When the information required by subsection (1)(c) of this section is placed on a different side of the label or container, it must be referenced on the front side with a statement such as "see back of label for directions for use." None of the information required by RCW 15.53.9016 shall be subordinated or obscured by other statements or designs.

(5) No printed or written matter or design (e.g., picture of animal or bird) of any kind shall be attached to, appear on, or be distributed with feed if such matter is misleading or incorrect, or at variance in any respect with the information on the principal label. Labeling which suggests that presence of added enzyme-bearing materials improves utilization of a commercial feed is prohibited.

(6) No statement may appear on a label which refers to or compares properties of the package contents to some other competitive products unless such other competitive product is specifically identified. A negative statement is not allowed on a label except when this provides information deemed by the director to be beneficial to the purchaser.

(7) Customer-formula feed shall be labeled with the information prescribed using labels, invoice, delivery ticket, or other shipping document bearing the following information:

- (a) The name and address of the manufacturer;
- (b) The name and address of the purchaser;
- (c) The date of delivery;
- (d) The product name and the quantity statement;

(e) The product name and quantity statement of each commercial feed and each other ingredient used in the customer-formula feed must be on file at the plant producing the product. These records must be kept on file for one year after the date of the last sale. This information shall be available to the purchaser, the dealer making the sale, and the department on request;

(f) The direction for use and precautionary statements as required by WAC 16-200-795 and 16-200-830;

(g) If a drug is used, the labeling shall include:

- (i) The purpose of the medication (claim statement);
- (ii) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with WAC 16-200-770(5).

(8) When bulk commercial feeds are sacked and offered for sale, each container shall be accompanied by a label in accordance with the provisions of RCW 15.53.9016(1).

(9) All bulk deliveries of commercial feed shall be accompanied by a label or a shipping document in accordance with the provisions of RCW 15.53.9061(1).

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 5098, filed 7/9/96)

WAC 16-200-760 Brand and product names. (1) The brand or product name must be appropriate for the intended use of the feed and not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A mixture labeled "dairy feed," for example, must be suitable for that purpose.

(2) When not specifically stated in chapter 15.53 RCW or otherwise designated by the department, the department will be guided by the definitions of feed ingredients and feed terms as established in the (~~(+1996)~~) 1998 official publication of the Association of American Feed Control Officials in accepting product names for single ingredient feeds.

(3) A name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any component of a mixture unless all components are included in the name: PROVIDED, That if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name, if in the opinion of the department, the ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product, that it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients, and that it is not otherwise false or misleading.

(4) The word vitamin, or a contraction thereof, or any word suggesting vitamin, can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in WAC 16-200-770(4).

(5) The term "mineralized" shall not be used in the name of a feed except "trace mineralized salt." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

(6) When the brand name carries a percentage value, it shall be understood to signify protein and/or protein equivalent content. If any other percentage values are used in brand names, they must be followed by the proper description.

(7) Commercial feed shall be considered as a distinct brand when differing either in guaranteed analysis, trademark name, or any other characteristic method of marking: PROVIDED, That a brand may be sold in various physical forms.

(8) The word "protein" shall not be permitted in the brand name of a feed that contains added nonprotein nitrogen.

(9) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

AMENDATORY SECTION (Amending Order 5098, filed 7/9/96)

WAC 16-200-790 Ingredient statement. (1) As provided in WAC 16-200-755 (1)(e), the name of each ingredi-

ent or collective term for the grouping of ingredients, when required to be listed, shall be the name defined in the Official Definitions of Feed Ingredients as published in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the department.

(2) The name of each ingredient must be shown in letters or type of the same size.

(3) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

(4) The term "dehydrated" may precede the name of any product that has been artificially dried.

(5) A single ingredient product defined by the Association of American Feed Control Officials, as published in the ((1996)) 1998 official publication of Association of American Feed Control Officials, is not required to have an ingredient statement.

(6) Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e., sugar).

(7) When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

(8) The term "degermed" must precede the name of any product from which the germ was wholly or partially removed.

(9) The use of commercial, copyrighted brand, or trade names in the guarantees and ingredient listing shall not be permitted.

AMENDATORY SECTION (Amending Order 5098, filed 7/9/96)

WAC 16-200-795 Directions for use and precautionary statements. (1) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall:

(a) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

(b) Include, but not be limited to, all information described by all applicable regulations of the Code of Federal Regulations, Title 21, parts 500-599 under the Federal Food, Drug and Cosmetic Act as provided in the ((1995)) 1998 edition.

Note: The Food and Drug Administration's regulations are published in the Code of Federal Regulations, and are available in book format from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. A copy of the ((1995)) 1998 edition, parts 200-599 is on file with the department.

(2) Adequate directions for use and precautionary statements as identified in subsection (1) of this section are required for feeds containing nonprotein nitrogen as specified in WAC 16-200-830.

(3) Adequate directions for use and precautionary statements necessary for safe and effective use as identified in

subsection (1) of this section are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

AMENDATORY SECTION (Amending Order 5098, filed 7/9/96)

WAC 16-200-815 Adulteration. (1) Pursuant to RCW 15.53.902, the terms "poisonous or deleterious substances" include but are not limited to the following:

(a) A commercial feed or feed ingredient which contains more than twenty parts per billion aflatoxin B1, B2, G1, G2, individually or total;

(b) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep, 0.35% for lambs; 0.45% for swine; and 0.60% for poultry;

(c) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry;

(d) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight;

(e) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents;

(f) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

(g) Any substance which is prohibited by the Code of Federal Regulations, Title 21, part 589, effective April 1, 1998.

(2) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than one viable prohibited (primary) noxious weed seeds per pound and not more than twenty-five viable restricted (secondary) noxious weed seeds per pound.

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 5098, filed 7/9/96)

WAC 16-200-830 Nonprotein nitrogen. (1) Urea and other nonprotein nitrogen products defined in the ((1996)) 1998 official publication of the Association of American Feed Control Officials are accepted ingredients only in com-

mercial feeds for ruminant animals as a source of equivalent crude protein.

(2) If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of nonprotein nitrogen added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, or exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a caution statement: CAUTION: USE AS DIRECTED. The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

(3) The presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the warning or caution statements on medicated feed labels which contain adequate feeding directions and/or warning statements as long as those statements include sufficient information to insure the safe and effective use of this product due to the presence of nonprotein nitrogen.

(4) Nonprotein nitrogen defined in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to nonruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from nonprotein nitrogen sources when used in nonruminant rations shall not exceed 1.25% of the total daily ration.

WSR 99-13-166
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed June 22, 1999, 1:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-006.

Title of Rule: Rule changes to LEOFF to clarify and comply with amendments to chapters 41.26 and 41.50 RCW.

Purpose: To amend the department's rules implementing the law codified in chapters 41.26 and 41.50 RCW in order to make those rules consistent with amendments. To clarify disability rules.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapters 41.26 and 41.50 RCW.

Summary: The proposed rules clarify and amend the department's LEOFF retirement system rules conform to chapter 41.26 RCW and RCW 41.50.790.

Reasons Supporting Proposal: (1) To bring the department's rules into conformity with chapters 41.26 and 41.50 RCW as amended.

(2) Current disability rules are difficult to understand. Therefore, the department has revised them in accordance with Executive Order 97-02 and clear rule writing standards.

Name of Agency Personnel Responsible for Drafting: Elyette Weinstein, 6835 Capitol Boulevard, Tumwater, (360) 664-7307; Implementation: Leah Wilson, 6835 Capitol Bou-

levard, Tumwater, (360) 664-7049; and Enforcement: Debbie Jewell, 6835 Capitol Boulevard, Tumwater, (360) 664-7061.

Name of Proponent: Department of Retirement Systems, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule is an amendment to provisions of chapters 415-104 and 415-105 WAC governing the department's implementation of the law enforcement officers and fire fighters retirement system codified in chapter 41.26 RCW. The amendments are necessary to reflect the changes to the RCW enacted after the WACs went into effect. The purpose of the rules is to bring them into conformity with the statutes as amended to ensure that there are no conflicts between the rules and the authorizing statutes.

The LEOFF disability rules are difficult to understand. Therefore, the department has rewritten them in accordance with Executive Order 97-02 and clear rule writing standards.

Proposal Changes the Following Existing Rules: (1) The proposal changes the following WACs which concern LEOFF disability standards, assessment and appeals. They have been rewritten in accordance with Executive Order 97-02 and clear rule writing standards: WAC 415-104-035, 415-104-045, 415-104-050, 415-104-060, 415-104-070, 415-104-080, 415-104-090, 415-104-125, 415-104-135, 415-104-145, 415-104-165, 415-104-175, 415-105-010, 415-105-020, 415-105-030, 415-105-040, 415-105-050, 415-105-060, 415-105-070, 415-105-080, 415-105-090, 415-105-100, 415-105-110, 415-105-120, 415-105-140, 415-105-150, 415-105-160, 415-105-170, and 415-105-180.

(2) WAC 415-104-299 corrects a typographical error in the basic salary table and adds an explanation regarding longevity pay.

(3) WAC 415-104-211 and 415-104-215 conform to RCW 41.50.790 concerning the entitlement of exspouses to retirement benefits; WAC 415-104-215 conforms to RCW 41.26.460 concerning benefit increases to members whose beneficiaries predecease them.

NEW WAC: (1) WAC 415-104-112 advises members that their initial retirement benefit calculation is not final and therefore subject to adjustment following a final audit. The public employees' and teachers' retirement systems have identical WACs to provide members with notice regarding this subject.

(2) WAC 415-105-072 advises members that the LEOFF disability board has the burden of proof in any proceeding to cancel disability benefits.

(3) WAC 415-108-074 advises members of the criteria that the LEOFF disability board uses to determine whether disability benefits should be canceled.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules apply to public employers and employees participating in the retirement systems administered by the Department of Retirement Systems. No private business is affected by the rules, therefore, no small business impact statement is required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Retirement Systems

PROPOSED

is not one of the agencies that RCW 34.05.328 applies to. The Department of Retirement Systems does not opt to voluntarily bring itself within the coverage of that statute.

Hearing Location: Boardroom, 3rd Floor, 6835 Capitol Boulevard, Tumwater, WA, on August 2, 1999, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Elyette Weinstein, TDD (360) 586-5450, or (360) 664-7302.

Submit Written Comments to: Elyette Weinstein, P.O. Box 48380, Olympia, WA 98504-8380, fax (360) 664-3618, by July 30, 1999.

Date of Intended Adoption: August 2, 1999.

June 22, 1999

Elyette M. Weinstein
Rules Coordinator

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-035 Jurisdiction of director. ((+))

The director ~~((has no jurisdiction to review the propriety of a disability board finding that the member's disability was incurred in the line of duty under RCW 41.26.120 or not incurred in the line of duty under RCW 41.26.125. If a member is granted disability retirement subsequent to a disability board's denial of disability, the director shall remand the matter to the disability board to make a finding of whether the disability was incurred in the line of duty.~~

~~(2) The director has no jurisdiction to review a disability board determination regarding))~~ or the director's designee (director, designee or DRS) does not have authority to review local disability board findings or decisions regarding:

(1) Whether a member's disability was incurred in the line of duty under RCW 41.26.120 or not incurred in the line of duty under RCW 41.26.125; or

(2) A member's right to the employer's payment for medical services pursuant to RCW 41.26.030(22) and((+)) 41.26.150.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-045 ((Grievances.)) Appeal of a local disability board decision. Any person aggrieved by ~~((a) the decision ((or order of the)) of a local disability board ((denying disability leave, disability retirement, or cancelling a previously granted disability retirement allowance must submit a notice of appeal to the director))~~ may appeal the decision if it:

(1) Denies disability leave;

(2) Denies disability retirement; or

(3) Cancels a previously granted disability retirement.

The written notice of appeal must be submitted to DRS within thirty days in accordance with RCW 41.26.200.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-050 Review of disability board action; appeal of director's decision. ~~((After the director has reviewed the disability board's decision pursuant to the provisions of RCW 41.26.120 or 41.26.125, he shall serve a copy~~

~~of his decision on the disability board, the employer, and the applicant. If the director's decision is adverse to the applicant, he shall notify the applicant of his/her right to appeal by filing a notice for hearing.))~~ Under RCW 41.26.120(3) and 41.26.125(3), DRS must review a disability board's order to grant a disability retirement allowance. DRS must:

(1) Affirm (approve) the board's decision; or

(2) Remand (send back) the case for further proceeding;

or

(3) Reverse (deny) the board's decision.

DRS must serve a copy of the decision on the applicant, employer, and disability board. DRS must notify the applicant of the right to file a notice for hearing (an appeal under RCW 41.26.200) if the DRS decision denies the disability retirement allowance.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-060 ((Rules)) Records reviewed on appeals filed ((pursuant to)) under RCW 41.26.200. ~~((Appeal from decisions of the local disability boards will be reviewed on the basis of the record established by the disability board and materials appearing in the records of the department of retirement systems. The director shall act on such appeals as follows:~~

~~(1) Affirmance; or~~

~~(2) Remand for further proceedings; or~~

~~(3) Reversal and remand.))~~ DRS will review the appeal based on the record established by the disability board and materials appearing in the records of the department of retirement systems. DRS must:

(1) Affirm (approve) the board's decision; or

(2) Remand (send back) the case for further proceeding;

or

(3) Reverse (deny) the board's decision.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-070 Parties to a de novo hearing. ~~((The parties to a de novo hearing held pursuant to RCW 41.26.220 shall be the applicant, employer, and the department.))~~ The applicant, the employer, and the department are parties to a hearing held under RCW 41.26.221. The disability board may appear at such hearing only in support of the ((director's)) department's decision ((pursuant to RCW 41.26.220)).

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-080 The department can require an examination. ~~((The director or his representative, in his/her))~~ department has discretion((, may)) to require an ((application)) applicant for disability retirement to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW ((41.26.220)) 41.26.221. The cost of such examination is the responsibility of the department.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-090 Notice of appeal to the superior court. ~~((Upon an appeal from the decision and order of the director to the superior court pursuant to RCW 41.26.210, the appealing party within thirty days from the decision and order of the director must perfect his appeal by serving notice of appeal on the director and filing the notice of appeal together with proof of service with the clerk of the superior court. The service and the filing together with proof of service of the notice of appeal within thirty days shall be jurisdictional.)) Any party aggrieved by a DRS decision and order issued under RCW 41.26.211 may petition for judicial review within thirty days after the decision and order was mailed. Any party wishing to perfect a superior court appeal must:~~

- ~~(1) Serve notice of appeal on the director; and~~
- ~~(2) File notice of appeal together with proof of service with the clerk of the superior court, within thirty days after the decision and order was mailed.~~

NEW SECTION

WAC 415-104-112 Interim retirement allowance—Employer final compensation report—Final computation of retirement allowance—Adjustment of retirement allowance for errors. (1) At the time of a member's application for retirement, the department does not have all information necessary to make a final computation of the member's retirement allowance. The department shall compute an interim retirement allowance that shall be paid to the member until the department's final computation of the member's retirement allowance. The interim retirement allowance is an initial, estimated computation of the retiree's retirement allowance subject to adjustment by the department based upon subsequent review of information provided by the member's employer.

(2) In computing the interim retirement allowance, the department may, subject to later correction, consider only the amount of the member's salary actually reported by the employer up to the date of the interim computation, but may impute the member's earned service credit for the same period.

(3) Every employer of a member who applies for retirement shall provide the department with a final compensation report for that member. The report shall be completed on a form provided or approved by the department.

(4) Following the department's computation of the interim benefit and receipt of the employer final compensation report, earnings history, and any additional information requested by the department, the department will complete a final computation of the member's retirement allowance. The department's final computation may increase, decrease, or leave unchanged the amount of the interim retirement allowance computed pursuant to subsection (1) of this section.

(5) Pursuant to RCW 41.50.130, either before or after the department's final computation of the member's retirement allowance as provided in subsection (4) of this section, the department may adjust a member's retirement allowance to correct any error in retirement system records. For purposes

of this subsection, errors in retirement system records include, but are not limited to, the following:

- (a) Applying an incorrect retirement allowance formula in computing the retirement allowance;
- (b) Including service that is not creditable to the member;
- (c) Including payments that do not constitute basic salary to a member in the member's retirement allowance computation, or excluding basic salary not reported by an employer;
- (d) Benefit overpayments and underpayments;
- (e) Including an individual in the membership of the retirement system or plan who is not entitled to such membership;
- (f) Excluding an individual from membership in the retirement system or plan who is entitled to such membership.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-125 ((Director's)) DRS review of disability board order. (1) ~~((Every order of a disability board determining that an applicant's disability has ceased pursuant to RCW 41.26.130(3) shall be reviewed by the director, or his designated representative. The director may affirm or reverse the order or remand the matter for further proceedings.~~

~~(2) A retiree may appeal the disability board determination that a disability has not ceased to the director pursuant to the provisions of RCW 41.26.140(6).)) Under the provisions of RCW 41.26.135, DRS must review a disability board determination that an applicant's disability has ceased pursuant to RCW 41.26.130(3). DRS must:~~

- ~~(a) Affirm (approve) the board's decision; or~~
 - ~~(b) Remand (send back) the case for further proceedings;~~
- ~~or~~
- ~~(c) Reverse (deny) the board's decision.~~

~~(2) A retiree aggrieved by a decision of the local disability board that the disability has not ceased may appeal the determination to the director. The written notice of appeal must be submitted to DRS within thirty days as provided by RCW 41.26.140(6).~~

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-135 Notice for hearing. ~~((Before appealing to the superior court, any)) A person aggrieved by:~~

- ~~(1) The director's final decision on review of the local board determination; or~~
- ~~(2) The director's final decision after review of the record on appeal ((shall) must invoke the director's jurisdiction by filing a notice for hearing in accordance with RCW ((41.26.210)) 41.26.211 and WAC 415-08-020 before they can appeal to the superior court. Such hearing shall be in accordance with RCW ((41.26.220)) 41.26.221.~~

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-145 Department examination. The director or his representative, in his/her discretion, may require a disability retiree to undergo a mental and/or physical examination prior to the hearing to be held pursuant to RCW ((41.26.220)) 41.26.221. The cost of such examination is the responsibility of the department.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-165 Payment of benefits pending final determination. ~~((When a disability board determines that a retiree's disability has ceased, the department shall continue to pay monthly benefits. Provided, however, That))~~ The department will continue to pay monthly benefits when a disability board determines that a retiree's disability has ceased until there is a final determination from which no appeal is taken. The department ~~((shall))~~ will pay either the ~~((member's))~~ retiree's monthly service retirement allowance or monthly disability retirement allowance, whichever is less ~~((until there is a final determination from which no appeal is taken)).~~ Any retroactive adjustment ~~((that may be necessary))~~ required as the result of the final determination ~~((shall))~~ will be made after the appeal period has passed.

AMENDATORY SECTION (Amending Order 87-4, filed 3/11/87)

WAC 415-104-175 Comparison of disability retirement allowance and service retirement allowance. In comparing the ~~((member's))~~ disability retirement allowance and ~~((his/her))~~ the service retirement allowance as required by RCW 41.26.130(3), the department ~~((shall calculate the service retirement allowance using a final average salary calculated as follows:~~

~~On the date the disability ceased, the average of the greatest basic monthly rate of salary or wages (basic salary) that was paid or would have been paid to the member had he/she been in "active service" (employed) during any consecutive twenty-four month period within the member's last ten years of service for which service credit was given (including periods of disability leave and disability retirement).~~

~~The initial calculation of))~~ must:

(1) Compute the service retirement allowance using a final average salary calculated as follows:

(a) The department shall first calculate the greatest basic salaries that were or would have been payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed;

(b) The department shall then divide the total basic salaries during the selected twenty-four month period by twenty-four to compute the final average salary.

(2) Compute the service retirement allowance. The service retirement allowance does not include any cost-of-living increases that would have been granted if the service retirement allowance had been in effect during the period of disability retirement.

(3) Compare the service retirement allowance ~~((is then compared))~~ to the monthly disability retirement allowance ~~((amount))~~ that the member was receiving on the date that the disability ceased.

AMENDATORY SECTION (Amending WSR 96-01-047, filed 12/14/95, effective 1/14/96)

WAC 415-104-211 Married member's benefit selection—Spousal consent required. (1) A member, if married, must provide the spouse's written consent to the option selected under WAC 415-104-215. If a married member does not provide spousal consent, the department will pay the retired member a joint and one-half survivor benefit allowance and record the member's spouse as the survivor, in compliance with RCW 41.26.460(2).

(2) Spousal consent is not needed to enforce a marital dissolution order requiring the department to pay an ex-spouse under RCW 41.50.790.

(3) "Spousal consent" means that the married member's spouse consents to the retirement option selected by the member. The spouse's notarized signature on a completed retirement application constitutes spousal consent.

AMENDATORY SECTION (Amending 96-01-047, filed 12/14/95, effective 1/14/96)

WAC 415-104-215 Retirement benefit options. RCW 41.26.460 enables the department to provide retiring members with four retirement benefit options. The member must choose an option when applying for service or disability retirement.

(1) Option One (standard allowance). The department pays the retiree a monthly retirement allowance actuarially based solely on the single life of the member, in accordance with RCW 41.26.430 (service) or 41.26.470 (disability). When the retiree dies, all benefits cease. Any remaining balance of the retiree's accumulated contributions will be paid to:

- (a) The retiree's designated beneficiary; or if none, to
- (b) The retiree's surviving spouse; or if none, to
- (c) The retiree's legal representative.

The member must designate a beneficiary at the time of retirement by filing a completed and notarized form provided by the department.

(2) Benefit options with a survivor feature. A retiring member is allowed to select from several retirement options which create an actuarially equivalent benefit that includes a survivor feature. The survivor feature entitles the survivor to receive a monthly allowance after the retiree dies. If the member chooses one of the survivor options, the monthly benefit the member will receive is actuarially reduced to offset the cost of the survivor feature. After the retiree dies, the department pays the survivor an allowance for the duration of his or her life. If the retiree and the survivor both die before

the retiree's accumulated contributions are exhausted, the remaining balance is retained in the retirement fund.

(a) Option Two (joint and whole allowance). When the retiree dies, the department pays the survivor a monthly retirement allowance equal to the gross monthly allowance received by the retiree.

(b) Option Three (joint and one-half allowance). When the retiree dies, the department pays the survivor one-half of the amount of the retiree's gross monthly retirement allowance.

(c) Option Four (joint and two-thirds allowance).

(i) This subsection applies to members retiring on or after January 1, 1996.

(ii) When the retiree dies, the department pays the survivor two-thirds (66.667%) of the retiree's gross monthly retirement allowance.

Plan Two:

Agnes retires in 1996 (Year 0). She would like Beatrice, her daughter, to receive a monthly allowance after Agnes dies. Therefore, Agnes selects a retirement benefit option with a survivor feature. As a result her monthly allowance is reduced from \$2,000 (standard allowance) to \$1,750. Unfortunately, Beatrice dies in January 2001 (Year 5). Under the "pop-up" provision, Agnes' monthly benefit will increase to \$2,191.05, the amount she would have received had she chosen Option One (standard allowance) plus her accumulated COLA's

Year		Survivor Option (2,3,4) plus COLAs	COLA incr. (3% max)	\$ Increase
0 (1996)	2,000.00	1,750.00	(inelig.)	0.00
1 (1997)		1,750.00	.02	35.00
2 (1998)		1,785.00	.03	53.55
3 (1999)		1,838.55	.025	45.96
4 (2000)		1,884.51	.03	56.54
5 (2001)	2,000.00	1,941.05	—	—
			Total COLA's	191.05
Original Option One Benefit Amount		+Total COLA's		=New Benefit Amount
\$2000		+\$191.05		=\$2,191.05*

*In the future (i.e., Year 5), Agnes' COLA will be based on the increased benefit amount (\$2,191.05).

(d) If the survivor dies and the retiree's benefit increases under this section, and thereafter the retiree also dies before all contributions are exhausted, the remaining balance is retained by the retirement fund.

(((4))) (5) Any retiree who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (2) of this section is entitled to receive a retirement allowance adjustment if the retiree meets the following conditions:

(a) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(b) The retiree provides the department proper proof of the designated beneficiary's death.

The retiree is not required to apply for the increased benefit provided in this subsection. The adjusted retirement allowance will be effective on July 1, 1998, or the first day of the month following the date of death of the designated beneficiary, whichever comes last. The adjustment is computed as described in RCW 41.26.460 (3)(c) for Plan 2 retirees.

(3) If a member retires on or after June 6, 1996, the department is required to pay an ex-spouse survivor benefits pursuant to a marital dissolution order that complies with RCW 41.50.790.

(4) Benefit increases when survivor predeceases retiree (pop-up provision).

(a) This section applies to members retiring on or after January 1, 1996, who select Option Two, Three, or Four.

(b) If the survivor dies before the retiree, the retiree's monthly retirement allowance increases, effective the first day of the following month, to:

(i) The amount that would have been received had the retiree chosen Option One; plus

(ii) Any cost-of-living adjustments the retiree received prior to the survivor's death based on the original option selection.

(c) Pop-up recalculation example:

(6) Survivor. For the purposes of this provision, "survivor" means a person nominated by the member to receive a monthly benefit allowance after the member dies. A member nominates the survivor at the time of retirement by filing a completed and notarized form provided by the department.

AMENDATORY SECTION (Amending WSR 97-01-016, filed 12/6/96, effective 1/6/97)

WAC 415-104-299 Basic salary table. The following table is provided as a quick reference guide to help you characterize payments under LEOFF Plan I and LEOFF Plan II. Be sure to turn to the referenced rule to ensure that you have correctly identified the payment in question. The department determines basic salary based upon the nature of the payment, not the name applied to it. See WAC 415-104-311 (Plan ((I)) 1) and WAC 415-104-360 (Plan ((II)) 2).

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Type of Payment	LEOFF I Basic Salary?	LEOFF II Basic Salary?
Additional Duty Pay	Yes - WAC 415-104-3205	Yes - WAC 415-104-360
Allowances (i.e. uniform)	No - WAC 415-104-3404	No - WAC 415-104-390
Basic Monthly Rate	Yes - WAC 415-104-3200	Yes - WAC 415-104-360
Cafeteria Plans	No - WAC 415-104-3303	Yes - WAC 415-104-367
Deferred Wages Attached to Position	Yes - WAC 415-104-3201(1)	Yes - WAC 415-104-363(1)
Deferred Wages not attached to a Position	No - WAC 415-104-3306	No - WAC 415-104-363(2)
Disability Payments	No - WAC 415-104-340	No - WAC 415-104-380
Education Attainment Pay	No - WAC 415-104-3301	Yes - WAC 415-104-375
Employer taxes/contributions	No - WAC 415-104-3401	No - WAC 415-104-383
Fringe Benefits	No - WAC 415-104-3402	No - WAC 415-104-385
Illegal Payments	No - WAC 415-104-3403	No - WAC 415-104-387
Leave Cash Outs/Severance	No - WAC 415-104-3304	No - WAC ((415-104-400)) <u>415-104-401</u>
<u>Longevity</u>	<u>Yes - WAC 415-104-311</u>	<u>Yes - WAC 415-104-375</u>
Overtime	No - WAC 415-104-3305	Yes - WAC 415-104-370
Paid Leave	Yes - WAC 415-104-3203	Yes - WAC 415-104-373
Payments in Lieu of Excluded Items	No - WAC 415-104-350	No - WAC 415-104-405
Performance Bonuses	No - WAC 415-104-3302	Yes - WAC 415-104-377
Retroactive Salary Increase	Yes - WAC 415-104-3202	Yes - WAC 415-104-365
Reimbursements	No - WAC 415-104-3404	No - WAC 415-104-390
Retirement or Termination Bonuses	No - WAC 415-104-3406	No - WAC 415-104-395
Shift Differential	Yes - WAC 415-104-3204	Yes - WAC 415-104-379
Special Salary or Wages	No - WAC 415-104-330	Yes - WAC 415-104-375
Standby Pay	No - WAC 415-104-3405	No - WAC 415-104-393
Tuition/Fee Reimbursement	No - WAC 415-104-3404	No - WAC 415-104-390
Worker's Compensation	Not Applicable	No - WAC 415-104-380

AMENDATORY SECTION (Amending Order 81-03, filed 11/16/81)

WAC 415-105-010 Preamble. ~~((In adopting the rules contained herein, it is not the intention of the director of department of retirement systems to in any way weaken the existing powers and practices of any local disability board. Further, it is not the intent of these rules to preclude adoption or continuation of any procedures in addition to those set forth herein by any local disability board.))~~ These rules are not intended to weaken the authority of the local disability board nor to prevent the disability board from adopting additional rules or procedures necessary for performing its duties.

AMENDATORY SECTION (Amending Order 81-03, filed 11/16/81)

WAC 415-105-020 Purpose. These rules are adopted ~~((pursuant to))~~ under the authority of section 1, chapter 294, Laws of 1981 ((f)) (RCW 41.26.115((to implement chapter 41.26 RCW and))) to provide a basis for uniform administration of disability retirement matters. ~~((They shall))~~ These rules must be followed by each disability board.

AMENDATORY SECTION (Amending Order 81-03, filed 11/16/81)

WAC 415-105-030 Board doctor. (1) ~~((A duly licensed and practicing physician or physicians shall be appointed by the board. No disability retirement shall be approved by the board without prior examination of the claimant by the board doctor or a specialist of his selection, on or near the expiration of the disability leave period. The board doctor shall render such other medical service as may be requested by the board.~~

(2) ~~In order to carry out the duties of this position, each physician appointed or approved by the board is required to be knowledgeable concerning the duties, functions and general demands required of the employee being examined. The disability board shall furnish to the examining physician the job and/or position description of the applicant.~~

(3) ~~Reexamination of any member on disability retirement shall be conducted by a board appointed or approved physician.)~~ Each board must appoint a board doctor. The board must not approve a disability retirement without prior examination of the applicant by the board doctor or a specialist selected by the board doctor. The board doctor must be a practicing physician licensed under the provisions of chapter 18.71 RCW; or, if the board doctor practices outside the state

of Washington, then he/she must be a physician licensed by the state in which he/she practices.

(2) The board doctor and any selected specialist must be knowledgeable about the normal, routine duties, functions and general demands of the position the applicant held at the time the applicant discontinued service.

(3) The board must furnish the examining physician with the applicant's job and/or position description. The board must inform the physician that the board's decision to grant or deny a disability retirement allowance is to be measured against the actual, normal, routine duties that the applicant performs.

(4) The board doctor or approved specialist will provide medical services requested by the board including examinations pursuant to RCW 41.26.120(1); 41.26.125(1); 41.26.130(5); and 41.26.150(1)(a).

AMENDATORY SECTION (Amending Order 81-03, filed 11/16/81)

WAC 415-105-040 Disability leave. (1) ((Following receipt of an application for disability benefits, the board shall review all relevant information pertaining to the question of the applicant's fitness for duty, and if, in the opinion of the majority of the board, the evidence supports the proposition that the member is unfit for duty, such member shall be granted disability leave, unless such leave is waived pursuant to RCW 41.26.120(4). In considering such application, the board shall consider the duties of the position, and any other evidence that is relevant.

(2) The burden of proving the existence of a disabling condition, and whether or not the condition was incurred in line of duty, shall be upon the applicant.

(3) The minimum medical and health standards previously promulgated by the state retirement board for entry or reentry into LEOFF System membership were provided only to safeguard the fiscal integrity of the pension system and are not the applicable standards for any other purpose.

(4) Each application shall be accompanied by a list identifying by name any physician who had been contacted within the last six months for the illness or injury for which disability is claimed.

(5) In the event the board finds that insufficient information is available to make a determination, the matter may be continued to the next regular board meeting or be set for consideration at a special meeting. The board shall also advise the member of the additional information needed, and of the member's obligation to provide additional information and the deadline date by which such information must be provided.

(6) The board shall be authorized to demand the appearance of the member and to request the appearance of such other persons as it deems appropriate. It shall be incumbent upon each member obtaining medical evaluations to be used in connection with such disability leave and subsequent evaluations, to advise each and every examining physician: that such evaluation is being conducted at the direction of the board; that any reports relating thereto are for the benefit of the board; that the doctor-patient privilege may not be invoked with respect thereto; and that the physician may be

called upon by the board to testify as to his findings.)) The applicant must prove the existence of:

(a) A disabling condition; and

(b) Whether or not the condition was incurred in the line of duty.

(2) The application must include the name of each physician contacted by the applicant within the last six months for the disabling illness or injury. The applicant must advise each examining physician that:

(a) The board has requested the evaluation;

(b) Any reports of the evaluation will be reviewed by the board; and

(c) The physician may be requested by the board to testify as to his or her findings.

(3) The disability board is authorized to demand the appearance of the applicant and to request the appearance of any other persons it deems appropriate.

(4) Following receipt of an application for disability benefits, the board must:

(a) Review the application and all relevant information about the applicant's fitness for duty;

(b) Consider the duties of the applicant's position; and

(c) Consider any other pertinent evidence.

The board must either grant or deny disability leave based on the evidence or continue the matter pending receipt of additional information.

(5) If the information before the board is insufficient to determine whether or not the applicant is disabled, the matter can be continued to the next regular meeting or set for consideration at a special meeting. The board must advise the applicant of:

(a) The additional information needed;

(b) The applicant's obligation to provide the additional information; and

(c) The date by which the information must be provided.

(6) The applicant may waive any or all of the disability leave granted pursuant to RCW 41.26.120(4) and 41.26.125(4).

(7) The board is not to use the minimum medical and health standards (MMHS) to determine whether or not an applicant is unfit for duty. The MMHS established pursuant to RCW 41.26.046 govern entry or reentry into LEOFF System membership and were provided only to safeguard the fiscal integrity of the pension system.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-050 Examination ((for disability retirement)), review and determination. (1) ((Every applicant for disability retirement shall be reexamined during the fifth or sixth month of disability leave in order to determine his/her eligibility for disability retirement, with the following exception: If the applicant establishes that the disabling condition will be in existence for a period of at least six months and he/she voluntarily waives disability leave. No applicant will be granted a disability retirement allowance unless the conditions imposed by this subsection are met.

(2) In the event the medical and other relevant evidence is inconclusive, the board may specify in written order a rea-

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sonable trial service period for return to duty in the same position held at the time of discontinuance of service to determine the member's fitness for active duty. The reasonable length of such trial return to service shall be supported by medical evidence. Such a trial return to service does not entitle the member to a second six month period of disability leave for the same disability if, based upon this trial period of service, the member is found to be disabled.) The board must have the applicant examined during the fifth or sixth month of disability leave. The examination is to be performed by the board doctor or a specialist selected by the board doctor. The board shall not approve the disability retirement without this examination unless:

(a) The applicant establishes that the disabling condition will exist for at least six months; and

(b) The applicant voluntarily waives disability leave.

(2) Following receipt of the examination report, the board must:

(a) Review the medical evidence and all relevant information about the applicant's fitness for duty;

(b) Consider the duties of the applicant's position; and

(c) Consider any other pertinent evidence.

The board must either grant or deny disability retirement based on the evidence or return the applicant to duty for a reasonable period of trial service.

(3) If the board cannot determine with reasonable certainty whether or not the applicant is disabled, the board may issue a written order that the applicant is to return to duty for a reasonable period of trial service to determine the applicant's fitness for active duty.

(a) The length of the trial service period must be supported by medical evidence.

(b) During the period of trial service the applicant is to return to the same duties in the same position held at the time of discontinuance of service.

(c) If the applicant is found to be disabled, the board is not to grant a second six-month period of disability leave, but is to return the applicant to disability leave status for the remainder, if any, of the initial six-month leave period.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-060 Granting disability retirement.

~~(1) ((If the evidence shows to the satisfaction of the board that the member is physically or mentally disabled from further performance of duty and that the disability has been continuous from the date of commencement of disability leave for a period of six months, the board shall enter its written decision and order, accompanied by appropriate findings of fact and conclusions of law in compliance with RCW 41.26.120 or 41.26.125. Such written decision and order with supporting documentation shall thereafter be forwarded to the director, department of retirement systems, for review. In the event a regular meeting of the board precedes by no more than 40 days the date at which the full six months will conclude and the evidence is clear that the disability can be expected to continue through the full six month period, the board may make a finding of six months continuous disability prior to the actual conclusion of the six month period, so~~

~~as to eliminate unnecessary delay of receipt of retirement benefits.~~

~~(2) In order to qualify to receive a disability retirement allowance, the applicant will be required to prove that he or she is physically or mentally disabled to such extent that he or she is unable to discharge with average efficiency the duty of the position held at time of discontinuance of service. *Provided*, That no member shall be entitled to a disability retirement allowance if the appropriate authority advises that there is an available position for which the member is qualified and to which one of such grade or rank is normally assigned and the board determines that the member is capable of discharging, with average efficiency, the duties of the position.) The applicant is required to prove that he or she is disabled and unable to perform with average efficiency the duties of the position held at the time of discontinuance of service.~~

~~(2) The board must determine, based on the evidence, that the applicant is disabled from performing his or her duties and the disability has been continuous since the beginning of the disability leave period.~~

~~(3) The board may make a finding of six months continuous disability prior to the actual conclusion of the six-month period if:~~

~~(a) The regular meeting of the board does not precede the end of the six-month disability leave period by more than forty days; and~~

~~(b) Medical evidence shows the disability is expected to continue through the full six-month period.~~

~~(4) The applicant is not entitled to a disability retirement allowance if:~~

~~(a) The employer advises the board that there is an available position for which the applicant is qualified and to which a person of the same grade or rank is normally assigned; and~~

~~(b) The board determines that the applicant is capable of discharging the duties of the position with average efficiency.~~

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-070 ((Execution.)) Decision and order.

~~((Every order of the disability board granting or denying a disability retirement allowance shall contain the following presented in clear and concise terms:~~

~~(1) Findings of fact supported by credible evidence sufficient to sustain the granting or denying of the disability retirement allowance. When a disability retirement is granted, findings of fact shall include:~~

~~(a) Whether or not the disability was incurred in the line of duty;~~

~~(b) Whether or not the disability was incurred in other employment;~~

~~(c) Dates encompassing disability leave and/or dates relating to authorized trial basis return to duty; and, in the case of return to duty on a trial basis, the factual basis for such decision;~~

~~(d) Dates encompassing waiver of disability leave, if applicable; and that applicant established that such disability will be in existence for a period of six months.~~

~~(2) Conclusions of law in accordance with law on the basis of the facts in the case.~~

~~(3) Decision and order.)) (1) After granting or denying a disability retirement allowance, the board must enter a written decision and order that includes:~~

~~(a) Appropriate findings of fact supported by credible evidence sufficient to sustain the decision; and~~

~~(b) Conclusions of law.~~

~~(2) When a disability retirement allowance is granted, the decision and order and all supporting documentation must be sent to the director of the department of retirement systems.~~

~~(a) The accompanying findings of fact shall include at least the following:~~

~~(i) The applicant's length of service with the employer and the position held at discontinuance of service;~~

~~(ii) The names of the examining physicians and the dates of the examinations;~~

~~(iii) The nature of the disability;~~

~~(iv) Whether or not the disability was incurred in the line of duty;~~

~~(v) Whether or not the disability was incurred in other employment;~~

~~(vi) Dates encompassing disability leave;~~

~~(vii) Dates related to authorized return to duty on a trial basis and the factual basis for the decision; and~~

~~(viii) Dates encompassing waiver of disability leave, if applicable, and that applicant established that the disability will be continuous for at least six months.~~

~~(b) The supporting documentation shall include a copy of at least the following:~~

~~(i) The application for disability benefits showing the applicant's current mailing address;~~

~~(ii) The job description accurately reflecting the duties of the position the applicant held at discontinuance of service;~~

~~(iii) Employer statement(s), if any, relevant to the applicant's position and/or fitness for duty;~~

~~(iv) All medical and other evidence considered by the board; and~~

~~(v) The minutes and/or transcript of all meetings at which the applicant's disability status was considered.~~

NEW SECTION

WAC 415-105-072 Burden of proof to cancel disability allowance. The disability board has the burden of proof in any proceeding to cancel a disability retirement allowance.

NEW SECTION

WAC 415-105-074 Determination to cancel disability allowance. The board need not rely solely on medical evidence in making its determination. To cancel a disability retirement allowance, the board must demonstrate that:

(1) The retiree is reasonably able to perform the ordinary duties of his or her former position or a position within the retiree's former rank with average efficiency; and

(2) There has been a material change in the circumstances upon which the retirement was based; and

(3) No other physical or mental disability now prevents the retiree from performing the ordinary duties of his or her position or rank.

The board may not cancel a disability retirement allowance based on a determination that the medical condition was incorrectly diagnosed at the time of the initial disability hearing. If the medical condition for which the retiree was granted disability retirement has improved, but the retiree is still not physically or mentally able to perform his or her duties with average efficiency, the retiree shall continue to receive the disability retirement allowance. The board must send a copy of all determinations and the examination reports and other evidence on which they are based to the department of retirement systems.

AMENDATORY SECTION (Amending Order 81-03, filed 11/16/81)

WAC 415-105-080 Notice of denial of benefits and right to appeal. ~~((If the board denies disability leave or disability retirement or cancels a previously granted disability leave or retirement, the applicant shall be immediately notified and advised of the right to appeal such decision or order to the director of the department of retirement systems, pursuant to RCW 41.26.200. Such notification shall be in writing and served by personal service or mail. Provided, that written notice need not be given if applicant or his or her duly authorized representative is in attendance at the meeting or hearing and is advised of decision and of the right of appeal.)) (1) The board must immediately notify the applicant if the board:~~

~~(a) Denies disability leave or retirement; or~~

~~(b) Cancels a previously granted disability leave or retirement.~~

~~(2) The board must advise the applicant of his or her right to appeal the board's decision to the director of the department of retirement systems pursuant to RCW 41.26.200.~~

~~(3) Notification and advice must be in writing and served by personal service or mail unless the applicant or the applicant's authorized representative attends the meeting and is advised in person of the board's decision and the applicant's right to appeal.~~

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-090 Reexamination ~~((and return to duty))~~ after retirement. ~~(1) ((In the event a member is placed on disability retirement, the board may determine whether or not the member is so disabled that no possibility exists for return to duty or that there is no possibility that rehabilitation could restore the member to fitness for duty. Further, the board may at any point subsequent to retirement make such a determination provided a current (within ninety days) medical examination by the board physician or a specialist of his/her selection indicates that the retiree is so disabled that no possibility for recovery exists. A copy of all such determinations shall be sent to the department of retirement systems. Unless the board has made such a finding, the board's representative shall order a reexamination at six-month intervals and advise the board of the results thereof with a copy to the department of retirement systems: *Provided*, That such reexamination need not be conducted on a~~

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member over 49.5 years of age. In the event the retired member is residing at a location more than 100 miles from his former place of employment, the member may be authorized to be examined by a physician in his immediate area, provided, however, such physician shall be first approved by the board and prior to such evaluation the examining physician shall be apprised of the basis upon which the examination is to be conducted and the issues to be addressed in the physician's evaluative report.

(2) In the event such evaluation discloses fitness to perform duties of the rank or position held by the member at the time of disability retirement, the member shall be entitled to a hearing before the board, and further consideration of the matter. Such notice and hearing shall comply with the requirements of chapter 34.04 RCW.

(3) The hearing provided by RCW 41.26.140(2) is to be held, unless the retiree waives such hearing, prior to actual cancellation of a disability retirement allowance.

(4) The retirement allowance of any member who fails to submit to medical examination as provided herein shall be discontinued and in the event such refusal continues for one year, his retirement allowance shall be cancelled. Failure of the member to affirmatively respond to the request for reexamination shall be deemed a continuing refusal. Every retiree under 49.5 years of age must be medically reexamined every six months by the board doctor or approved physician, except as provided in subsection (4) of this section.

(2) The retirement allowance of any retiree who fails to be reexamined as required in subsection (1) of this section shall be discontinued until the retiree complies with the reexamination requirement. If the retiree continues for one year to refuse to undergo reexamination, the board shall cancel his or her retirement allowance.

(3) If the retiree resides more than one hundred miles from his or her former employer, the board may authorize the retiree to be examined by a physician in the retiree's local area. The board must approve the local area physician and provide him or her with information about the purpose of the examination and the issues to be addressed in the physician's report to the board.

(4) If the board doctor or approved physician finds that no possibility exists for the retiree's recovery and return to duty, the board may determine that subsequent medical examinations are not required. The determination may be made at the time of retirement or at any time thereafter, but must be based on a current (within ninety days) recommendation of the examining physician. The board must notify the department of retirement systems when it makes a determination of permanent disability. A copy of the physician's report must accompany the notice.

(5) If the examination shows that the retiree is fit to perform the duties of the rank or position held at retirement, the retiree shall be entitled to a hearing before the board. The notification and hearing shall comply with the requirements of the Administrative Procedure Act, chapter 34.05 RCW. Unless the retiree waives his or her right to the hearing, the board must hold the hearing before it can cancel the disability retirement allowance.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-100 Purpose. These rules are adopted ((pursuant to)) under RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and 41.26.135 and establish procedures to be followed by the applicant and the disability board. These rules apply only to a disability retiree over age fifty who seeks a determination that his/her disability has ceased.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-110 Application to disability board. (1) When a disability retiree over age fifty believes that his/her disability has ceased, he/she may make application to cancel the disability retirement allowance. Such application shall be made to the disability board that originally considered the application for disability retirement.

(2) The application must be in writing and contain the following information:

(a) The retiree's name, birthdate, Social Security number, mailing address, telephone number, former LEOFF employer, and the name and mailing address of the retiree's legal representative, if any;

(b) The nature of the disability and the date the disability ceased;

(c) The names, addresses and telephone numbers of all physicians and other health care practitioners who have been contacted by the retiree or his/her representative in the last year for medical care, consultation or evaluation;

(3) The application must be accompanied by the following documents:

(a) Copies of any written documents supporting the retiree's claim that his/her disability has ceased and that no other physical or mental disability now prevents the retiree from performing the ordinary duties of his/her position or rank;

(b) A copy of the local disability board order granting disability retirement if the original disability board order was summarily affirmed by the director or the LEOFF retirement board; or

(c) A copy of the director's order or the LEOFF retirement board's order if the director or the LEOFF retirement board entered the final order granting disability retirement.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-120 Burden of proof in disability board proceedings. The retiree has the burden of proof in the proceedings before the disability board.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-140 Examination by board physician. (1) Before acting on an application, the disability board shall have the retiree examined by the board doctor as provided in WAC 415-105-030. If the board doctor has seen the retiree

before in any capacity except evaluation on behalf of the disability board, the board doctor ~~((shall))~~ **must** refer the retiree to another physician who has not seen the retiree in any capacity except evaluation on behalf of the disability board.

(2) Before the retiree is examined, the disability board ~~((shall))~~ **must** furnish the board doctor or other physician with a current job description for the rank or position held by the member at the time he/she was granted disability retirement and a copy of these regulations.

(3) The board doctor or other physician ~~((shall))~~ **will** examine the retiree to determine if he/she is able to perform with average efficiency the duties of the rank or position held by the retiree at the time of discontinuance of service and that he/she meets the requirements of WAC 415-105-130.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-150 Disability board order. ~~((Upon the basis of))~~ **(1) The board must review** the application ~~((and))~~, the medical evaluation by the board doctor, and any other relevant evidence~~((;)).~~ ~~The ((disability)) board ((shall))~~ **must** determine whether the ~~((disability))~~ retiree has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency.

~~(2) If ((it is determined))~~ **the board determines** that the retiree's disability has ceased, ~~((the board))~~ **it shall enter** its written decision and order ~~((accompanied by))~~ **including** appropriate findings of fact and conclusions of law ~~((evidencing compliance with the applicable statutes and regulations)).~~ The disability board must ~~((make a finding which specifies the date the disability ceased));~~

(a) Enter a decision which specifies the date the disability retirement allowance will cease;

(b) Immediately send a copy of the decision and order to the department of retirement systems.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-160 Purpose—Under age fifty. These rules are adopted ~~((pursuant to))~~ **under** RCW 41.26.115 to implement the provisions of RCW 41.26.130(3) and establish procedures to be followed by the applicant and the disability board in cases in which the applicant is under age fifty and believes that his/her disability has ceased.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-170 Application to the disability board—Under age fifty. A disability retiree under age fifty who believes that his/her disability has ceased may ~~((make application to the disability board which originally found the member to be disabled))~~ **apply** for a determination that the disability has ceased. ~~((Such))~~ **The application must be:**

(a) Made to the disability board which originally found the member to be disabled; and

(b) In writing; and

(c) Contain the information ~~((set forth))~~ stated in WAC 415-105-110(2).

Thereafter, the rules and procedures ~~((set forth))~~ **stated** in WAC 415-105-120 through 415-105-140 shall be in effect.

AMENDATORY SECTION (Amending Order 87-3, filed 3/11/87)

WAC 415-105-180 Disability board hearing and order. ~~((Upon the basis of the application, the medical evaluation by the board doctor, and any other relevant evidence, the disability board shall determine whether the disability))~~ **The board must review the application, the medical evaluation of the board doctor, and any other relevant evidence. The board must then determine whether the retiree** has met the standards set out in WAC 415-105-130 and is physically and mentally capable of performing his/her duties with average efficiency. If the board determines that the retiree's disability has ceased, both the retiree and the former employer shall be entitled to a notice and a hearing. Both the notice and the hearing shall comply with the requirements of chapter ~~((34.04))~~ **34.05** RCW.

(2) After the hearing, the board ~~((shall))~~ **must** enter its written decision and order, ~~((accompanied by))~~ **including** appropriate findings of fact and conclusions of law~~((;)).~~ **The board order must either ~~((denying))~~ deny** the retiree's application or ~~((canceling))~~ **cancel** his/her disability retirement allowance and ~~((restoring))~~ **restore** him/her to duty pursuant to RCW 41.26.140(2).

(3) Any person aggrieved by a determination or order of a disability board that the applicant's disability has not ceased may file an appeal with the director pursuant to RCW 41.26.140(6).

WSR 99-13-183

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 23, 1999, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-08-072.

Title of Rule: Unemployment benefits for educational employees. Defining terms, establishing objective criteria used to define "academic year" and to establish how the department will determine if an employee has reasonable assurance of returning to work.

Purpose: To provide for consistency in the interpretation and application of the statutes to educational employees who apply for unemployment benefits.

Statutory Authority for Adoption: RCW 50.12.010, 50.20.010.

Statute Being Implemented: RCW 50.44.050 and 50.44.053.

Summary: New rules are adopted to comply with statutory changes contained in HB 2947. These include specifying the criteria that will be used to determine when summer term is part of a particular institution's academic year, and the

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factors the department will consider when determining whether an educational employee has reasonable assurance of returning to work in the next school term.

Reasons Supporting Proposal: Current rules are inconsistent with state law as amended by HB 2947. Amendments are needed for purposes of clarity and consistency.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In response to concerns raised by the United States Department of Labor regarding conformity between Washington state law and federal law, the legislature amended the law (HB 2947) relating to eligibility for unemployment benefits of educational employees. The proposed new rules are intended to define terms, specify the objective criteria that will be used to determine if summer quarter is part of the academic year for a particular institution, and describe the criteria the department will use to determine whether an educational employee has reasonable assurance of returning to work in the next term. These regulations will provide for consistency of interpretation by the department, the employers, and by those employees who file claims for unemployment benefits.

Proposal Changes the Following Existing Rules: Three existing rules are repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. All regulations contained within this filing pertain only to educational institutions. No private businesses are impacted by the proposed regulations.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed regulations constitute "significant legislative" rules because (a) they establish or alter the qualifications or standards for determining an individual's eligibility for unemployment benefits, and (b) they make significant amendments to a policy or regulatory program.

Hearing Location: Employment Security Department, 2nd Floor Conference Room, 212 Maple Park, Olympia, WA, on July 28, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Karen LaFreniere by July 26, 1999, TDD (360) 902-9589, or (360) 902-9582.

Submit Written Comments to: Barney Hilliard, Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98504-9046, fax (360) 438-3226, by July 28, 1999.

Date of Intended Adoption: July 30, 1999.

June 22, 1999

Kathy Baros Friedt
Deputy Commissioner

Chapter 192-210 WAC
SPECIAL CATEGORY OCCUPATIONS

NEW SECTION

WAC 192-210-005 Definitions—Educational employees. (1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services. Tenure or tenure track status is considered a contract.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.150.220 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

NEW SECTION

WAC 192-210-010 What are the objective criteria used to define "academic year"?—RCW 50.44.050(5). Summer term will be considered part of the academic year for an educational institution unless:

(1) Total enrollment of full-time equivalent students during the previous summer term is less than one third of the average academic year enrollment of full-time equivalent students for the fall, winter, and spring terms of the preceding two years; or

(2) Total full-time equivalent staff during the previous summer term is less than fifty percent of the academic year average of the full-time equivalent staff during the fall, winter, and spring terms during the preceding two years.

NEW SECTION

WAC 192-210-015 How will the department decide if reasonable assurance exists? (1) Reasonable assurance is a bona fide offer from an educational institution to assign an individual future work at that institution under the same terms and conditions as the individual's previous employment. It is less than a contract or written agreement, but more

than a mere possibility of future employment. The department must find that continued employment for that individual is likely or probable.

(2) Decisions regarding the existence of reasonable assurance will be made on an individual basis, with consideration given to contingencies that may exist in the individual case.

(3) If there is a disagreement regarding whether an individual has reasonable assurance, the institution must provide the department with documentation in support of its statement that reasonable assurance exists for that individual.

(4) Following are some, but not all, examples of the types of documentary evidence that may be provided by an institution:

(a) The terms of any contract or agreement between the individual and the educational institution, including length, contingencies, or provisions for cancellation,

(b) Whether the employer pays fringe benefits to the individual, such as health care, during periods between academic years or terms,

(c) The number of comparable positions at the institution,

(d) Projections of student enrollment, school funding, or program funding contained in the institution's budget,

(e) Any hiring priorities used by the school, such as precedence given to full-time or tenured staff or the use of seniority lists,

(f) The individual's employment history,

(g) Whether the class(es) have been consistently offered by the institution, including whether the class has been canceled due to lack of enrollment.

(5) The existence of reasonable assurance will be determined by the total weight of the evidence, rather than the existence of any one factor included in subsection (4).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-16-051	Special coverage provisions for educational employees—Definitions—RCW 50.44.050(1)
WAC 192-16-052	Objective criteria used to define "academic year"—RCW 50.44.050(5)
WAC 192-16-057	Interpretive regulation—"Under the same terms and conditions of employment" defined

**WSR 99-13-184
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed June 23, 1999, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-04-096.

Title of Rule: Seed certification and standards.

Purpose: Response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains, and to revise standards for certain crops.

Statutory Authority for Adoption: RCW 15.49.310 and 15.49.370(3).

Statute Being Implemented: Chapter 15.49 RCW.

Summary: Proposal increases seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains, and changes standards for field pea and chickpea.

Reasons Supporting Proposal: The fee increases will reflect current costs of operating the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association. Standards revisions are needed due to changes in production practices and available varieties.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graydon Robinson, Washington State Department of Agriculture, Seed Program, 21 North 1st Avenue, Yakima, (509) 575-2750.

Name of Proponent: Washington State Crop Improvement Association, private; and Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal is in response to industry request to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum, and small grains. The fee increases reflect the operating costs of the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association.

The proposal also, at industry request, makes revisions to the seed certification standards for field pea. The changes clarify the differences in crop history requirements for certification of Austrian peas and spring peas. This is in response to the recent development and release by Washington State University of an improved Austrian pea variety that growers desire to certify. Prior to this release, only spring pea varieties were certified.

The proposal also, at industry request, makes revisions to the seed certification standards for chickpea. The change reduces the land history requirements for registered and certified class fields from three years to two years. This change is based on a recommendation by the primary chickpea plant breeder at Washington State University.

Proposal Changes the Following Existing Rules: Increases seed certification fees and revises certain seed certification standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The fees in question are for services provided by the Washington State Crop Improvement Association (WSCIA), a nonprofit organization, through a memorandum of agreement with the Washington State Department of Agriculture. This working relationship has been in effect continuously since the early 1950's.

PROPOSED

WSCIA operates as an independent entity, without any benefits or protection provided by the state of Washington, and must retain the ability to adjust their fees (within the restrictions set by Initiative 601) to reflect changes in operating expenses, in order to remain in business and continue to provide service to the seed industry.

Participation in the seed certification program in Washington is not required by the State Seed Act or any regulation. The fees in question are for inspection services that are entirely voluntary, in that it is possible to grow, condition, and market quality seeds that are not included in the seed certification program. For example: 94% of the acreage inspected by WSCIA is wheat and barley. Approximately 25-35% of the wheat and barley grain crop in Washington is planted with seed that did not go through the seed certification process.

The proposal does not place a disproportionate impact on small business. All growers and conditioners in the Washington seed industry who choose to participate in the seed certification program meet the definition of a small business. All growers and conditioners pay the same rate per acre or cwt., regardless of the size of the business, and when last surveyed felt that fee increases within the restrictions set by Initiative 601 would cause an insignificant impact on their businesses. The proposed fee increase would cost the average grower about \$20.63, and the average conditioner \$185.03 per year.

The proposed fee increase is at the request of the Washington seed industry through its primary organizations: Washington-North Idaho Seed Association, Washington Seed Council, and WSCIA board of directors.

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, 21 North 1st Avenue, Yakima, WA 98902, on July 28, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by July 21, 1999, TDD (360) 902-1996.

Submit Written Comments to: Graydon Robinson, Program Manager, Washington State Department of Agriculture Seed Program, 21 North 1st Avenue, Yakima, WA 98902, fax (509) 454-4395, by July 28, 1999, at 5:00 p.m.

Date of Intended Adoption: August 31, 1999.

June 23, 1999
Julie C. Sandberg
Assistant Director

AMENDATORY SECTION (Amending WSR 98-12-032, filed 5/28/98, effective 6/28/98)

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	(\$19.03)	\$19.66
(b) Field inspection fee per acre except millet and hybrid sorghum	(\$ 2.65)	\$ 2.73
(c) Millet - first acre	(\$28.29)	\$29.22
- each additional acre	(\$ 5.65)	\$ 5.83
(d) Hybrid sorghum - first acre	(\$28.29)	\$29.22
- each additional acre	(\$11.31)	\$11.68
(e) Special field inspection fee per acre	(\$ 2.36)	\$ 2.43
(f) Late application fee	(\$17.83)	\$18.42
(g) Reinspection fee	(\$35.69)	\$36.87

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 ~~(\$35.69)~~ \$36.87

(h) Final certification fee ~~(\$0.225)~~ \$0.23

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.

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(5) Harvest before field inspection causes forfeitures of both the application and field inspection fees, and completion of certification.

AMENDATORY SECTION (Amending Order 5045, filed 5/27/94, effective 6/27/94)

WAC 16-316-717 Field pea standards. (1) Field pea - land, isolation, and field standards:

CLASS	LAND	ISOLATION	FIELD	
	MINIMUM YEARS	MINIMUM FEET	OFF-TYPE MAXIMUM PLANTS/ACRE	OTHER CROP MAXIMUM PLANTS/ACRE
Foundation	5*	100**	None found	None found***
Registered	3*	100**	10	None found***
Certified	2*	25**	20	None found***

**Reduce to three feet from fields producing a certified class of the same variety. In addition, each field pea field for certification must be isolated from small grain fields by three feet. To prevent mechanical field mixing of swathed field pea seedcrop, the planting of small grain between field pea fields, except for three feet of isolation, is recommended.

(~~*) Also required is minimum number of years the following crop kinds were out of production:~~

	NUMBER OF YEARS MINIMUM
Foundation	10
Registered	10
Certified	10))

*Spring peas also require 10 years land history with no production of Austrian pea for all classes.

***For spring peas, no Austrian pea or rye is permitted. For Austrian peas, no rye is permitted.

(2) Field pea - seed standards:

CLASS	OFF-TYPE	PURE SEED	INERT	OTHER CROP	WEED	GERMINATION
	MAXIMUM %	MINIMUM %	MAXIMUM %	MAXIMUM %	MAXIMUM %	MINIMUM %
Foundation	None found	99.00	1.00	None found	None found	85
Registered	None found	99.00	1.00	None found	0.25**	85
Certified	0.03	99.00	1.00	0.10*	0.25**	85

*For spring peas, no Austrian pea or rye is permitted. For Austrian peas, no rye is permitted.

** Other tolerance for weed seed:

	OBJECTIONABLE WEED SEED MAXIMUM
Registered	1/lb
Certified	2/lb

AMENDATORY SECTION (Amending Order 5086, filed 10/25/95, effective 11/25/95)

WAC 16-316-727 Chickpea standards. (1) Chickpea - land, isolation, and field standards:

FIELD STANDARDS

Land Requirements (1) (minimum years)	Isolation (min feet)	Off-type (plants/acre)	Other Crop (2) (plants/acre)	Noxious (3) Weeds	Ascochyta Blight (4) (plants/acre)
Class					
Foundation	3	100	none found	none found	none found
Registered	((3)) 2	50	5	none found	none found

PROPOSED

FIELD STANDARDS

Land Requirements (1) (minimum years)	Isolation (min feet)	Off-type (plants/acre)	Other Crop (2) (plants/acre)	Noxious (3) Weeds	Ascochyta Blight (4) (plants/acre)
Class					
Certified	((3)) 2	25	10	none found	none found 10

- (1) Shall not have been planted to chickpeas for three years for foundation class, and two years for registered and certified class, unless the previous crop is of the same variety and passed certification field standards of the same or higher generation.
- (2) Inseparable other crops.
- (3) Prohibited, restricted, and other weeds difficult to separate must be controlled.
- (4) None found in all classes of nontolerant varieties. Planting seedstock shall be treated with Thiabendazole (2-(4-triazoyl) benzimidazole).

FIELD INSPECTION

Foundation and registered class fields must have two field inspections. One at bloom stage and one at late pod stage. Certified class fields must have one inspection at bloom stage plus another at pod stage if ascochyta blight is observed during the bloom stage inspection.

SEED STANDARDS

Class (7)	Pure seed	Inert	Other crop	Weed seed	Germination
Foundation	99.00%	1.0%	none found	none found	85%
Registered	99.00%	1.0%	none found	none found	85%
Certified	99.00%	1.0%	2 seeds/lb (5)	2 seeds/lb (6)	85%

- (5) None found for Austrian pea, rye, or vetch.
- (6) None found for nightshade berries or prohibited noxious weed seeds.
- (7) All classes shall be treated with Thiabendazole (2-(4-thiazoyl) benzimidazole at the labeled rate.)

WSR 99-13-185
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed June 23, 1999, 9:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-04-095.

Title of Rule: Application for certification of forest reproductive material.

Purpose: To respond to industry request to increase seed certification fees for forest reproductive material.

Statutory Authority for Adoption: RCW 15.49.005, 15.49.310, 15.49.370(3).

Statute Being Implemented: RCW 15.49.370(3).

Summary: The proposal raises fees for certification of forest reproductive material.

Reasons Supporting Proposal: The fee increases will reflect current costs of operating the portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Graydon Robinson, Washington State Department of Agriculture, Seed Program, 21 North 1st Avenue, Yakima, (509) 575-2750.

Name of Proponent: Washington State Crop Improvement Association, private; and Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal is in response to industry request to increase certification fees for forest reproductive material. This fee increase reflects the current operating costs of the forest reproductive material certification program.

Proposal Changes the Following Existing Rules: Proposal raises certification fees.

No small business economic impact statement has been prepared under chapter 19.85 RCW. All businesses affected by this proposal are big 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, 21 North 1st Avenue, Yakima, WA 98902, on July 28, 1999, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by July 21, 1999, TDD (360) 902-1996.

Submit Written Comments to: Graydon Robinson, Program Manager, Washington State Department of Agriculture

PROPOSED

Seed Program, 21 North 1st Avenue, Yakima, WA 98902, fax (509) 454-4395, by July 28, 1999, at 5:00 p.m.

Date of Intended Adoption: August 31, 1999.

June 23, 1999

Julie C. Sandberg
Assistant Director

AMENDATORY SECTION (Amending WSR 98-12-031, filed 5/28/98, effective 6/28/98)

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:

~~((Effective June 28, 1998, the fee schedule is as follows:~~

~~(a) Tree cones and seed—~~

Certification Classes	Field Inspection	Audit	Fee-Due
Tested and Selected	\$22.42/hr.	\$22.42/hr.	When billed
Source-Identified Classes:			
Lots 11 bu. and more	\$0.75/bu.	\$22.42/hr.	
Lots 6-10 bu.	\$18.04/lot	\$22.42/hr.	
Lots 0-5 bu.	\$10.93/lot	\$22.42/hr.	
Audit	None	\$22.42/hr.	When billed

~~(b) Tree certification—\$22.42/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 \$22.42/hour payable when billed.~~

~~(d) OECD certification (certificates of provenance) —\$0.54 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)~~

PROPOSED

Effective July 1, 1998, the fee schedule is as follows:))

(a) Tree cones and seed -

Certification Classes	Field		Fee Due
	Inspection	Audit	
Tested and Selected	((23.35/hr.)) \$24.12/hr.	((23.35/hr.)) \$24.12/hr.	When billed
Source Identified Classes:			
Lots 11 bu. and more	((0.78/bu.)) \$0.80/bu.	((23.35/hr.)) \$24.12/hr.	
Lots 6-10 bu.	((18.79/lot)) \$19.41/lot	((23.35/hr.)) \$24.12/hr.	
Lots 0-5 bu.	((11.38/lot)) \$11.75/lot	((23.35/hr.)) \$24.12/hr.	
Audit	None	((23.35/hr.)) \$24.12/hr.	When billed

(b) Tree certification - ~~((23.35/hr.))~~ \$24.12/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 ~~((23.35/hour))~~ \$24.12/hr. payable when billed.

(d) OECD certification (certificates of provenance) ~~-((0.56))~~ \$0.57 per certificate plus the hourly audit rate. (Auditors shall issue certificates.)

**WSR 99-13-192
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 23, 1999, 10:04 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-07-105.

Title of Rule: WAC 388-426-0005 Client complaints, 388-450-0015 Excluded and disregarded income, 388-450-0025 Unearned income, 388-450-0030 Earned income definition, 388-472-0005 Clients rights and responsibilities, and 388-476-0005 Social Security Number requirements.

Purpose: Changes rules to be consistent with federal laws, rules, and regulations.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Statute Being Implemented: RCW 74.08.090 and 74.04.510.

Summary: WAC 388-426-0005, corrected complaint procedure; WAC 388-450-0015, clarified types of income that are excluded and disregarded; WAC 388-450-0025, clarified types of unearned income; WAC 388-450-0030, clarified types of earned income; WAC 388-472-0005, expanded

client rights; and WAC 388-476-0005, added missing information regarding Social Security Number disqualifications.

Reasons Supporting Proposal: RCW 74.08.090 gives the department authority to make rules and regulations to ensure uniform administration of programs throughout the state. RCW 74.04.510 requires the department to adopt rules consistent with federal laws, rules and regulations relating to the food stamp program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Veronica Barnes, Division of Assistance Programs, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3071.

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: Changes rules to be consistent with federal laws, rules, and regulations.

Proposal Changes the Following Existing Rules: WAC 388-426-0005 Client complaints, 388-450-0015 Excluded and disregarded income, 388-450-0025 Unearned income, 388-450-0030 Earned income definition, 388-472-0005 Clients rights and responsibilities, and 388-476-0005 Social Security Number requirements. Current rules contain errors and omissions that must be resolved in order to allow for the correct administration of cash, medical, and food assistance programs. WAC 388-426-0005, corrected complaint procedure; WAC 388-450-0015, clarified types of income that are excluded and disregarded; WAC 388-450-0025, clarified types of unearned income; WAC 388-450-0030, clarified types of earned income; WAC 388-472-0005, expanded client rights; and WAC 388-476-0005, added missing information regarding Social Security Number disqualifications.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes as a result of this rule do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. This rule does not meet the definition of significant legislative change.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on July 27, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by July 16, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, by July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 17, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-426-0005 Client complaints. (1) Clients who believe they have been discriminated against by the

PROPOSED

department for reason of (~~age,~~) race, color, (~~sex~~) creed, (~~disability, religious creed,~~) political (~~beliefs or~~) affiliation, national origin, religion, age, gender, disability, or birthplace have the right to file a written complaint((-

~~(a) Clients wishing to file a complaint of discrimination regarding food stamp benefits must send complaints to food and nutrition services (FNS); and~~

~~(b) Clients of all other programs must send discrimination complaints to the state office of equal opportunity (OEO), Olympia WA.~~

~~(2)), Clients can file discrimination complaints with the:~~

~~(a) DSHS, Division of Access and Equal Opportunity, PO Box 45012, Olympia, WA, 98504;~~

~~(b) Administrator, Food and Nutrition Services, 3101 Park Center Drive, Alexandria, VA, 22302; or~~

~~(c) Secretary of Agriculture, U.S. Department of Agriculture, Washington D.C., 20250.~~

~~(2) Clients with a complaint about a department decision or action have the right to present their complaint, in writing, to a supervisor.~~

~~(a) Within ten days of the receipt of the complaint:~~

~~((a)) (i) A decision will be made on the client's complaint; and~~

~~((b)) (ii) The client will be sent written notice of the decision, including information about the right to further review by the local office administrator.~~

~~((3)) (b) Clients not satisfied with the decision of a supervisor have the right to present a written complaint to the local office administrator. Within ten days of the receipt of the complaint:~~

~~((a)) (i) A decision will be made on the complaint, and~~

~~((b)) (ii) The client will be sent written notice of the decision.~~

~~((4)) (c) Written notice of the administrator's decision concludes the complaint procedure.~~

~~((5)) (d) The filing of a written complaint does not prevent a client from requesting a fair hearing under (~~chapter 388-08~~) WAC 388-08-413.~~

~~((6)) (e) Clients have the right to speak to a worker's supervisor or have a decision or action reviewed by the supervisor, whether or not a formal complaint has been filed.~~

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-450-0015 Excluded and disregarded income. This section applies to TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs.

(1) Excluded income (~~(means)~~) is income that is not counted when determining a client's eligibility and benefit level. (~~Excluded income types are defined by state and federal laws.~~) Types of excluded income include but are not limited to:

(a) Bona fide loans as defined in WAC 388-470-0025, except certain student loans as specified under WAC 388-450-0035.

(b) Federal earned income tax credit (EITC) payments;

(c) Title IV-E(~~;~~) and state (~~and or local~~) foster care maintenance payments if the foster child is not included in the assistance unit;

(d) Energy assistance payments;

(e) Educational assistance as specified in WAC 388-450-0035;

(f) Native American benefits and payments as specified in WAC 388-450-0040;

(g) Income from employment and training programs as specified in WAC 388-450-0045; (~~and~~)

(h) (~~Any amount~~) Money withheld from a client's benefit to repay an overpayment (~~(by)~~) from the same income source (~~agency~~). For food assistance, this exclusion does not apply when the (~~amount~~) money is withheld to (~~recover~~) recover an intentional noncompliance overpayment from a federal, state, or local means tested program(~~;~~) such as TANF/SFA, GA, and SSI; and

(i) Child support payments received by TANF/SFA recipients(~~which have been assigned to the department as a condition of receiving assistance~~).

(2) For food assistance programs, the following income types are excluded:

(a) Emergency additional requirements authorized to TANF/SFA and RCA clients under WAC 388-436-0001 and paid directly to a third party;

(b) Cash donations based on need received directly by the household if the donations are:

(i) Made by one or more private, nonprofit, charitable organizations; and

(ii) Do not exceed three hundred dollars in any federal fiscal year quarter.

(c) Infrequent or irregular income, received during a three-month period by a prospectively budgeted assistance unit, that:

(i) Cannot be reasonably anticipated as available; and

(ii) Does not exceed thirty dollars for all household members.

(3) All income that is not excluded is considered to be part of an assistance unit's gross income. (~~Gross income is used to determine an assistance unit's eligibility as follows:~~

~~(a) For TANF/SFA, RCA, GA S, and GA H, the assistance unit is ineligible if its gross income exceeds 185 percent of the need standard as specified in WAC 388-478-0015; and~~

~~(b)) (4) For (~~certain~~) food assistance households not containing an elderly or disabled member, the assistance (~~unit's~~) unit is ineligible if its gross income (~~cannot~~) exceeds one hundred thirty percent of the federal poverty level (~~for the forty-eight contiguous states~~) as specified in WAC 388-478-0060.~~

~~((4)) (5) Disregarded income (~~means~~) is income that is (~~not excluded~~) counted when determining an assistance unit's gross income but (~~which~~) is (~~disregarded~~) not used when determining an assistance unit's countable income. Types of disregarded income (~~are defined by state and federal laws. Disregarded income~~) include(~~s~~) but (~~is~~) are not limited to:~~

(a) Earned income incentives and disregards for cash assistance; and

(b) Earned income disregard and income deductions for food assistance (~~income deductions~~).

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AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-450-0025 Unearned income. This section applies to TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs.

(1) Unearned income is income a person receives from a source other than employment or self-employment. Examples of unearned income include but are not limited to:

- (a) Railroad retirement;
- (b) Unemployment compensation; or
- (c) Veteran administration benefits.

(2) For food assistance programs, unearned income includes the amount of cash benefits due the client prior to any reductions caused by the client's failure to perform an action required under a federal, state, or local means-tested public assistance program.

~~((3) Unearned income is budgeted in its entirety.))~~

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-450-0030 Earned income definition. Unless specifically stated, this section applies to TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs.

(1) Earned income (~~((means))~~) is:

(a) Income a person receives in the form of cash or in-kind, which is a gain or benefit to the person, when earned as a wage, salary, tips, gratuities, commissions, or profit from self-employment activities.

(b) Income over a period of time for which settlement is made at one time, such as sale of farm crops, livestock, or poultry.

(2) For food assistance programs only, income in-kind is excluded.

~~((2))~~ (3) Earned income from self-employment is determined as specified under WAC 388-450-0080.

~~((3))~~ (4) For TANF/SFA, RCA, GA, H, and TANF/SFA-related medical assistance, earned income includes time-loss compensation as specified in WAC 388-450-0075.

~~((4) For food assistance programs only, income in-kind is excluded.))~~

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-472-0005 Clients rights and responsibilities. Unless specifically stated, the following rules apply to cash, food and medical assistance programs.

(1) A person who applies for or receives public assistance has the right to:

(a) Be treated politely and fairly without regard to race, color, creed, political affiliation, national origin, religion, age, ~~((sex))~~ gender, disability~~((;))~~ or birthplace~~((; or marital status))~~;

(b) File an application on the same day, during regular business hours, that the person contacts the department. A client has the right to get a receipt when leaving an application or other materials with the department;

(c) Have an application promptly accepted and promptly acted upon;

(d) Ask that the application be processed without delay if the person is pregnant in need of immediate medical care, experiencing an emergency such as having no money for food, or facing an eviction~~((; needing medical care that cannot wait or being pregnant))~~. If a pregnant client requests an interview, she has ~~((a))~~ the right to have one within five working days;

(e) Get a written decision in most cases within thirty days.

(i) Medical and some disability cases may take forty-five to sixty days. Pregnancy medical will be authorized within fifteen working days.

(ii) Food stamps will be authorized within thirty days if the person is eligible. If the person is eligible and has little or no money, food stamps will be authorized within five days;

(f) Be fully informed, in writing, of all legal rights and responsibilities in connection with public assistance;

(g) Have information kept private. The department may share some facts with other agencies for efficient management of federal and state programs;

(h) For cash and medical assistance programs, ask the department not to collect child support if the absent parent may harm the person or person's child;

(i) For cash assistance programs, ask for extra money to help in an emergency, such as an eviction or a utility shutoff;

(j) Get a written notice, in most cases, at least ten days before the department makes changes to lower or stop benefits;

(k) Ask for a fair hearing if the person does not agree with the department about a decision. Without affecting the right to a fair hearing, the person can also ask a supervisor or administrator to review an employee decision or action;

(l) Have interpreter or translator services at no cost or undue delay;

(m) Refuse to speak to a fraud early detection (FRED) investigator from the division of fraud investigations. The person does not have to let an investigator into the home. The person may ask the investigator to come back at another time. Such a request will not affect the person's eligibility for benefits;

(n) For medical assistance programs only: A person applying for or receiving medical assistance, limited casualty programs, medical care services, or children's health services has the same rights as cash assistance clients; and

(o) Receive help from the department to register to vote.

(2) A client is responsible for:

(a) Reporting any changes to the department within ten days for all cash and food assistance programs and twenty days for all medical assistance programs;

(b) Giving all the facts needed to determine eligibility;

(c) Giving the department proof of any facts for which proof is needed;

(d) For most cash or medical assistance programs related to children, cooperating with the department to get child support or medical care support unless it can be shown that harm to the person or child may occur;

(e) For cash or medical assistance programs, applying for and taking any benefits from other programs, if eligible;

- (f) Completing reports and reviews when asked to do so;
- (g) Seeking and taking a job or training if required; and
- (h) For medical assistance programs only, showing the medical identification card or other adequate department generated notification of eligibility to the medical care provider.

(3) Clients will be screened and provided with necessary supplemental accommodation as specified under WAC 388-200-1300.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-476-0005 Social Security Number requirements. (1) With certain exceptions, each person who applies for or receives cash, medical or food assistance benefits must provide to the department a Social Security Number (SSN), or numbers if more than one has been issued.

(2) If the person is unable to provide the SSN, either because it is not known or has not been issued, the person must:

- (a) Apply for the SSN;
- (b) Provide proof that the SSN has been applied for; and
- (c) Provide the SSN when it is received.

(3) Assistance will not be delayed, denied or terminated pending the issuance of an SSN by the Social Security Administration. However, a person who does not comply with these requirements is not eligible for assistance.

(4) For cash, medical, and food assistance benefits, a person cannot be disqualified from receiving benefits for refusing to apply for or supply an SSN based on religious grounds.

(5) For food assistance programs:

(a) A person can receive benefits for the month of application and the following month if the person attempted to apply for the SSN and made every effort to provide the needed information to the Social Security Administration.

(b) A newborn may receive benefits for up to six months from the date of birth if the household is unable to provide proof of application for an SSN at the time of birth.

~~((5))~~ (6) For medical programs, a newborn as described in WAC 388-505-0210(1) is eligible for categorically needy (CN) medical without meeting the SSN requirement. ~~These coverage provisions continue until one of the following occurs:~~

~~(a) The newborn leaves the household of the birth mother; or~~

~~(b) The newborn's first birthday.~~

~~((6)) until the baby's first birthday.~~

(7) There is no SSN requirement for the following programs:

- (a) The consolidated emergency assistance program;
- (b) The refugee cash and medical assistance program;
- (c) The medically indigent program;
- (d) The alien emergency medical program;
- (e) The state-funded pregnant woman program;
- (f) The children's health program; and
- (g) Detoxification services.

WSR 99-13-194
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 23, 1999, 10:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-104, 99-10-103, and 99-10-115.

Other Identifying Information: To amend WAC 232-12-024, 232-12-134, 232-12-141, 232-12-242, 232-12-261, 232-12-291, 232-28-259, 232-12-068, 232-12-257, 232-12-264, 232-16-140, 232-16-690, 232-28-264 and 232-28-281; to repeal WAC 232-12-137, 232-28-20401, 232-16-680 and 232-28-422; and to adopt WAC 232-28-423.

Statutory Authority for Adoption: RCW 77.12.040, 77.12.010.

Statute Being Implemented: RCW 77.12.040, 77.12.010.

Reasons Supporting Proposal: WAC 232-12-261 Live decoys unlawful, this amendment makes it unlawful to hunt wild turkeys with the use or aid of live birds as decoys. Using live birds to hunt turkeys provides an unfair advantage for the hunter and violates the ethics of fair chase. Does not affect small business.

WAC 232-12-264 Baiting of game birds—Unlawful, this amendment makes it unlawful to hunt game birds in an area posted as an upland bird feeding site. In addition, this amendment requires that a baited area will be considered a baited area for ten days following the complete remove [removal] of all grain or feed. Hunting birds in a baited area provides an unfair advantage for the hunter and violates the ethics of fair chase. In addition, the ten day requirement is in the federal regulations.

WAC 232-12-068 Nontoxic shot requirements for waterfowl, coot, and snipe hunting, this amendment modifies the existing allowable types of nontoxic shotgun shot pellets for waterfowl, coot, and snipe hunting, to include tungsten-matrix and tin shot. Tungsten-matrix and tin have been demonstrated to be effective nontoxic shot alternatives, in addition to other shot types approved by the United States Fish and Wildlife Service. The amendment protects the waterfowl resource and provides additional ammunition options for migratory game bird hunters. Does not affect small business.

WAC 232-28-264 1997, 1998, 1999 Official hunting hours and small game seasons, to set time, place, and manner for hunting seasons. Small game seasons are set to provide recreational hunting opportunity and conserve small game resources. The amendment establishes the spring 2000 turkey season, and adjusts the September goose season days. The amendment is needed to provide additional recreational opportunity for turkey hunters and simplify regulations. The amendment conserves wildlife resources and provides additional recreational opportunity. Does not affect small business.

WAC 232-28-423 1999-2000 Migratory waterfowl seasons and regulations, the WAC specifies legal season dates, bag limits, and open areas to hunt waterfowl for the 1999-2000 hunting season. Waterfowl seasons and regulations are developed based on cooperative management programs

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among states of the Pacific Flyway and the United States Fish and Wildlife Service, considering population status and other biological parameters. The rule establishes waterfowl seasons and regulations to provide recreational opportunity, control waterfowl damage, and conserve the waterfowl resources of Washington. Does not affect small business.

WAC 232-16-680 Lenice Lake Game Reserve, this repeal eliminates the reserve. The reserve no longer meets waterfowl distribution and resource conservation goals. Does not affect small business.

WAC 232-16-690 Bayview Game Reserve, this amendment updates language in the existing WAC to allow additional hunting in the reserve. The reserve closure can be modified to allow more recreational opportunity without affecting reserve functions. Does not affect small business.

WAC 232-12-134 Report required of licensed trappers, this amendment clarifies the requirements of the trappers license report. It makes it clear when the due date is and what the penalties are for failure to submit their reports. This rule requires trappers to have their report postmarked on or before April 10 and requires that a person not submitting a report by the due date wait one year before purchasing another trapping license. Does not affect small business.

WAC 232-28-259 Electronic tree switches, this amendment corrects the language for tree switches and eliminates obsolete language. Does not affect small business.

WAC 232-12-242 Hunting restrictions, this amendment clarifies the language that requires that a person must have appropriate big game licenses and have a legal firearm for big game while hunting any wildlife during a modern firearm deer or elk season. Does not affect small business.

WAC 232-12-291 Hunting before or after hours, this amendment removes the word "daily" from the language, because hunting hours are not daily. Does not affect small business.

WAC 232-12-137 Unlawful to use game species for trapping, the information contained in this WAC, proposed for repeal, is consolidated in WAC 232-12-141 Wild animal trapping. Does not affect small business.

WAC 232-28-20401 Incisor tooth requirement, this WAC is proposed for repeal because it is unnecessary. The requirement to provide biological information is covered under WAC 232-12-082. Does not affect small business.

WAC 232-12-024 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx and bobcat, this amendment removes the requirements for taxidermists. This information is already contained in WAC 232-12-277. In addition, this WAC requires that all seals be attached to the carcass, not just merely cut through and handed to the trapper. This ensures that the tag goes with the correct animal. Does not affect small business.

WAC 232-12-141 Wild animal trapping, this amendment allows for the use of the nonedible parts of birds, game fish, and game animals to be used as bait and for game bird feathers to be used as an attractor. (This information was previously included in WAC 232-12-137, proposed for repeal.) This amendment also makes it unlawful to trap for wild animals within thirty feet of nonedible parts that are visible to flying raptors. (WAC 232-12-137, made it unlawful to trap for wild animals using nonedible game parts unless they were

buried or concealed from plain view.) This change makes the use of nonedible game parts consistent with the use of meat bait. Does not affect small business.

WAC 232-16-140 Equalizing Reservoir Game Reserve, this amendment updates language in the existing WAC to reduce the size of the reserve. The reserve size can be reduced to allow more recreational opportunity without affecting reserve functions. Does not affect small business.

WAC 232-12-257 Control of unattended decoys, the amendment restricts the use of decoys on department lands. The amendment is intended to provide more equitable public access to good waterfowl hunting areas. Does not affect small business.

WAC 232-28-281 1999-2000 Elk general seasons and 1999-2000 Special permits, this amendment accommodates Centralia Mines desire to have a weekend season for the Special Elk Permit for persons of disability hunt. The Centralia Mines hunts C&D are noted as on lands surrounding the mine. Also, corrects GMU 484 in the late archery elk season to show 3 pt. min. or antlerless and not in 3 pt. min. also. Does not affect small business.

Name of Agency Personnel Responsible for Drafting: Mike Kuttel, Assistant Director, Wildlife Management, Olympia, (360) 902-2504; Implementation: Dave Brittell, Assistant Director, Wildlife Management, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Assistant Director, Enforcement, Olympia, (360) 902-2932.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: See Reasons Supporting Proposal above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are not related to the hydraulics code.

Hearing Location: Shilo Inn, 707 Ocean Shores Boulevard N.W., Ocean Shores, WA, on August 6-7, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 20, 1999, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Dave Brittell, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2162, by July 20, 1999.

Date of Intended Adoption: August 6, 1999.

June 23, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 94-58, filed 8/31/94, effective 10/1/94)

WAC 232-12-024 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat. (1) It is unlawful to possess river otter, cougar, lynx, or bobcat taken in Washington without a department identification seal which has been attached to the raw pelt, on or off the carcass, prior to the pelt sealing deadline.

(2) Any river otter, cougar, or bobcat raw pelt must be presented by the person harvesting the animal, in such a manner that teeth and biological samples can be extracted, to an authorized department employee for sealing.

(3) The raw pelt of a bobcat or river otter must be sealed by an authorized department employee within 20 days after the close of the appropriate hunting or trapping season in which it was killed.

(4) Any person who takes a cougar must notify the department within 72 hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar must be sealed by an authorized department employee within five days of the notification of kill.

Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

(5) It is unlawful to transport or cause the transport out of Washington a raw pelt of river otter, cougar, lynx, or bobcat taken in Washington without a department seal attached to the pelt.

(6) The raw pelt of a river otter, cougar, lynx, or bobcat taken outside Washington and imported into the state must be identified by a tag and/or seal from the state or country of origin and be accompanied by an invoice or declaration specifying the number of pelts in the shipment.

(7) It is unlawful to possess an unlocked, broken, or otherwise open department seal for river otter, cougar, lynx, or bobcat unless the seal wire or band has been cut through and removed from a pelt that has been received and invoiced by a licensed taxidermist or fur dealer for processing or removed from a pelt that has been processed. ~~((Taxidermist or fur dealer invoices must be sequentially numbered and record name, address, license number, date received, and seal number. The seal must accompany the pelt while being processed. The pelt must be punched with invoice number at the time of skinning or prior to the removal of the seal.~~

~~(8) When a river otter or bobcat is presented unskinned and is to be taken to a taxidermist for processing and will not be sold, an authorized department employee may look the seal and then cut through the band or wire. The cut seal must be presented to the taxidermist along with the unskinned carcass.))~~

AMENDATORY SECTION (Amending Order 232, filed 7/23/84)

WAC 232-12-134 Report required of licensed trappers. It is unlawful for any licensed trapper to fail to com-

plete and submit to the department, a trapper's report ~~((on the form supplied by the department, on or before April 10 of each year))~~ of catch postmarked on or before April 10. The report must be submitted regardless of success. Trappers who fail to submit an accurate trapper's report of catch must wait a year before purchasing another trapping license. False reports will be considered the same as failure to report. It is the responsibility of each licensed trapper to obtain and submit a trapper's report of catch.

AMENDATORY SECTION (Amending Order 97-253, filed 12/23/97, effective 10/1/98)

WAC 232-12-141 Wild animal trapping. (1) The trapping season authorizes the taking of furbearing animals for their hides and pelts only. Furbearers may not be taken from the wild and held alive for sale or personal use without a special permit pursuant to WAC 232-12-064.

(2) Any wildlife trapped for which the season is not open shall be released unharmed. Any wildlife that cannot be released unharmed must be left in the trap, and the department of fish and wildlife must be notified immediately.

(3) Lawfully trapped ~~((furbearers))~~ wild animals must be lethally dispatched or immediately released. A firearm may be used for this purpose.

(4) It is unlawful to trap for wild animals:

(a) By any means other than padded foot-hold traps having a minimum rubber pad thickness of one-eighth inch, unpadded foot-hold traps, cage (live) traps, kill traps and snares.

(b) With an unpadded foot-hold trap, unless the trap has jaws with a minimum jaw face width of one-fourth inch, or the trap is set so that it completely submerges and drowns any trapped animal, except that unpadded foot-hold traps not meeting the one-fourth inch jaw face requirement may be used on nondrowning sets on private property with landowner permission for the purpose of protecting livestock, domestic animals, private property, or public safety.

(c) With a steel trap having a jaw spread exceeding seven and one-half inches, except that a kill trap having a jaw spread exceeding seven and one-half inches is lawful when set beneath the water surface.

(d) On dry land, with a nondrowning set with a No. 3 size or larger unpadded foot-hold trap if it does not have jaw spacing of at least three-sixteenth of one inch when the trap is sprung,

(e) With a steel trap with teeth or serrated edges.

(f) Unless kill traps, including foot-hold drowning sets, are checked and animals removed within seventy-two hours.

(g) Unless traps not capable of killing the animal are checked and animals removed within forty-eight hours, except within identified urban trapping areas, where sets not capable of killing the animal, must be checked and animals removed within twenty-four hours.

(h) With a neck or body snare attached to a spring pole or any spring pole type of device.

(i) Using game birds, game fish or game animals for bait, except nonedible parts of game birds, game fish or game animals may be used as bait.

(j) Within thirty feet of any exposed meat bait or non-edible game parts which ~~(is)~~ are visible to flying raptors.

(5) Game bird feathers may be used as an attractor.

AMENDATORY SECTION (Amending Order 593, filed 1/29/93, effective 3/1/93)

WAC 232-12-242 Hunting restrictions. It shall be unlawful to hunt wildlife ~~(, except bear, cougar, mountain goat, mountain sheep, moose, or turkey, during any modern firearm deer or elk season, with any firearm 240 caliber or larger, or containing slugs or buckshot, unless valid license, permits and tags for modern firearm deer or elk seasons are in the hunter's possession)~~ during any modern firearm deer or elk season, with a legal firearm for big game, unless you have in your possession a valid license, permit and tag for one of the following: Deer, elk, black bear, cougar, mountain goat, bighorn sheep or moose.

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-261 Live decoys unlawful. It is unlawful to hunt waterfowl and wild turkeys with the use or aid of live birds as decoys.

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-291 Hunting before or after hours. It is unlawful to hunt wild animals or wild birds contrary to posted or official ~~(daily)~~ hunting hours in current season regulations.

AMENDATORY SECTION (Amending Order 95-125, filed 9/1/95, effective 1/1/96)

WAC 232-28-259 Electronic ~~(tree)~~ treeing switches. ~~(Effective January 1, 1996,)~~ Electronic dog retrieval collars containing functioning treeing switches (devices consisting of a mercury switch mechanism that results in a change in the transmitted signals when the dog raises its head to a treed animal) are prohibited.

AMENDATORY SECTION (Amending Order 98-152, filed 8/13/98, effective 9/13/98)

WAC 232-12-068 Nontoxic shot requirement for waterfowl, coot, and snipe hunting. It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin shot (nominally 97 parts bismuth:3 parts tin with <1 percent residual lead), tungsten-iron shot (nominally 40 parts tungsten:60 parts iron with <1 percent residual lead), ~~(or)~~ tungsten-polymer shot (nominally 95.5 parts tungsten:4.5 parts polymer with <1 percent residual lead), tungsten-matrix shot (nominally 95.9 parts tungsten:4.1 parts polymer), or tin shot (99.9 percent tin with <1 percent residual lead) when hunting for waterfowl, coot, or snipe.

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-257 ~~(Control of unattended)~~ Use of waterfowl decoys or other devices to attract waterfowl on department controlled lands. ~~(It is unlawful to leave duck or goose decoys unattended)~~ The use of decoys, or any other devices that may be used for, or have the effect of, decoying or attracting waterfowl on lands or water (owned, leased or) controlled by the department (Duck or goose decoys left unattended in excess of) is subject to the following restrictions:

(1) Decoys or other devices must not be placed prior to 4:00 a.m. and must be removed within two hours after the close of established hunting hours.

(2) Decoys or other devices to attract waterfowl, which are not under the immediate control of a person for a period exceeding one hour during the above time period, or not removed within two hours following the close of established hunting hours, may be removed by a fish and wildlife ~~(agent)~~ officer and may be disposed of by the department.

AMENDATORY SECTION (Amending Order 165, filed 6/1/81)

WAC 232-12-264 Baiting of game birds—Unlawful. It is unlawful to hunt game birds by the aid of baiting, or in a baited area or area posted as an upland bird feeding site. As used in this section "baiting" or "baited area" means the placing, exposing, depositing, distributing or scattering of corn, wheat or other grain, or feed so as to constitute for such birds a lure or attraction to, on or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such grain or other feed. This shall not prohibit hunting of game birds, on or over standing crops, flooded crop lands, grain crops properly harvested on the field where grown or grains found scattered as the result of normal agricultural planting or harvesting.

AMENDATORY SECTION (Amending Temporary Regulation 229, filed 9/15/64)

WAC 232-16-140 ~~(Equalizing Reservoir)~~ Banks Lake Game Reserve. ~~(... it shall be unlawful to hunt game animals, game birds or to trap fur-bearing animals within said area:~~

That part of Twp. 26N., Range 28E.W.M. lying south of the east-west center line of the north half of Sections 13 and 14, west of Secondary State Highway No. 2-F and east of the west wall of the Grand Coulee; and, that part of Sections 18 and 19 of Twp. 26 north, Range 29E.W.M. lying west of Secondary State Highway No. 2-F and south of the east-west center line of the north half of Section 18 AND THAT part of Twp. 25N., Range 28E.W.M. lying north of the east-west center lines of Sections 14, 15 and 16 of said Township and west of State Highway 2-F and east of the west wall of the Coulee.) In Township 25N, Range 28E, those parts of sections 9, 10, and 11 and the north 1/2 of sections 14, 15, and

16. lying between State Highway 155 and the west wall of Grand Coulee.

AMENDATORY SECTION (Amending Order 98-157, filed 8/13/98, effective 9/13/98)

WAC 232-16-690 Bayview Game Reserve. It shall be unlawful to hunt wild animals and wild birds within the following described boundary November ((+) § through March 31, and it shall be unlawful to hunt brant at any time within

the following described boundary: Beginning at a point on the Bayview-Edison Road 750 feet south of the intersection of the Bayview Cemetery entrance road; thence 4,000 feet WNW (west-northwest); thence 5,750 feet NNW (north-northwest); thence 3,750 feet ENE (east-northeast) to the northwest corner of Padilla Bay tract no. 532; thence east to the northeast corner of Padilla Bay tract no. 532; thence SSE (south-southeast) to the Bayview-Edison Road; thence southerly along said road to the point of beginning.

AMENDATORY SECTION (Amending WSR 99-10-102, filed 5/5/99, effective 6/5/99)

WAC 232-28-264 1998-99 and 1999-2000 Official hunting hours and small game seasons.

1998-99 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 1998 to January 31, 1999

Dates (Inclusive)	Western Washington			Eastern Washington		
	A.M.	from to	P.M.	A.M.	from to	P.M.
Daylight Savings Time						
Tues. Sept. 1	-	Sun. Sept. 6	6:00	7:45	5:50	7:35
Mon. Sept. 7	-	Sun. Sept. 13	6:10	7:35	6:00	7:20
Mon. Sept. 14	-	Sun. Sept. 20	6:20	7:20	6:05	7:05
Mon. Sept. 21	-	Sun. Sept. 27	6:30	7:05	6:15	6:50
Mon. Sept. 28	-	Sun. Oct. 4	6:40	6:50	6:25	6:35
Mon. Oct. 5	-	Sun. Oct. 11	6:45	6:35	6:25	6:25
Mon. Oct. 12	-	Sun. Oct. 18	6:55	6:20	6:45	6:10
Mon. Oct. 19	-	Sat. Oct. 24	7:05	6:10	6:55	6:00
Pacific Standard Time						
		Sun. Oct. 25	6:10	5:00	6:00	4:50
Mon. Oct. 26	-	Sun. Nov. 1	6:20	4:55	6:05	4:45
Mon. Nov. 2	-	Sun. Nov. 8	6:30	4:45	6:15	4:35
Mon. Nov. 9	-	Sun. Nov. 15	6:40	4:35	6:30	4:25
Mon. Nov. 16	-	Sun. Nov. 22	6:50	4:30	6:40	4:15
Mon. Nov. 23	-	Sun. Nov. 29	7:00	4:25	6:50	4:10
Mon. Nov. 30	-	Sun. Dec. 6	7:10	4:20	6:55	4:10
Mon. Dec. 7	-	Sun. Dec. 13	7:15	4:20	7:05	4:05
Mon. Dec. 14	-	Sun. Dec. 20	7:20	4:20	7:10	4:10
Mon. Dec. 21	-	Sun. Dec. 27	7:25	4:20	7:15	4:10
Mon. Dec. 28	-	Sun. Jan. 3	7:25	4:30	7:15	4:15
Mon. Jan. 4	-	Sun. Jan. 10	7:25	4:35	7:15	4:25
Mon. Jan. 11	-	Sun. Jan. 17	7:25	4:45	7:10	4:30
Mon. Jan. 18	-	Sun. Jan. 24	7:20	4:55	7:05	4:40
Mon. Jan. 25	-	Sat. Jan. 31	7:10	5:00	7:00	4:50

*These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.

PROPOSED

- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor, (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1999-2000 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 1999 to January 31, 2000

Dates (Inclusive)				Western Washington			Eastern Washington		
				A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time									
Wed.	Sept. 1	-	Sun.	Sept. 5	6:00	7:45	5:45	7:35	
Mon.	Sept. 6	-	Sun.	Sept. 12	6:05	7:35	5:50	7:20	
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15	7:20	6:05	7:10	
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25	7:10	6:15	6:50	
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35	6:50	6:25	6:40	
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45	6:40	6:35	6:25	
Mon.	Oct. 11	-	Sun.	Oct. 17	6:50	6:25	6:45	6:15	
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05	6:15	6:55	6:00	
Mon.	Oct. 25	-	Sat.	Oct. 30	7:15	6:00	7:05	5:45	
Pacific Standard Time									
Sun.	Oct. 31	-	Sun.	Nov. 7	6:25	4:45	6:15	4:35	
Mon.	Nov. 8	-	Sun.	Nov. 14	6:35	4:40	6:25	4:25	
Mon.	Nov. 15	-	Sun.	Nov. 21	6:50	4:30	6:35	4:20	
Mon.	Nov. 22	-	Sun.	Nov. 28	7:00	4:25	6:45	4:10	
Mon.	Nov. 29	-	Sun.	Dec. 5	7:05	4:20	6:50	4:10	
Mon.	Dec. 6	-	Sun.	Dec. 12	7:10	4:20	7:00	4:05	
Mon.	Dec. 13	-	Sun.	Dec. 19	7:20	4:20	7:05	4:05	
Mon.	Dec. 20	-	Sun.	Dec. 26	7:25	4:25	7:10	4:10	
Mon.	Dec. 27	-	Sun.	Jan. 2	7:30	4:25	7:15	4:15	
Mon.	Jan. 3	-	Sun.	Jan. 9	7:30	4:35	7:15	4:20	
Mon.	Jan. 10	-	Sun.	Jan. 16	7:25	4:40	7:10	4:30	
Mon.	Jan. 17	-	Sun.	Jan. 23	7:20	4:50	7:05	4:45	
Mon.	Jan. 24	-	Mon.	Jan. 31	7:15	5:00	7:00	4:50	

*These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor, (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September Canada goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

PROPOSED

1998-1999 OFFICIAL HUNTING HOURS
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
 September 1, 1998 to January 31, 1999

Dates (Inclusive)					Western Washington		Eastern Washington	
					A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time								
Tues.	Sept. 1	-	Sun.	Sept. 6	6:00	8:15	5:50	8:05
Mon.	Sept. 7	-	Sun.	Sept. 13	6:10	8:05	6:00	7:50
Mon.	Sept. 14	-	Sun.	Sept. 20	6:20	7:50	6:05	7:35
Mon.	Sept. 21	-	Sun.	Sept. 27	6:30	7:35	6:15	7:20
Mon.	Sept. 28	-	Sun.	Oct. 4	6:40	7:20	6:25	7:05
Mon.	Oct. 5	-	Sun.	Oct. 11	6:45	7:05	6:25	6:55
Mon.	Oct. 12	-	Sun.	Oct. 18	6:55	6:50	6:45	6:40
Mon.	Oct. 19	-	Sat.	Oct. 24	7:05	6:40	6:55	6:30
Pacific Standard Time								
			Sun.	Oct. 25	6:10	5:30	6:00	5:20
Mon.	Oct. 26	-	Sun.	Nov. 1	6:20	5:25	6:05	5:15
Mon.	Nov. 2	-	Sun.	Nov. 8	6:30	5:15	6:15	5:05
Mon.	Nov. 9	-	Sun.	Nov. 15	6:40	5:05	6:30	4:55
Mon.	Nov. 16	-	Sun.	Nov. 22	6:50	5:00	6:40	4:45
Mon.	Nov. 23	-	Sun.	Nov. 29	7:00	4:55	6:50	4:40
Mon.	Nov. 30	-	Sun.	Dec. 6	7:10	4:50	6:55	4:40
Mon.	Dec. 7	-	Sun.	Dec. 13	7:15	4:50	7:05	4:35
Mon.	Dec. 14	-	Sun.	Dec. 20	7:20	4:50	7:10	4:40
Mon.	Dec. 21	-	Sun.	Dec. 27	7:25	4:50	7:15	4:40
Mon.	Dec. 28	-	Sun.	Jan. 3	7:25	5:00	7:15	4:45
Mon.	Jan. 4	-	Sun.	Jan. 10	7:25	5:05	7:15	4:55
Mon.	Jan. 11	-	Sun.	Jan. 17	7:25	5:15	7:10	5:00
Mon.	Jan. 18	-	Sun.	Jan. 24	7:20	5:25	7:05	5:10
Mon.	Jan. 25	-	Sat.	Jan. 31	7:10	5:30	7:00	5:20

PROPOSED

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for all game animals and game birds (except duck, goose, coot, snipe, mourning dove, band-tailed pigeon, pheasant, quail, partridge and turkey) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1999-2000 OFFICIAL HUNTING HOURS
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
 September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington		Eastern Washington	
					A.M.	to P.M.	A.M.	to P.M.
Daylight Savings Time								
Wed.	Sept. 1	-	Sun.	Sept. 5	6:00	8:15	5:45	8:05
Mon.	Sept. 6	-	Sun.	Sept. 12	6:05	8:05	5:50	7:50
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15	7:50	6:05	7:40

1999-2000 OFFICIAL HUNTING HOURS
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
 September 1, 1999 to January 31, 2000

PROPOSED

Dates (Inclusive)					Western Washington		Eastern Washington	
					from	to	from	to
					A.M.	P.M.	A.M.	P.M.
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25	7:40	6:15	7:20
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35	7:20	6:25	7:10
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45	7:10	6:35	6:55
Mon.	Oct. 11	-	Sun.	Oct. 17	6:50	6:55	6:45	6:45
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05	6:45	6:55	6:30
Mon.	Oct. 25	-	Sat.	Oct. 30	7:15	6:30	7:05	6:15
Pacific Standard Time								
Sun.	Oct. 31	-	Sun.	Nov. 7	6:25	5:15	6:15	5:05
Mon.	Nov. 8	-	Sun.	Nov. 14	6:35	5:10	6:25	4:55
Mon.	Nov. 15	-	Sun.	Nov. 21	6:50	5:00	6:35	4:50
Mon.	Nov. 22	-	Sun.	Nov. 28	7:00	4:55	6:45	4:40
Mon.	Nov. 29	-	Sun.	Dec. 5	7:05	4:50	6:50	4:40
Mon.	Dec. 6	-	Sun.	Dec. 12	7:10	4:50	7:00	4:35
Mon.	Dec. 13	-	Sun.	Dec. 19	7:20	4:50	7:05	4:35
Mon.	Dec. 20	-	Sun.	Dec. 26	7:25	4:55	7:10	4:40
Mon.	Dec. 27	-	Sun.	Jan. 2	7:30	4:55	7:15	4:45
Mon.	Jan. 3	-	Sun.	Jan. 9	7:30	5:05	7:15	4:50
Mon.	Jan. 10	-	Sun.	Jan. 16	7:25	5:10	7:10	5:00
Mon.	Jan. 17	-	Sun.	Jan. 23	7:20	5:20	7:05	5:15
Mon.	Jan. 24	-	Mon.	Jan. 31	7:15	5:30	7:00	5:20

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for all game animals and game birds (except duck, goose, coot, snipe, mourning dove, band-tailed pigeon, pheasant, quail, partridge and turkey) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season. The use of hounds to hunt black bear, cougar, and bobcat is prohibited year around.

BOBCAT

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED in GMU 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

RACCOON

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED on Long Island within Willapa National Wildlife Refuge and in GMU 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

FOX

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 407, 410, and 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

COYOTE

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, year around except CLOSED from September 15 to November 30 in the Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests. However, coyote may only be killed and/or pursued with hounds during the following period: Sept. 8, 1998-Mar. 15,

1999; Sept. 7, 1999-Mar. 15, 2000; except coyote may be hunted year around with hounds in Grant, Adams, Benton, and Franklin counties. GMU 522 is closed to coyote hunting.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

State-wide: Sept. 1-Dec. 31, 1999; except CLOSED in GMU 522.

PTARMIGAN

Season closed state-wide.

Upland Birds

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Youth Season: September 25 and 26, 1999. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 9-Dec. 31, 1999.

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Regular Season: Oct. 1, 1999-Jan. 9, 2000.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Regular Season: Oct. 1, 1999-Jan. 9, 2000.

Mountain Quail

Season closed throughout eastern Washington

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Youth Season: September 25 and 26, 1999. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 9, 1999-Jan. 9, 2000.

Yakima Indian Reservation: The 1997-98, 1998-99, 1999-2000 Upland Bird Seasons within the Yakima Indian Reservation shall be the same as the season established by the Yakima Indian Nation.

Western Washington

Ring-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day, with a total of fifteen (15) pheasants in possession at any time.

Early season: Sept. 25-Oct. 1, 1999 for youth hunters and hunters 65 years of age or older. Juvenile hunters must be accompanied by an adult at least 18 years old.

Regular season: Oct. 2-Nov. 30, 1999; 8 a.m. to 4 p.m.; except Dungeness Recreation site (Clallam County) starting Oct. 16, 1999; except CLOSED in GMU 522.

A Western Washington Pheasant Permit is required to hunt pheasant in western Washington, in addition to a current small game hunting license. Pheasant kills must be recorded. Upon taking a pheasant, the holder of a Western Washington Pheasant Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available for the 1999 hunting season:

- (1) Full Season Option: Allows the harvest of ten (10) pheasants.
- (2) Youth option: Allows the harvest of six (6) pheasants by youth hunters.
- (3) 3-Day Option: Allows the harvest of four (4) pheasants during three consecutive days.

Every person possessing a Western Washington Pheasant Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per year is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Pheasant Permit.

Special Restriction: Non-toxic shot must be used in a shotgun to hunt pheasant on the Skagit Wildlife Area. Western Washington pheasant hunters must choose to hunt on either odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tennant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas, and must indicate their choice on the western Washington pheasant permit by choosing "odd" or "even." It is unlawful to purchase an additional permit until the ten pheasant allowed on the current permit are taken. Hunters that select the three day option, hunters 65 years of age or older, and youth hunters may hunt during either weekend day morning. Youth hunters must be accompanied by an adult at least 18 years old. Adults must have an appropriately marked pheasant permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 9-Nov. 30, 1999; except CLOSED in GMU 522.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time; straight or mixed bag.

PROPOSED

Oct. 9-Nov. 30, 1999; except CLOSED in GMU 522.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

State-wide: April 15-May 15, (~~(1999)~~) 2000.

Fall Season

Either Sex

Klickitat and Skamania counties: Nov. 25-29, 1999.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 25-29, 1999. Only hunters that successfully complete the Department of Fish and Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid small game hunting license and turkey tag while hunting in this area.

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per day, with a total of three (3) per year; only one turkey from each subspecies may be killed per year (~~(1999)~~).

If a hunter intends to hunt for turkey, one turkey tag option must be selected when a small game license is purchased. If the state-wide tag option is selected, the person is precluded from purchasing any other turkey tag. The Eastern, Rio Grande and Merriam tags must be purchased before April 14 each year. The state-wide tag may be purchased at any time.

TAG OPTIONS:

- (1) State-wide: Allows the harvest of one turkey of any subspecies during a calendar year.
- (2) Eastern: Allows the harvest of one turkey during a calendar year in any western Washington county except Skamania and Klickitat.
- (3) Rio Grande: Allows the harvest of one turkey during a calendar year in any eastern Washington county except Ferry, Klickitat, Pend Oreille or Stevens.
- (4) Merriams: Allows the harvest of one turkey during a calendar year in Ferry, Klickitat, Pend Oreille, Skamania, or Stevens Counties.

Hunting Hours: One-half hour before sunrise to sunset during spring and fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

SAGE AND SHARP-TAILED GROUSE

Season Closed State-wide.

BIRD DOG TRAINING SEASON

Aug. 1, 1998-Mar. 15, 1999; and Aug. 1, 1999-Mar. 15, 2000, except from Oct. 2-Nov. 30, 1999, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites. Dog training is prohibited from Jan. 15 - Mar. 15 on the Shillapoo Wildlife Area (Region 5), except on posted portions open for year around dog training.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E 1/2 of Sec. 16); Region Two - Wahluke Wildlife Area north of Highway 24; Region Three - South L.T. Murray Wildlife Area; Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Shillapoo/Vancouver Lake Wildlife Area; Region Six - Scatter Creek Wildlife Area.

HIP REQUIREMENTS:

All hunters age 16 and over of migratory game birds (duck, goose, coot, snipe, mourning dove) are required to complete a Harvest Information Program (HIP) survey form at a license dealer, and possess a Washington Migratory Bird Stamp as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey form, and possess a free Washington Youth Migratory Bird Authorization as evidence of compliance with this requirement when hunting migratory game birds.

CANADA GOOSE SEPTEMBER SEASON

Bag and Possession Limits: Three (3) Canada geese per day with a total of six (6) in possession at any time.

State-wide: September 7-~~(13)~~ 12, 1999.

BAND-TAILED PIGEON

Closed Season State-wide.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

State-wide: Sept. 1-15, 1999; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and Jack-rabbit.

Bag and Possession Limits: Five (5) rabbits or hares per day, with a total of fifteen (15) in possession at any time; straight or mixed bag.

State-wide: Sept. 1, 1998-Mar. 15, 1999; Sept. 1, 1999-Mar. 15, 2000; except CLOSED in GMU 522 and CLOSED Jan. 15-Mar. 15 on Shillapoo Wildlife Area (Region 5).

CROWS

Bag and possession limits: No limits

State-wide: Oct. 1, 1998-Jan. 31, 1999; Oct. 1, 1999-Jan. 31, 2000.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

State-wide: Sept. 1, 1998-Mar. 15, 1999; Sept. 1, 1999-Mar. 15, 2000.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons.

State-wide: Sept. 1-15 and Oct. 1-Dec. 31, 1999.

Cottontail and Hare - Falconry

Daily bag: Five (5) rabbits or hares per day; straight or mixed bag.

State-wide: Aug. 1, 1998-Mar. 15, 1999; Aug. 1, 1999-Mar. 15, 2000, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

AMENDATORY SECTION (Amending WSR 99-10-102, filed 4/22/98 [5/5/99], effective 5/23/98 [6/5/99])

WAC 232-28-281 1999-2000 Elk general seasons and 1999-2000 special permits. Bag Limit: One (1) elk per hunter during the 1999 hunting season.

Hunting Method: Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

Elk Tag Areas: Elk hunters must choose one of the five elk hunting areas (Blue Mountains, Northeastern Washington, Yakima, Colockum, or Western Washington) to hunt in and buy the appropriate tag for that area.

Any Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Spike Bull Restrictions: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-154, 162-186, 302, 314-329, and 335-371

3 Point Restriction: Legal bull elk taken must have at least 3 antler points on one side only. Antler points may include eye guards, but antler points on the lower half of the main beam must be at least four (4) inches long measured from antler tip to nearest edge of beam; all other antler points must be at least one (1) inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: All of western Washington except for GMUs 454, 564, 568, 574, 578, and 588.

GMUs Closed to Elk Hunting: 418 (Nooksack), and 437 (Sauk) except for ML Elk Area 941, 485 (Green River), 522 (Loo-wit) and 636 (Skokomish).

Special Permits: Only hunters with elk tag prefix identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

Harvest Report Card: Successful hunters must fill out and return a Game Harvest Report Card within 10 days after taking an elk.

Elk Tag Areas

Blue Mountains: GMUs 145-186. Elk hunting by permit only in GMU 157.

BA - Blue Mountains Archery Tag

BF - Blue Mountains Modern Firearm General Elk Tag

BM - Blue Mountains Muzzleloader Tag

Northeastern: GMUs 101-142. Modern firearm by permit only in GMUs 127 and 130.

NA - Northeastern Archery Tag

NF - Northeastern Modern Firearm General Elk Tag

NM - Northeastern Muzzleloader Tag

Colockum: GMUs 300, 302, 304, 306, 308, 314, 316, 328, 329, 330 (Elk hunting by permit only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in GMU 334).

CA - Colockum Archery Tag

CF - Colockum Modern Firearm General Elk Tag

CM - Colockum Muzzleloader Tag

Yakima: The portion of GMU 334 south of I-90 (Modern Firearm restrictions in GMU 334), and GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364, 368, 371, 372 and 382.

YA - Yakima Archery Tag

YF - Yakima Modern Firearm General Elk Tag

YM - Yakima Muzzleloader Tag

Western Washington: All 400, 500 and 600 GMUs except closed in GMU 418, 437, 485, 522, 636 and modern firearm restrictions in portions of GMU 660. GMUs 418 (Nooksack), 437 (Sauk) except for ML Elk Area 941, and GMU 636 (Skokomish) are closed to all elk hunting as Conservation Closures. GMU 554 is open only for early archery and muzzleloader permit seasons. Elk Area 064 in GMU 638 (Quinalt) is open to AHE hunters only. Elk hunting by permit only in GMUs 524, 556, 602, 621, and PLWMA 600 (Pysht).

WA - Western Washington Archery Tag

WF - Western Washington Modern Firearm General Elk Tag

WM - Western Washington Muzzleloader Tag

PROPOSED

Modern Firearm Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid modern firearm elk tag as listed below on his/her person for the area hunted.

Hunting Method: May use rifle, bow and arrow, or muzzle-loader, but only during modern firearm seasons.

PROPOSED

Hunt Area		Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Northeast	General (NF)	101 through 124, 133 through 142	Oct. 30-Nov. 7	Any bull
		127, 130		Permit only
Blue Mountains	General (BF)	145 through 154, 162 through 186	Oct. 30-Nov. 7	Spike bull
		157		Permit Only
Colockum	General (CF)	302, 314, 316 south of Hwy 2, 328, 329	Oct. 30-Nov. 7	Spike bull
		330		Permit Only
Yakima	General (YF)	335 through 368	Oct. 30-Nov. 7	Spike bull
	Any Yakima Tag	372, 382	Oct. 5-13	Antlerless
			Oct. 30-Nov. 7	Any Elk
			Dec. 9-13	Antlerless
		371	Oct. 30-Nov. 7	Any Elk
Western Washington	General WF	407, 448, 460, 466, 472, 478, 484, 490, 504 through 520, 530, 550, 558, 560, 572, 601, 603 through 618, 624 through 633, 638 through 684 Except AHE hunters only in Elk Area 064 in GMU 638	Nov. 6-14	3 pt. min.
		501	Nov. 6-14	3 pt. min. or antlerless
		564, 568, 574 through 588	Nov. 6-14	Any elk
		454	Nov. 6-14	Any bull
		524, 556, 602, 621 & PLWMA 600		Permit Only

Archery Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid archery elk tag as listed below on his/her person for the area hunted.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can hunt only during archery seasons. Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Early Archery Elk Seasons				
Northeast	NA	101 through 142	Sept. 1-14	Any elk
Blue Mountains	BA	145 through 154, 162 through 169, 175 through 186	Sept. 1-14	Spike bull
Colockum	CA	300, 306, 308, 334 (N of I-90)	Sept. 1-14	Any elk
		328, 329, 330	Sept. 1-14	Spike bull or antlerless
Yakima	YA	334 (south of I-90), 372, 382	Sept. 1-14	Any elk
		335, 336, 340, 352, 356, 364, 371	Sept. 1-14	Spike bull or antlerless

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Western Washington	WA	454, 564, 568, 574, 578, 588	Sept. 1-14	Any elk
		407, 448, 460, 484, 490, 501 through 520, 530, 550, 554, 558, 560, 572, 660, 663, 667 through 684 and Long Island	Sept. 1-14	3 pt. min. or antlerless
		466, 472, 478, 601, 603, 612 through 618, 624 through 633, 638 through 658 and 666. AHE hunters only in Elk Area 064 in GMU 638. Permit Only in PLWMA 600 in GMU 603.	Sept. 1-14	3 pt. min.
Late Archery Elk Seasons				
Northeast	NA	101, 105, 117 through 130	Nov. 24-Dec. 15	Any elk
Blue Mountains	BA	Private lands within GMU 162 east of the North Touchet Road. GMU 178	Nov. 24-Dec. 15	Antlerless
Colockum	CA	328	Nov. 24-Dec. 8	Spike bull or antlerless
Yakima	YA	335, 336, 346, 352, 360 North of USFS Roads 324, 325, to the intersection of Carmack Canyon then northeast down Carmack Canyon bottom to the Naches River and north to State Highway 410, 368	Nov. 24-Dec. 8	Spike bull or antlerless
Western Washington	WA	407, 484, 505, 506, 520, 530, 672, 681 and Long Island. In GMU 681 closed between US Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallacut River.	Nov. 24-Dec. 15	3 pt. min. or antlerless
		454, 564, 588	Nov. 24-Dec. 15	Any elk
		((484,)) 603, 612, 615, 638, 648 except closed in PLWMA 600 in GMU 603. AHE hunters only in Elk Area 064 in GMU 638.	Nov. 24-Dec. 15	3 pt. min.

PROPOSED

Muzzleloader Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Early Muzzleloader Elk Seasons				
Northeast	NM	109	Oct. 9-15	Any bull
Blue Mountains	BM	172	Oct. 9-15	Spike bull
Colockum	CM	308	Oct. 9-15	Any bull
		304, 314*, 316, S of Hwy 2 *The portion of GMU 314 bordered by the Colockum Pass Road (Road 10) Naneum Ridge Road (Road 9) and Ingersol Road (Road 1) is closed. See Naneum Green Dot Map.	Oct. 9-15	Spike bull
		ML 911	Aug. 14-Sept. 12	Any elk

PROPOSED

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Yakima	YM	342, 356, 368	Oct. 9-15	Spike bull
		That part of GMU 368 east of the following boundary: Jump Off Road and the powerlines to South Fork Cowiche Creek and then west along South Fork Cowiche Creek to Nasty Creek Road; southeast to the North Fork Ahtanum Road and southeast to Tampico; east along the South Fork Ahtanum Creek and east to Yakama Indian Reservation.	Oct. 9-15	Antlerless
Western Washington	WM	454, 564, 684	Oct. 9-15	Any elk
		460, 478, 484, 513, 530, 603, 607, 660	Oct. 9-15	3 pt. min.
		501	Oct. 9-15	3 pt. min. or antlerless
Late Muzzleloader Elk Seasons				
Northeast	NM	127 through 139 (All units are primarily private lands and access is a problem.)	Nov. 24-Dec. 15	Any elk
Yakima	YM	346	Nov. 14-18	Spike bull or antlerless
		Muzzleloader Area 944	Nov. 24-Dec. 8	Spike bull or antlerless
Western Washington	WM	501, 505	Nov. 24-Dec. 15	3 pt. min. or antlerless
		454, 564, 568, 684	Nov. 24-Dec. 15	Any elk
		574, 578	Nov. 24-Dec. 8	Any elk
		484, 504, 550, 601	Nov. 24-Dec. 15	3 pt. min.

Special Elk Hunts Open to Specified Tag Holders

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Proper elk tags are listed with each GMU below. **Hunting Method:** Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

Hunt Area	Elk Tag	Game Management Units	Legal Elk	Season Dates
				1999
Western	WF	568, 574, 578, 588	Any Elk	Nov. 6-14
	WA, WF, WM	564, Archery, and muzzleloader equipment. Modern Firearm elk tag holders may hunt, but must use archery, muzzleloader or revolver type handgun equipment.	Any Elk	Nov. 6-14
	WM	ML Area No. 941	Any Elk	Oct. 1, 1999-Jan. 31, 2000
Northeast	NF	101, 105, 121, 124 west of SR 395, 127, 130, 133, 136, 139	Any Elk	Oct. 30-Nov. 7
	NA, NM, NF	127, 130 Advanced Hunter Education Hunters Only	Any Elk	Oct. 20-Dec. 31

Hunt Area	Elk Tag	Game Management Units	Legal Elk	Season Dates
				1999
Central	Any Elk Tag	Grant, Adams, Douglas, Franklin, Okanogan and Benton (south of the Yakima River) cos. and Chelan County N of Hwy 2 except closed within 1/2 mile of Columbia River in Douglas & Grant cos.	Any Elk	Oct. 30-Nov. 15
Colockum	CM	ML Area 911; Advanced Hunter Education Hunters Only	Any Elk	Nov. 24-Dec. 7

Special Elk Permit Hunting Seasons

(Open to Permit Holders Only)

Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see Elk Tag Prefix required to apply for each hunt).

Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	1999 Permits
Modern Firearm Bull Permit Hunts					
Blue Creek A	Oct. 24-Nov. 7	Any Bull	BF	GMU 154	4
Watershed *	Oct. 30-Nov. 7	3 Pt. Min. or Antlerless	BA, BF, BM	GMU 157	50
Dayton A	Oct. 24-Nov. 7	Any Bull	BF	GMU 162	5
Tucannon A	Oct. 24-Nov. 7	Any Bull	BF	GMU 166	2
Wenaha A	Oct. 24-Nov. 7	Any Bull	BF	GMU 169	7
Mountain View A	Oct. 24-Nov. 7	Any Bull	BF	GMU 172	8
Peola A	Oct. 24-Nov. 7	Any Bull	BF	GMU 178	1
Couse A	Oct. 24-Nov. 7	Any Bull	BF	GMU 181	1
Grande Ronde A	Oct. 24-Nov. 7	Any Bull	BF	GMU 186	1
Naneum A	Oct. 24-Nov. 7	Any Bull	CF	GMU 328	21
Quilomene A	Oct. 24-Nov. 7	Any Bull	CF	GMU 329	9
Peaches Ridge A	Oct. 24-Nov. 7	Any Bull	YF	GMUs 336, 346	118
Observatory A	Oct. 24-Nov. 7	Any Bull	YF	GMUs 340, 342	67
Goose Prairie A	Oct. 24-Nov. 7	Any Bull	YF	GMUs 352, 356	114
Bethel A	Oct. 24-Nov. 7	Any Bull	YF	GMU 360	71
Rimrock A	Oct. 24-Nov. 7	Any Bull	YF	GMU 364	94
Cowiche A	Oct. 24-Nov. 7	Any Bull	YF	GMU 368	8
Margaret A	Nov. 1-14	3 Pt. Min.	WF	GMU 524	10
Toutle A	Nov. 1-14	3 Pt. Min.	WF	GMU 556	88
Dickey A	Nov. 6-14	3 Pt. Min.	WF	GMU 602	54
Olympic A	Nov. 6-14	3 Pt. Min.	WF	GMU 621	13

*Permit season is open for archery and muzzleloader but hunt is the same as modern firearm and all hunters must wear hunter orange.

Modern Firearm Elk Permit Hunts (Only modern firearm and muzzleloader elk tag holders may apply.)

Pend Oreille	Nov. 1-7	Any Elk	NF or NM	GMUs 109, 113, 117	50
Mount Spokane	Oct. 30-Nov. 7	Any Elk	NF or NM	124 (E. of SR 395)	50
Mica, Cheney	Oct. 16-Nov. 7	Antlerless	NF or NM	GMUs 127, 130	250
Wenaha B	Oct. 1-10	Any Bull	BF or BM	GMU 169	2
Peola B	Nov. 3-7	Antlerless	BF or BM	GMU 178	25
Wenatchee Mtns.	Oct. 1-10	Any Bull	CF, CM, YF, or YM	GMU 302, 335	22
Shushuskin	Dec. 1-31	Antlerless	YF or YM	Elk Area 031	50

PROPOSED

Malaga A***	Sept. 1-Oct. 3	Antlerless	CF or CM	Elk Area 032	75
Malaga B	Nov. 10-Dec. 31	Antlerless	CF or CM	Elk Area 032	40
Taneum	Nov. 3-7	Antlerless	YF or YM	GMU 336	150
Manastash	Nov. 3-7	Antlerless	YF or YM	GMU 340	250
Umtanum A	Nov. 3-7	Antlerless	YF or YM	GMU 342	300
Little Naches A	Nov. 3-7	Antlerless	YF or YM	GMU 346	225
Little Naches B	Oct. 1-10	Any Bull	YF or YM	GMU 346	18
Nile	Nov. 3-7	Antlerless	YF or YM	GMU 352	75
Bumping	Nov. 3-7	Antlerless	YF or YM	GMU 356	300
Bethel B	Nov. 3-7	Antlerless	YF or YM	GMU 360	100
Rimrock B	Nov. 3-7	Antlerless	YF or YM	GMU 364	350
Cowiche B	Nov. 3-7	Antlerless	YF or YM	GMU 368	200
Willapa Hills	Nov. 10-14	Antlerless	WF or WM	GMU 506	100
Packwood	Nov. 10-14	Antlerless	WF or WM	GMU 516	25
Winston	Nov. 10-14	Antlerless	WF or WM	GMU 520	30
Margaret B	Nov. 10-14	Antlerless	WF or WM	GMU 524	10
Ryderwood	Nov. 10-14	Antlerless	WF or WM	GMU 530	75
Coweeman	Nov. 10-14	Antlerless	WF or WM	GMU 550	50
Toutle B	Nov. 10-14	Antlerless	WF or WM	GMU 556	30
Marble	Nov. 10-14	Antlerless	WF or WM	GMU 558	60
Carlton	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 057	5
West Goat Rocks	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 058	5
Mt. Adams	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 059	5
Lewis River	Nov. 10-14	Antlerless	WF or WM	GMU 560	75
Siouxon	Nov. 10-14	Antlerless	WF or WM	GMU 572	50
Dungeness	Nov. 10-14	Antlerless	WF or WM	Part of GMU 621*	9
Minot Peak	Oct. 9-15	Antlerless	WF or WM	GMU 660**	20
Williams Creek	Nov. 10-14	Antlerless	WF or WM	GMU 673	50

*That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

**That part of GMU 660 north of the North River-Brooklyn Road.

***Damage hunt.

Muzzleloader Bull Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek B	Oct. 1-10	Any Bull	BM	GMU 154	1
Dayton B	Oct. 1-10	Any Bull	BM	GMU 162	1
Tucannon B	Oct. 1-10	Any Bull	BM	GMU 166	1
Wenaha C	Oct. 1-10	Any Bull	BM	GMU 169	2
Mountain View B	Oct. 1-10	Any Bull	BM	GMU 172	3
Peola C	Oct. 1-10	Any Bull	BM	GMU 178	1
Couse B	Oct. 1-10	Any Bull	BM	GMU 181	1
Grande Ronde B	Oct. 1-10	Any Bull	BM	GMU 186	1
Naneum B	Oct. 1-10	Any Bull	CM	GMU 328	2
Quilomene B	Oct. 1-10	Any Bull	CM	GMU 329, 330	1
Peaches Ridge B	Oct. 1-10	Any Bull	YM	GMUs 336, 346	24
Observatory B	Oct. 1-10	Any Bull	YM	GMUs 340, 342	21
Goose Prairie B	Oct. 1-10	Any Bull	YM	GMUs 352, 356	16
Bethel C	Oct. 1-10	Any Bull	YM	GMU 360	10
Rimrock C	Oct. 1-10	Any Bull	YM	GMU 364	13
Cowiche C	Oct. 1-10	Any Bull	YM	GMU 368	6

PROPOSED

Margaret C	Oct. 1-10	3 Pt. Min.	WM	GMU 524	2
Toutle C	Oct. 1-10	3 Pt. Min.	WM	GMU 556	20
Dickey B	Oct. 1-10	3 Pt. Min.	WM	GMU 602	6
Olympic B	Oct. 1-10	3 Pt. Min.	WM	GMU 621	3

Muzzleloader Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek C***	12/1/ 99-1/31/ 2000	Antlerless	BM	GMU 154	50
Peola D***	Oct. 9-15	Spike or Antlerless	BM	GMU 178	50
Couse C***	Oct. 9-15	Spike or Antlerless	BM	GMU 181	50
Couse D***	Dec. 1-31	Antlerless	BM	GMU 181	50
Couse E***	Jan. 1-31, 2000	Antlerless	BM	GMU 181	50
Umtanum B	Oct. 10-16	Antlerless	YM	GMU 342	125
Stella***	Nov. 26-Dec. 15	3 Pt. Min. or Antlerless	WM	GMU 504	100
Boistfort ***	Jan. 1-15, 2000	Antlerless	WM	Elk Area 054	20
Yale***	Nov. 26-Dec. 15	Any Elk	WM	GMU 554	75
Toledo***	Jan. 2-16, 2000	Antlerless	WM	Elk Area 029	75
Malaga C***	Oct. 9-29	Antlerless	CM	Elk Area 032	75
North River***	Nov. 26-Dec. 15	Antlerless	WM	GMU 658	20

Archery Bull Permit Hunts (Only archery elk tag holders may apply.)

Blue Creek D	Sept. 1-14	Any Bull	BA	GMU 154	1
Dayton C	Sept. 1-14	Any Bull	BA	GMU 162	5
Tucannon C	Sept. 1-14	Any Bull	BA	GMU 166	2
Wenaha D	Sept. 1-14	Any Bull	BA	GMU 169	5
Mountain View C	Sept. 1-14	Any Bull	BA	GMU 172	7
Peola E	Sept. 1-14	Any Bull	BA	GMU 178	1
Couse F	Sept. 1-14	Any Bull	BA	GMU 181	3
Grande Ronde C	Sept. 1-14	Any Bull	BA	GMU 186	1
Naneum C	Sept. 1-14	Any Bull	CA	GMU 328	17
Quilomene C	Sept. 1-14	Any Bull	CA	GMU 329, 330	9
Peaches Ridge C	Sept. 1-14	Any Bull	YA	GMUs 336, 346	106
Observatory C	Sept. 1-14	Any Bull	YA	GMUs 340, 342	62
Goose Prairie C	Sept. 1-14	Any Bull	YA	GMUs 352, 356	82
Bethel D	Sept. 1-14	Any Bull	YA	GMU 360	60
Rimrock D	Sept. 1-14	Any Bull	YA	GMU 364	43
Cowiche D	Sept. 1-14	Any Bull	YA	GMU 368	9
Margaret D	Sept. 1-14	3 Pt. Min.	WA	GMU 524	5
Toutle D	Sept. 1-14	3 Pt. Min.	WA	GMU 556	85
Dickey C	Sept. 1-14	3 Pt. Min.	WA	GMU 602	35
Olympic C	Sept. 1-14	3 Pt. Min.	WA	GMU 621	5

Advanced Hunter Education (AHE) Graduate Special Elk Permit Hunts (Only AHE graduates may apply.)

Margaret E	Oct. 1-10	3-Pt. Min	Any Elk Tag	GMU 524	4
Quinault Ridge	Oct. 1-10	3-Pt. Min or Antlerless	Any Elk Tag	GMU 638	5
South Bank A	Jan. 1-30, 2000	Antlerless	Any Elk Tag	Elk Area 062*	10
Skookumchuck	Oct. 1-10	3-Pt. Min. or Antlerless	Any Elk Tag	GMU 667	2

PROPOSED

Persons of Disability Only - Special Elk Permit Hunts

Northeast	Nov. 2-15	Antlerless	NF, NM or NA	GMUs 109-130	15
Observatory D	Oct. 24-Nov. 7	Any Elk	YF or YM	GMU 340, 342	5
Little Naches C	Oct. 1-10	Any Elk	YF, YM, YA	GMU 346	5
Little Naches D	Oct. 30-Nov. 7	Antlerless	YF, YM, or YA	GMU 346	10
Trout Creek Hill	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Eleven Mile Ridge	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Red Mountain	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Paradise Ridge	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Proverbial Creek	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Lone Butte A	Sept. 1-14	Any Elk	Any Archery Elk Tag	GMU 560	1
Lone Butte B	Nov. 8-14	Any Elk	Any Elk Tag	GMU 560	1
Centralia Mine A	Oct. 30-31 (Nov. 1)	Antlerless	Any Elk Tag	Portion of GMU 667 <u>within Centralia Mine</u>	4
Centralia Mine B	Nov. 6-7 (8)	Antlerless Only	Any Elk Tag	Portion of GMU 667 <u>within Centralia Mine</u>	4
Centralia Mine C	Jan. 8-16, 2000	Antlerless	Any Elk Tag	Portion of GMU 667 <u>surrounding Centralia Mine</u>	8
Centralia Mine D	Jan 22-30, 2000	Antlerless	Any Elk Tag	Portion of GMU 667 <u>surrounding Centralia Mine</u>	8
South Bank B	Dec. 10-20	Antlerless	Any Elk Tag	Elk Area 062*	3

*Firearm Restriction Area - Hunters may use only muzzle-loader equipment.

***Damage Hunt.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-137 Unlawful to use game species for trapping.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-20401 Incisor tooth requirement.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-16-680 Lenice Lake Game Reserve.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-422 1998-99 Migratory waterfowl seasons and regulations.

NEW SECTION

WAC 232-28-423 1999-2000 Migratory waterfowl seasons and regulations.

DUCKS

Western Washington

Oct. 9-20, 1999 and Oct. 22, 1999-Jan. 23, 2000

Special youth hunting day open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 25, 1999

Daily bag limit: 7 ducks—to include not more than 2 hen mallards, 2 pintails, 2 scaup, 2 redheads, 1 canvasback, 1 harlequin, 4 scoters, and 4 oldsquaws.

Possession limit: 14 ducks—to include not more than 4 hen mallards, 4 pintails, 4 scaup, 4 redheads, 2 canvasbacks, 1 harlequin, 8 scoters, and 8 oldsquaws.

PROPOSED

Eastern Washington

Oct. 9-20, 1999 and Oct. 22, 1999-Jan. 23, 2000

Special youth hunting day open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 25, 1999

Daily bag limit: 7 ducks—to include not more than 2 hen mallards, 2 pintails, 2 scaup, 2 redheads, and 1 canvasback.

Possession limit: 14 ducks—to include not more than 4 hen mallards, 4 pintails, 4 scaup, 4 redheads, and 2 canvasbacks.

COOT (Mudhen)

Same areas, dates (including Youth Hunting Day), and shooting hours as the general duck season.

Daily bag limit: 25 coots.

Possession limit: 25 coots.

COMMON SNIPE

Same areas, dates (except Youth Hunting Day), and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

GEESE (except Brant and Aleutian Canada Geese)

Special youth hunting day open only to hunters 15 years of age or under (must be accompanied by an adult at least 18 years old who is not hunting): Sept. 25, 1999, state-wide except Western Washington Goose Management Area 2

Daily bag limit: 4 Canada geese

Western Washington Goose Seasons**Western Washington Goose Management Area 1**

Island, Skagit, Snohomish counties

Oct. 9, 1999 - Jan. 2, 2000 for snow, Ross', or blue geese

Oct. 9, 1999 - Jan. 16, 2000 for other geese (except Brant and Aleutian Canada geese)

Daily bag limit: 4 geese, to include not more than 3 snow, Ross', or blue geese

Possession limit: 8 geese, to include not more than 6 snow, Ross', or blue geese

WRITTEN AUTHORIZATION REQUIRED TO HUNT SNOW GEESE. All persons hunting snow geese in this season are required to obtain a written authorization and Harvest Report from the Washington Department of Fish and Wildlife. Hunters who held a 1998 authorization and returned the Harvest Report prior to the deadline will be mailed a 1999 authorization in early October. Hunters who did not possess a 1998 authorization must fill out an application (available at Washington Department of Fish and Wildlife Olympia and Regional offices). Application forms must be delivered to a Department office no later than September 25 or postmarked on or before September 25 in order for applicants to be mailed a 1999 authorization before the season starts. No applications will be accepted after October 31, 1999. Immediately after taking a snow goose into possession, hunters must record in ink the information required on the Harvest

Report. Return of the Harvest Report is mandatory. Those hunters not returning the Harvest Report to the Washington Department of Fish and Wildlife by January 31, 2000, will be ineligible to participate in the 2000 snow goose season.

Western Washington Goose Management Area 2

Grays Harbor, Pacific, Wahkiakum, Cowlitz, and Clark counties, except the area of Clark County south of the Washougal River and except the area of Grays Harbor County north of U.S. Highway 12 and west of U.S. Highway 101.

Open on the following days from 8:00 a.m. to 4:00 p.m.:

Saturdays, Sundays, Mondays, Wednesdays, and Thursdays only, Nov. 24, 1999 - Jan. 16, 2000, except closed Nov. 25 and Dec. 23-25, 1999.

Bag limits for all of Western Washington Goose Management Area 2:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose, and not more than 3 snow, Ross', or blue geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose, and not more than 6 snow, Ross', or blue geese.

Season limit: 1 dusky Canada goose.

A dusky Canada goose is defined as a dark-breasted (as shown in the Munsell color chart 10 YR, 5 or less) Canada goose with a culmen (bill) length of 40-50 mm.

The Canada goose season for Western Washington Goose Management Area 2 will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 80 geese. The Fish and Wildlife Commission has authorized the director to implement emergency area closures in accordance with the following quotas: A total of 80 dusks, to be distributed 10 for Zone 1 (Ridgefield NWR); 25 for Zone 2 (Cowlitz County south of the Kalama River); 20 for Zone 3 (Clark County private lands); 10 for Zone 4 (Cowlitz County north of the Kalama River and Wahkiakum County); 10 for Zone 5 (Pacific County); and 5 for Zone 6 (Gray's Harbor County). Quotas may be shifted to other zones during the season to optimize use of the state-wide quota and minimize depredation.

Hunting is only permitted by written authorization from the Washington Department of Fish and Wildlife. Hunters who maintained a valid 1998 written authorization will be mailed a 1999 authorization card prior to the 1999 season. New hunters and those who did not maintain a valid 1998 authorization must review goose identification training materials and demonstrate adequate performance on a goose identification test to receive written authorization. Information on training materials and testing dates/locations is available at the Olympia and regional offices.

With written authorization, hunters will receive a Harvest Report. Hunters must carry the authorization card and Harvest Report while hunting. Immediately after taking a Canada goose (dusky, lesser/Taverner, cackling, or other subspecies) into possession, hunters must record in ink the information required on the Harvest Report. Hunters must go directly to the nearest check station and have geese tagged

when leaving a hunt site, before 6:00 p.m. If a hunter takes the season bag limit of one dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the Harvest Report, written authorization will be invalidated and the hunter will not be able to hunt in Western Washington Goose Management Area 2 for the remainder of the season and the Special Late Canada Goose Season. It is unlawful to fail to comply with all provisions listed above for Western Washington Goose Management Area 2.

Western Washington Goose Management Area 2 Special Late Canada Goose Season

Open to Washington Department of Fish and Wildlife Advanced Hunter Education (AHE) program graduates possessing a valid 1999 southwest Washington Canada goose hunting authorization. Hunters qualifying for the season will be placed on a list for participation in this hunt. Landowners having damage from geese will contact WDFW, and after confirmation of damage will be issued a list of qualified hunter names. Hunting will occur only on specific agricultural lands incurring goose damage.

Open to AHE hunters only in areas with agricultural goose damage in Western Washington Goose Management Area 2 on the following days, from 7:00 a.m. to 4:00 p.m.:

Saturdays, Sundays, and Wednesdays, January 22-March 10, 2000

Daily bag limit: 4 Canada geese, to include not more than 1 dusky Canada goose.

Possession limit: 4 Canada geese, to include not more than 1 dusky Canada goose.

Season limit: 1 dusky Canada goose.

A dusky Canada goose is defined as a dark-breasted Canada goose (as shown in the Munsell color chart 10 YR, 5 or less) with a culmen (bill) length of 40-50 mm.

The Special Late Canada Goose Season will be closed by emergency action if the harvest of dusky Canada geese exceeds 85 for the regular and late seasons. Hunting is only permitted by written authorization from the Washington Department of Fish and Wildlife. Hunters who maintained a valid 1998 written authorization will be mailed a 1999 authorization card prior to the 1999 season. New hunters and those who did not maintain a valid 1998 authorization must review goose identification training materials and demonstrate adequate performance on a goose identification test to receive written authorization. Information on training materials and testing dates/locations is available at the Olympia and Regional offices.

With written authorization, hunters will receive a Special Late Canada Goose Season authorization card and Harvest Report. Hunters must carry the authorization card and Harvest Report while hunting. Immediately after taking a Canada goose (dusky, lesser/Taverner, or other subspecies) into possession, hunters must record in ink the information required on the Harvest Report. Hunters must check in prior to the hunt, and after the hunt must go directly to the nearest check station when leaving a hunt site, before 5:00 p.m. If a

hunter takes the season bag limit of one dusky Canada goose or does not comply with requirements listed above regarding check station reporting and recording harvest on the Harvest Report, written authorization will be invalidated and the hunter will not be able to hunt in the Special Late Canada Goose Season for the remainder of the season. It is unlawful to fail to comply with all requirements listed above for the Special Late Canada Goose Season.

Western Washington Goose Management Area 3

Includes all parts of Western Washington not included in Western Washington Goose Management Areas 1 and 2.

Oct. 9, 1999 - Jan. 16, 2000

Daily bag limit: 4 geese, to include not more than 3 snow, Ross', or blue geese.

Possession limit: 8 geese, to include not more than 6 snow, Ross', or blue geese.

Eastern Washington Goose Seasons

Eastern Washington Goose Management Area 1

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties.

Saturdays, Sundays, and Wednesdays only, from Oct. 9, 1999 - Jan. 10, 2000, Nov. 11, 25, 26, 1999, and every day Jan. 10-16, 2000.

Eastern Washington Goose Management Area 2

Includes all other parts of Eastern Washington not included in Eastern Washington Goose Management Area 1.

Every day, from Oct. 9, 1999 - Jan. 16, 2000.

Bag limits for all Eastern Washington Goose Management Areas:

Daily bag limit: 4 geese, to include not more than 3 snow, Ross', or blue geese.

Possession limit: 8 geese, to include not more than 6 snow, Ross', or blue geese.

BRANT

Open in Skagit and Pacific counties only

Open in Skagit and Pacific counties on the following dates: Jan. 8, 9, 12, 13, 15, 16, 17, 22, 23, 2000

In 1999, the brant wintering population in Padilla/Samish/Fidalgo bays remained below objective levels. If the 1999-2000 preseason wintering brant population in Skagit County is below 6,000 (as determined by the winter survey in late December/early January), the brant season in Skagit County will be closed.

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain a written authorization and Harvest Report from the Washington Department of Fish and Wildlife. Hunters who held a 1998 authorization and returned the Harvest Report prior to the deadline will be mailed a 1999 authorization in December. Hunters who did not possess a 1998 authorization must fill out an application (available at Washington Department of Fish and Wildlife Regional offices). Application forms must be delivered to a

Department office no later than 5:00 p.m. on November 10 or postmarked on or before November 10, after which applicants will be mailed a 1999 authorization in early December. Late applications will not be accepted. Immediately after taking a brant into possession, hunters must record in ink the information required on the Harvest Report. Return of the Harvest Report is mandatory. Those hunters not returning the Harvest Report to the Washington Department of Fish and Wildlife by January 31, 2000, will be ineligible to participate in the 2000 brant season.

Bag limits for Skagit and Pacific counties:

Daily bag limit: 2 brant.

Possession limit: 4 brant.

ALEUTIAN CANADA GEESE AND SWANS

Season closed state-wide.

FALCONRY SEASONS

DUCKS AND COOTS (Falconry)

(Bag limits include geese, snipe, and mourning doves.)

Western Washington

Oct. 9-20, 1999 and Oct. 22, 1999-Jan. 23, 2000

Daily bag limit: 3, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Eastern Washington

Oct. 9-20, 1999 and Oct. 22, 1999-Jan. 23, 2000

Daily bag limit: 3, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

GEESE (Falconry)

(Bag limits include ducks, coot, snipe, and mourning doves.)

Oct. 9, 1999 - Jan. 16, 2000, state-wide, except Western Washington Goose Management Area 2:

Western Washington Goose Management Area 2: Nov. 24, 1999-Jan. 16, 2000 and Jan. 22, 2000-Mar. 10, 2000; except closed Nov. 25 and Dec. 23-25

Daily bag limit: 3, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

SNIPE (Falconry)

(Bag limits include ducks, coots, geese, and mourning doves.)

Oct. 9-20, 1999 and Oct. 22, 1999-Jan. 23, 2000 state-wide

Daily bag limit: 3, straight or mixed bag with ducks, coots, geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coots, geese and mourning doves during established seasons.

WSR 99-13-195

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed June 23, 1999, 10:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-15-015.

Title of Rule: Registration of brand name materials for organic food production.

Purpose: Chapter 16-160 WAC are the rules for registration of materials (pesticides, fertilizers, post harvest materials, etc.) for use in organic food production. The rules specify the application process and review criteria for registering brand name materials used in organic food production, processing, and handling.

Statutory Authority for Adoption: Chapter 15.86 RCW.

Statute Being Implemented: Chapter 15.86 RCW.

Summary: The proposed amendments to chapter 16-160 WAC clarify the application process for the registration of brand name materials, explain the brand name materials list, outline the criteria for approval of brand name materials, reduce fees, and allow for the use of an organic logo on registered materials.

Reasons Supporting Proposal: The proposed amendments to the fee schedule provide an equitable method of assessing fees and reduce fees for registering materials. Applicants to the registration program will benefit from the improved clarity of the registration process, the reduced application fees and the authorization for using the organic logo on registered materials.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Miles McEvoy, Olympia, (360) 902-1924.

Name of Proponent: Organic Food Program, Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 16-160 WAC contains the rules for the registration of materials (pesticides, fertilizers, post harvest materials, processing aids, etc.) for use in organic food production, processing and handling. The rule was first adopted in 1991. In Governor Locke's veto message of SHB 1910, the governor directed the organic food program to amend these rules in an expedited manner. Governor Locke also directed the Department of Agriculture to adopt rules to allow official logos to be used for organically approved and registered materials.

The proposed amendments to chapter 16-160 WAC clarify the application process for the registration of brand name materials, explain the brand name materials list, outline the criteria for approval of brand name materials, and allow for the use of an organic logo. The proposed amendments to the fee schedule provide an equitable method of assessing fees and reduce fees for registering materials. Applicants to the registration program will benefit from the improved clarity of the registration process and the reduced fees.

Proposal Changes the Following Existing Rules: WAC 16-160-010 Purpose. Amendment adds clause clarifying the

PROPOSED

rule as pertaining only to the registration of brand name materials.

WAC 16-160-020 Definitions. Adds definitions of animal manure, approved generic material, brand name material, compost, crop production aid, EPA, fertilizer, generic material, genetic engineering, labeling, livestock production aid, organic waste-derived material, post harvest material, processing aid, registered material, soil amendment, and Washington application rate.

New WAC 16-160-025 What materials are approved for use in organic food production, processing, and handling? This section provides references for the generic materials approved for use in organic production, processing, and handling.

WAC 16-160-030 Do I need to register my brand name material with the organic food program? This section states that registration is not required but is necessary for a material to appear on the brand name materials list.

New WAC 16-160-035 Brand name materials list. This section describes the list of brand name materials that the department maintains for all materials that apply for registration.

WAC 16-160-040 How do I apply for registration? Changes the application deadline from December 31st to October 31st for products to appear on the brand name materials list. Adds language that trade secrets are confidential and exempt from public disclosure. Deletes section requiring toxicity data for pesticides.

WAC 16-160-050 When do applications expire? Amends expiration date to October 31.

WAC 16-160-060 What criteria are used to determine if a brand name material will be approved? Amendments specify criteria for the following types of materials: Pesticide and spray adjuvants; fertilizers, organic waste derived materials, foliar and soil amendments, crop production aids, post harvest materials, processing aids, and livestock production aids. General criteria prohibit ingredients that are from List 1 or List 2 of the EPA's list of inert ingredients.

WAC 16-160-070 Application fees. The proposal reduces fees from the current \$300 inspection fee. Proposed fee structure establishes fees at \$200 per material for an initial registration for a pesticide, spray adjuvant, processing aid or post harvest material; renewals will be \$100 per material. An initial fee of \$100 per material will be charged for each fertilizer, foliar amendment, soil amendment, organic waste derived material, crop production aid or livestock production aid; renewals will be \$50 per material. Applications post-marked after October 31st will be charged a late fee.

WAC 16-160-090 Refusing or canceling registration. Edits existing language about the procedure for denying, canceling or revoking registration.

WAC 16-160-100 Labeling of registered brand name materials and use of organic logo. Adds language stating that only registered materials may use the logo; approved generic materials not registered under this chapter may not use the logo.

New WAC 16-160-110 Organic material registration logo. Provides the logo that registered materials may use.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amend-

ment to chapter 16-160 WAC do not impose additional costs. Therefore, in accordance with RCW 19.85.030 (1)(a), preparation of a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not listed agency in section 201.

Hearing Location: Natural Resources Building, 1111 Washington Street, Room 205, Olympia, WA 98504-2560, on July 27, 1999, at 9 a.m.

Assistance for Persons with Disabilities: Contact Julie Carlson by July 20, 1999, TDD (360) 902-1996, or (360) 902-1880.

Submit Written Comments to: Miles McEvoy, Organic Food Program, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2087, by 5 p.m., July 27, 1999.

Date of Intended Adoption: July 30, 1999.

June 22, 1999

Candace Jacobs, DVM
Assistant Director

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-010 (~~Purpose~~) **What is the purpose of this rule? This chapter specifies the review process and criteria for registering brand name materials used in organic food production, processing and handling.** This chapter is promulgated pursuant to RCW 15.86.060(~~(1) wherein~~) in which the director is authorized to adopt rules ((and regulations)) for the proper administration of chapter 15.86 RCW and establish a list of approved substances that may be used in the production, processing and handling of organic food and RCW 15.86.070 ((wherein)) in which the director is authorized to adopt rules governing the certification of producers of organic food.

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-020 Definitions. As used in this chapter:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

(2) "Animal manure" means a material composed of excreta, with or without bedding materials and/or animal drugs and collected from poultry, ruminants or other animals except humans.

(3) "Applicant" means the person who submits an application to register a material pursuant to the provisions of this chapter.

~~((3))~~ (4) "Approved generic material" means any material which is approved for use in organic food production, processing or handling under chapter 15.86 RCW(~~, chapter 16-154 WAC, and WAC 16-160-060~~) (Organic food products) and rules adopted pursuant to chapter 15.86 RCW.

~~((4))~~ (5) "Brand name material" means any material that is supplied, distributed or manufactured by a person.

(6) "Compost" means a material produced from a controlled process in which organic materials are digested aerobically or anaerobically by microbial action.

(7) "Crop production aid" means any substance, material, structure, or device, that is used to aid a producer of an agricultural product except for fertilizers and pesticides.

(8) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

~~((5))~~ (9) "Department" means the department of agriculture of the state of Washington.

~~((6))~~ (10) "Desiccant" means any substance or mixture of plant tissues intended to artificially accelerate the drying of plant tissues.

~~((7))~~ (11) "Director" means the director of the department of agriculture or his or her duly authorized representative.

~~((8))~~ (12) "Distribute" means to offer for sale, hold for sale, sell, barter, deliver, or supply materials in this state.

~~((9))~~ (13) "EPA" means the United States Environmental Protection Agency.

(14) "Fertilizer" means any substance containing one or more recognized plant nutrients.

(15) "Generic material" means any type, class or group of materials that is specified under chapter 15.86 RCW or rules adopted pursuant to chapter 15.86 RCW.

(16) "Genetic engineering" means techniques that alter the molecular or cell biology of an organism by means that are not possible under natural conditions or processes. Genetic engineering includes recombinant DNA, cell fusion, micro- and macro-encapsulation, gene deletion, and doubling, introducing a foreign gene, and changing the positions of genes. It does not include breeding, conjugation, fermentation, hybridization, in-vitro fertilization and tissue culture.

(17) "Inert ingredient" means an ingredient which is not an active ingredient.

~~((10))~~ (18) "Label" means the written, printed, or graphic matter on, or attached to, the material or ~~((the)) its~~ immediate container ~~((thereof, and the outside container or wrapper of the retail package)).~~

~~((11))~~ (19) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a material, or advertisement, brochures, posters, television, and radio announcements used in promoting the distribution or sale of the material.

(20) "Livestock production aid" means any substance, material, structure, or device, that is used to aid a producer in the production of livestock (e.g., parasiticides, medicines, feed additives).

(21) "Material" means any ~~((pesticide, plant regulator, defoliant, desiccant, spray adjuvant, fertilizer, soil amendment, growth regulator, or other))~~ substance or mixture of substances ~~((which)) that~~ is intended to be used in agricultural production ~~((or post harvest use)), processing or handling.~~

~~((12))~~ (22) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through

composting. "Organic waste-derived material" does not include products that include biosolids as defined in chapter 70.95 RCW.

~~((13))~~ (23) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

~~((14))~~ (24) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(d) Any other substances intended for such use as may be named by the director by regulation.

~~((14))~~ (25) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculant, or soil amendments.

~~((15))~~ (26) "Post harvest material" means any substance, material, structure, or device, that is used in the post harvest handling of agricultural products.

(27) "Processing aid" means any material used in processing that does not become an ingredient in the food product (e.g., enzymes, boiler water additives, pressing aids, and filtering aids).

(28) "Prohibited material" means any material which is prohibited for use in organic food production, handling, or processing under chapter 15.86 RCW ~~((chapter 16-154 WAC, and WAC 16-160-060))~~ (Organic food products) and rules adopted pursuant to chapter 15.86 RCW.

~~((16))~~ (29) "Registered material" means any material that has applied for registration under this chapter, has met the criteria for approval and has been issued written approval by the department.

(30) "Registrant" means the person registering any material pursuant to the provisions of this chapter.

~~((17))~~ (31) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except for fertilizers and pesticides.

(32) "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to ~~((the)) its~~ application or to ~~((the)) its~~ effect ~~((thereof)), and which is in a package or container separate from that of the pesticide with which it is to be used.~~

(33) "Washington application rate" is calculated by using an averaging period of up to four consecutive years that incorporates agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state.

NEW SECTION**WAC 16-160-025 What materials are approved for use in organic food production, processing and handling?**

Materials approved for use in organic food production, processing and handling include generic materials specified in rule and brand name products registered under this chapter. Approved generic materials are specified in the following rules.

(1) The Organic crop production standards, chapter 16-154 WAC, specifies the pesticides, fertilizers, soil amendments and other materials that can be used in organic crop production.

(2) The Standards for the certification of processors of organic food, chapter 16-158 WAC, specifies the processing aids and minor ingredients that can be used in the processing of organic food.

(3) The Animal production standards for organic meat and dairy products, chapter 16-162 WAC, specifies the materials that can be used in the production of organic animal products.

(4) The Standards for the certification of handlers of organic food, chapter 16-164 WAC, specifies the post harvest materials that can be used in the handling of organic food products.

In order for specific brand name materials to be approved for use in organic food production, processing or handling they must be registered through this chapter.

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-030 (~~(Registration of materials.)~~) **Do I need to register my brand name material with the organic food program?** Every material which is manufactured within this state and/or distributed within this state for use in organic food production, processing or handling may be registered (~~(for use in organic food production if it meets the terms and conditions as set forth in this chapter. Such application shall be made prior to January 1 of each year)~~) with the department. Registration is not required, but is necessary for a product to appear on the brand name materials list or to label or advertise itself as approved for use in organic food production, processing or handling.

NEW SECTION

WAC 16-160-035 Brand name materials list. The department maintains a list of registered materials and brand name materials that have been denied registration. The list is provided to all producers, processors and handlers of organic food who apply for certification with the department. A registered material that appears on the brand name materials list has been reviewed to verify that all of its ingredients comply with organic standards.

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-040 (~~(Application for material registration.)~~) **How do I apply for registration?** Applications for

brand name material registration ((~~shall~~)) must be made on a form designated by the department. Applications, must be accompanied by the appropriate fee, and must be postmarked by October 31 of each year. Applications made after the set deadline may be processed as the department can review the application. Applications received after October 31 may appear on the annual brand name materials list if received in time to complete the registration prior to the publication of the list. The application form shall include:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;

(2) The name of the material;

(3) A (~~(complete)~~) copy of the labeling accompanying the material and a statement of all claims to be made for it, including the directions and precautions for use;

(4) The complete formula of the material(~~(s)~~) including the active and inert ingredients;

(5) A description of the manufacturing process including all materials used for the extraction and synthesis of the material, if appropriate;

(6) The intended uses of the product;

(7) (~~(For pesticides, a full description of the tests made and the results of acute toxicity, chronic toxicity, reproductive effects, teratogenicity tests, mutagenicity tests, carcinogenicity tests, ecological effects, environmental fate and persistence. Similar information on nonpesticide materials must be provided when the data are available)~~) The source or supplier of all ingredients; and

(8) Any additional information deemed necessary.

The director may require a full description of the tests made and the results thereof upon which the claims are based. Trade secrets are confidential and exempt from public disclosure under the Uniform Trade Secrets Act, chapter 19.108 RCW. RCW 42.17.260(1).

AMENDATORY SECTION (Amending WSR 91-20-013, filed 9/20/91, effective 10/21/91)

WAC 16-160-060 (~~(Criterion for registering.)~~) **What criteria are used to determine if a brand name material is approved?** (~~((1) The director shall review the information provided under WAC 16-160-040 and shall register the material as an "approved material" if he or she determines that:~~

(a) Its composition is such as to warrant the proposed claims for it;

(b) Its labeling and other material required to be submitted comply with state and federal laws;

(c) It is composed entirely of "approved" materials as stated in chapter 16-154 WAC or meets the provisions of subsection (2) of this section.

(2) Synthetic materials may be considered for registration by the director if he or she determines that:

(a) The material is judged to be essential to the production of the crop;

(b) The material is less toxic or environmentally hazardous than a naturally derived alternative; and

(c) The use of the material is consistent with the principles of organic farming as set forth in chapter 16-154 WAC.) The director reviews the information provided under WAC

16-160-040. A brand name material that meets the following criteria will be registered.

(1) General requirements.

(a) Its composition is such as to warrant the proposed claims for it;

(b) Its labeling and other material required to be submitted comply with state and federal laws;

(c) It does not contain ingredients that are genetically engineered;

(d) It does not contain ingredients that appear on the EPA's List 1 or 2 of Inert Pesticide Ingredients.

(2) Pesticide and spray adjuvants.

(a) The material does not contain ingredients that are prohibited under chapter 16-154 WAC; and

(b) The ingredients are approved under chapter 16-154 WAC; or

The ingredients are naturally derived, except for those naturally derived materials prohibited under chapter 16-154 WAC; or

The ingredients appear on the EPA's List 4A or 4B of Inert Pesticide Ingredients; or

The ingredients meet the following conditions:

(i) Would not be harmful to human health or the environment;

(ii) Are necessary to the production or handling of organic products; and

(iii) Are consistent with organic principles.

(3) Fertilizers, organic waste derived materials, compost, animal manures, soil amendments, and crop production aids.

(a) All fertilizers, organic waste derived materials, compost, animal manures and soil amendments must meet standards for allowable levels of nonnutritive substances under chapter 15.54 RCW. Washington application rates shall be used to ensure that the maximum acceptable cumulative metal additions to soil are not exceeded.

(b) All organic waste derived materials, compost and animal manures must consist of acceptable feedstocks. Acceptable feedstocks include materials approved under WAC 16-154-070. Prohibited feedstocks include mixed municipal solid waste, sewage sludge, biosolids, glossy paper, recycled gypsum, dangerous waste, special waste, waste or by-product from processes that create organochlorines, cement kilns, secondary steel mills, waste categorically excluded from the dangerous waste regulations and other materials prohibited under this chapter. Applications for registering organic waste derived materials, composts and animal manures must include an inspection of the facility. Inspections of facilities entail an examination of the feedstocks and may entail an examination of any other information deemed necessary to the requirements of chapter 15.86 RCW and this chapter.

(c) The material does not contain ingredients that are prohibited under chapter 16-154 WAC.

(d) The ingredients are approved under chapter 16-154 WAC; or the ingredients are naturally derived, except for those naturally derived materials prohibited under chapter 16-154 WAC; or the ingredients appear on the EPA's List 4A

or 4B of Inert Pesticide Ingredients; or the ingredients meet the following conditions:

(i) Would not be harmful to human health or the environment;

(ii) Are necessary to the production of organic products; and

(iii) Are consistent with organic principles.

(4) Post harvest materials.

(a) The material does not contain ingredients that are prohibited under chapter 16-164 WAC or WAC 16-154-120; and

(b) The ingredients are approved under WAC 16-154-120 or chapter 16-164 WAC; or

The ingredients are naturally derived, except for those naturally derived materials prohibited under chapter 16-154 WAC; or

The ingredients appear on the EPA's List 4A or 4B of Inert Pesticide Ingredients; or

The ingredients meet the following conditions:

(i) Would not be harmful to human health or the environment;

(ii) Are necessary to the handling of the organic products; and

(iii) Are consistent with organic principles.

(5) Processing aids.

(a) The material does not contain ingredients that are prohibited under chapter 16-158 WAC; and

(b) The ingredients are approved under chapter 16-158 WAC; or

The ingredients are naturally derived, except for those naturally derived materials prohibited under chapter 16-158 WAC; or

The ingredients appear on the United States Food and Drug Administration list of food additives generally regarded as safe; or

The ingredients meet the following conditions:

(i) Would not be harmful to human health or the environment;

(ii) Are necessary to the processing of organic products; and

(iii) Are consistent with organic principles.

(6) Livestock production aids (parasiticides and medicines, vitamins, minerals, livestock feed additives).

(a) The material does not contain ingredients that are prohibited under chapter 16-162 WAC; and

(b) The ingredients are approved under chapter 16-162 WAC; or

The ingredients are naturally derived, except for those naturally derived materials prohibited under chapter 16-162 WAC; or

The ingredients appear on the United States Food and Drug Administration list of food additives generally regarded as safe; or

The ingredients meet the following conditions:

(i) Would not be harmful to human health or the environment;

(ii) Are necessary to the production or handling of the organic livestock products; and

(iii) Are consistent with organic principles.

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-070 (~~(Inspection.)~~) **Application fees.**

Whenever the department receives an application for registration of materials under this chapter, the department ~~((shall))~~ may conduct an inspection. This inspection may entail a survey of required records, examination of facilities, testing representative samples for prohibited materials, and any other information deemed necessary to the requirements of this chapter.

~~((The applicant or registrant shall pay a yearly inspection fee of three hundred dollars at the time the application for material registration is filed with the director.))~~ The application fee for initial registration of a pesticide, spray adjuvant, processing aid or post harvest material is two hundred dollars per material. The application fee for initial registration of a fertilizer, soil amendment, organic waste derived material, compost, animal manure, crop production aid, or livestock production aid is one hundred dollars per material.

The application fee for renewing a registration for a pesticide, spray adjuvant, processing aid or post harvest material is one hundred dollars per material. The application fee for renewing a registration for a fertilizer, soil amendment, organic waste derived material, compost, animal manure, crop production aid, or livestock production aid is fifty dollars per material.

Renewal registrations postmarked after October 31 pay a late fee of twenty dollars per pesticide, spray adjuvant, processing aid or post harvest material; and ten dollars per fertilizer, soil amendment, organic waste derived material, compost, animal manure, crop production aid, or livestock production aid.

Additional inspections, if required, will be billed at twenty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

Additional samples (in addition to one sample provided for), if required shall cost an additional lab fee of one hundred ten dollars. If an additional visit must be arranged, it shall be at twenty dollars per hour plus mileage which shall be charged at the rate established by the state office of financial management.

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-090 **Refusing or canceling registration**~~((—Procedure)).~~ Initial registration.

(1) ~~((With regard to the initial registration of a material,))~~ If it does not appear to the director that the **brand name** material is such as to warrant the proposed claims for it or if the **brand name** material and its labeling ~~((and other material required to be submitted))~~ do not comply with the provisions of this chapter, ~~((he or she))~~ the director shall notify the registrant of the manner in which the **brand name** material~~((;))~~ and its labeling~~((; or other material required to be submitted))~~ fails to comply with the provisions of this chapter ~~((or state or federal law))~~ so as to afford the applicant an opportunity to make the necessary corrections. If, upon receipt of such

notice, the applicant does not make corrections, the director shall ~~((refuse to register))~~ deny registration of the material in accordance with chapter 34.05 RCW.

Renewal registration.

(2) ~~((When evaluating a materials registration renewal application, the director may,))~~ When ~~((he or she))~~ the director determines that a material or its labeling does not comply with the provisions of this chapter ~~((or state or federal law)), or ~~((if he or she determines))~~ that false or inaccurate information was provided by the registrant ~~((concerning the material)), the director shall cancel the registration of a material ~~((after a hearing))~~ in accordance with ~~((the provisions of))~~ chapter 34.05 RCW ~~((provided that the applicant has otherwise made timely and sufficient application for registration renewal)).~~~~~~

Revoking registration.

(3) ~~((During the current registration period of a material, the director may,))~~ When ~~((he or she))~~ the director determines that a material or its labeling does not comply with the provisions of this chapter ~~((or state or federal law)), or if false or inaccurate information was provided by the registrant ~~((concerning the registered material)), the director shall cancel the registration of such material ~~((after a hearing))~~ in accordance with ~~((the provisions of))~~ chapter 34.05 RCW.~~~~

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-100 Labeling of registered **brand name materials and use of organic logo.** A person~~((s who apply under this program and))~~ whose material is registered ~~((as an "approved material" will be allowed to))~~ under this chapter may use the words~~((;))~~ "approved material under Washington state department of agriculture organic food program" ~~((in their labeling))~~ and may use the logo specified in WAC 16-160-110 in the labeling of the material. Approved generic materials that are not registered under this chapter must not use the statement nor the logo in the labeling of the material. Registration ~~((as an "approved material"))~~ by no means implies the Washington department of agriculture endorses the use of ~~((such))~~ the product.

NEW SECTION**WAC 16-160-110 Organic material registration logo.**

AMENDATORY SECTION (Amending WSR 91-05-007, filed 2/7/91, effective 3/10/91)

WAC 16-160-050 (~~Annual application and initial inspection fee—Expiration—Continuation if renewal application made.~~) When do registrations expire? ((+)) Any person desiring to register a material for organic food production shall file with the director an application and a yearly inspection fee as set forth in ~~WAC 16-160-070 for each material.~~) All registrations expire on ((December)) October 31st of each year.

((2)) If a renewal application has been ((filed)) submitted and the ((yearly inspection)) application fee paid, then the registration of any material which has been approved by the director and is in effect on the 31st day of ((December)) October continues in full force and effect until the director notifies the applicant that the registration has been renewed, or until it is otherwise denied in accordance with ((WAC 16-160-090)) chapter 34.05 RCW.

WSR 99-13-200
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 23, 1999, 11:11 a.m.]

Original Notice.

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

Title of Rule: Chapter 296-150V WAC, Conversion vendor units and medical units.

Purpose: To adopt new rules covering factory-built (FAS) vendor and medical units which are less stringent than current rules while maintaining fire protection and other life and safety requirements for the occupants and the consumer.

Statutory Authority for Adoption: RCW 43.22.340.

Statute Being Implemented: Chapter 43.22 RCW.

Summary: The proposal creates a new chapter for factory-built (FAS) vendor and medical units. The new chapter is less stringent than the current requirements of chapter 296-150C WAC, Commercial coaches, yet it maintains fire protection and other life/safety protection for the occupants and the consumer. Structural requirements are eliminated, except for one pertaining to concentrated loads of 500 pounds or more, as are other nonlife/safety requirements.

Reasons Supporting Proposal: These rules implement SSB 5669 from the 1999 legislative session, which specified that the department adopt specific rules pertaining to vendor and medical units which address only the fire/life/safety protection and concentrated loads of 500 pounds or more in a sixteen square feet or less area.

Name of Agency Personnel Responsible for Drafting: Dan Wolfenbarger, Tumwater, Washington, (360) 902-5225; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-5225.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of the new chapter is to create rules that are less stringent than those currently required for conversion vendor units and medical units while maintaining fire protection and other life/safety requirements for the occupants and the consumer. The proposed new chapter removes structural requirements except for the requirement pertaining to concentrated loads of 500 pounds or more. The rules reduce requirements for other nonlife/safety issues. The anticipated effect is that owners of conversion vendor units and medical units will be able to obtain department approval more easily and inexpensively without compromising life and safety issues.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department is exempt from having to perform a small business economic impact statement or to mitigate the small business compliance cost when a rule is specifically dictated by statute (RCW 19.85.025(3)). Since the proposed rule change was mandated by SSB 5669, the department is not required to prepare a small business economic impact statement.

RCW 34.05.328 does not apply to this rule adoption. This rule meets the exception listed in RCW 34.05.328 (5)(b)(v), which excludes "Rules the content of which is explicitly and specifically dictated by statute."

Hearing Location: Department of Labor and Industries Building, Room S117, 7273 Linderson Way, Tumwater, WA, on July 27, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Elaine Fischer at (360) 902-6411, TDD (360) 902-5797.

PROPOSED

Submit Written Comments to: Dan Wolfenbarger, Chief Factory Assembled Structures Inspector, Department of Labor and Industries, P.O. Box 44440, Olympia, WA 98504-4440, by July 30, 1999.

Fax comments (must be ten pages or less) to (360) 902-5292, by July 27, 1999.

Date of Intended Adoption: August 31, 1999.

June 16, 1999

Gary Moore

Director

Chapter 296-150V WAC

CONVERSION VENDOR UNITS AND MEDICAL UNITS

NEW SECTION

WAC 296-150V-0010 Authority, purpose, and scope.

(1) This chapter is authorized by RCW 43.22.340 through 43.22.434 covering the construction, alteration, and approval of conversion vendor units and medical units sold, leased, or used in Washington state.

(2) This chapter applies to the approval of conversion vendor unit and medical unit manufacturers, dealers, and to any person who manufactures or alters the plumbing, mechanical, or electrical system of a conversion vendor unit or medical unit.

NEW SECTION

WAC 296-150V-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction for concentrated floor loads, fire and life safety, or the plumbing, mechanical, and electrical systems of a conversion vendor unit or medical unit.

The following are not considered alterations:

- Repairs with approved parts;
- Modifications of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Consumer" is a person or organization, excluding a manufacturer or dealer of conversion vendor units or medical units, who buys or leases a conversion vendor unit or medical unit.

"Conversion vendor unit" means a motor vehicle or other structure that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be 8 feet 6 inches or less in width (exterior floor measurement) in the set-up position, and the inside working area must be less than 40 feet in length (interior floor measurement). Conversion vendor units:

- Are transported in only one section;
- Are designed for highway use;
- Are temporarily occupied for distribution of items, e.g., food;

- Are built on a permanent chassis; and
- Include at least one of the following systems: Plumbing, mechanical or 120 and/or 240 volt electrical.

"Damaged in transit" means damage that affects the integrity of a concentrated floor load design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading conversion vendor units, or medical units.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, P.O. Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction or alteration of a conversion vendor unit or medical unit or conversion of a vehicle to a conversion vendor unit or medical unit including floor plans, specifications, or test results necessary for a complete evaluation of the design, if applicable.

"Design option" is a design that a manufacturer may use as an option to its conversion vendor unit or medical unit design plan.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a conversion vendor unit or medical unit.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to conversion vendor units and medical units.

"Insignia" is a label that we attach to a conversion vendor unit or medical unit to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a conversion vendor unit or medical unit in place.

"Labeled" is to bear the department's insignia.

"Listed" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of a conversion vendor unit or medical unit.

"Medical unit" is a type of self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles, and which:

- Is transportable;
- Is temporarily placed and used;
- Is built on a permanent chassis;
- Includes at least one system;
- Is for temporary use only.

"One-year design plan" is a design plan that expires one year after approval or when a new state building code has been adopted.

"System" is part of a conversion vendor unit or medical unit designed to serve a particular function. Examples include plumbing, electrical, or mechanical systems.

"Temporary locations" means a maximum of thirty days on a site.

NEW SECTION

WAC 296-150V-0030 How is this chapter enforced?

(1) To enforce this chapter, we or another governmental inspection agency will inspect each conversion vendor unit or medical unit manufactured, sold, leased, or used in Washington state as required by this chapter.

(2) We will inspect all alterations.

(3) We will conduct inspections during normal work hours or at other reasonable times.

NEW SECTION

WAC 296-150V-0040 Is manufacturing information kept confidential? We will only release manufacturing information such as design plans, specifications, and test results according to the requirements of the Public Records Act (see RCW 42.17.310 (1)(h)) unless we are ordered to do so by a court or otherwise required by law.

NEW SECTION

WAC 296-150V-0050 Can you prohibit the sale or lease of a conversion vendor unit or medical unit? (1) We may prohibit the sale or lease of your conversion vendor unit or medical unit because it is unlawful for any person to sell, lease, or offer for sale a conversion vendor unit or medical unit within this state if it violates any of the requirements of this chapter.

(2) If an inspection reveals that a conversion vendor unit or medical unit violates this chapter, we may post a notice prohibiting the sale or lease of a conversion vendor unit or medical unit.

NEW SECTION

WAC 296-150V-0060 Who handles consumer complaints about conversion vendor units or medical units? (1) Consumers may file complaints within one year of the date of manufacture.

(2) The complaint should be in writing and describe the item(s) that may not comply with this chapter.

(3) After we receive the complaint, we will send the manufacturer and the dealer a copy of the complaint.

(4) The manufacturer and/or dealer have thirty days to respond. We will base our actions on the response.

NEW SECTION

WAC 296-150V-0070 Do you have reciprocal agreements with other states to inspect conversion vendor units and medical units? (1) We will enter into reciprocal agreements with states that have inspection standards equal or greater than our standard.

(2) When we have a reciprocal agreement with another state:

(a) The reciprocal state inspects the conversion vendor units and medical units manufactured in that state before shipment into Washington to ensure compliance with our laws. After inspection, the reciprocal state applies our insignia.

(b) The department inspects conversion vendor units and medical units manufactured in Washington before shipment into the reciprocal state to ensure compliance with their laws. After inspection, we apply the insignia of the reciprocal state.

(3) We have reciprocal agreements on file.

NEW SECTION

WAC 296-150V-0080 Do you allow a local enforcement agency to inspect conversion vendor units and medical units at the manufacturing location? (1) A local enforcement agency (city or county), under contract with us, can inspect conversion vendor units and medical units. In some cases, another agency's contracts may be limited to specific portions of an inspection at specified manufacturing locations.

(2) After approving a unit, the local enforcement agency will attach the insignia which indicates that the unit has passed inspection.

NEW SECTION

WAC 296-150V-0100 What happens if I disagree with your decision regarding my compliance with this chapter? (1) If we determine that you are in violation of this chapter, you will receive a notice of noncompliance.

(2) If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request;

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed;

(c) Hear your case;

(d) Send written notice of our decision to you.

(4) If you disagree with our decision, you may appeal it under the Administrative Procedure Act, chapter 34.05 RCW.

NEW SECTION

WAC 296-150V-0110 Do you have an advisory board to address conversion vendor unit and medical unit issues? The factory assembled structures (FAS) board advises us on issues relating to plumbing, mechanical, electrical, inspections, and rule adoption for conversion vendor units and medical units. (See RCW 43.22.420.)

NEW SECTION

WAC 296-150V-0120 Where can I obtain technical assistance regarding conversion vendor units or medical units? We offer field technical service to conversion vendor unit and medical unit manufacturers for an hourly fee. (See WAC 296-150V-3000.) Field technical service may include

evaluation, consultation, plan examination, interpretation, and clarification of technical data relating to the application of our rules. It does not include inspections.

NEW SECTION

WAC 296-150V-0140 Do you allow the use of alternate materials, design, or method of construction? An applicant may apply for the use of alternate materials, design, or methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) **Responsibilities of the applicant.** The applicant must submit in writing the following information:

- (a) Name, address, and phone number;
- (b) The specific requirement or requirements from which the alternate material, design, or method of construction is requested;
- (c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, design, or method of construction;
- (d) How the use of alternate materials, design, or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements;

The department has a form that you may use for your request. Please contact us at the address shown in WAC 296-150V-0020, Definitions.

(2) **Responsibilities of the department.** The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision on:

- (a) The applicant's request as described in subsection (1) of this section;
- (b) Research into the request;
- (c) Expert advice.

(3) **Applicant's response to denials.** The applicant may appeal the department's decision by following the procedure in WAC 296-150V-0100.

NEW SECTION

WAC 296-150V-0200 Who must obtain conversion vendor unit or medical unit insignia? (1) You must obtain an insignia from us for each conversion vendor unit or medical unit manufactured, sold, leased, or used in Washington state.

(2) You do not need an insignia for a conversion vendor unit or medical unit:

(a) When a unit has been used outside of the state for six months before being brought into Washington state (see RCW 43.22.380); or

(b) If a unit was manufactured prior to July 1, 1968. (See RCW 43.22.370.)

(3) You must obtain an insignia when conversion vendor units or medical units are altered in Washington state.

(4) You must obtain an alteration insignia when a conversion vendor unit or medical unit is damaged in transit after

leaving the manufacturing location or during an on-site installation and an alteration or repair is necessary. The insignia indicates the conversion vendor unit or medical unit was altered or repaired.

(5) You must have an approved design plan and pass our inspection before we will attach an insignia.

Note: All conversion vendor units and medical units must have insignia if they are altered; this includes the exceptions in subsection (2)(a) and (b) of this section.

NEW SECTION

WAC 296-150V-0210 What are the insignia requirements? (1) If you are applying for insignia, you must have your design plan approved and your conversion vendor unit or medical unit inspected and approved by us.

(2) If you are a manufacturer, dealer, or owner applying for an alteration insignia, your alteration must be inspected and approved by us. Approval of the design plan may also be required.

(3) We will attach the insignia to your conversion vendor unit or medical unit after:

(a) We receive from you the required forms and fees listed in WAC 296-150V-3000; and

(b) Your conversion vendor unit or medical unit has passed final inspection.

NEW SECTION

WAC 296-150V-0220 How do I obtain insignia information and the required forms? Upon request, we will provide you with a packet of information that includes the required forms. Our address is noted in the definition of "department" in WAC 296-150V-0020.

NEW SECTION

WAC 296-150V-0230 What are the insignia application requirements? (1) If you are requesting insignia for conversion vendor units or medical units that you intend to manufacture under a new design plan, your completed application must include:

(a) A completed design plan approval request form;

(b) One complete set of design plans, specifications, engineering analysis and test procedures and results (when applicable), plus one additional set for each manufacturing location where the design plan will be used;

(c) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. We will retain the set with the original wet stamp; and

(d) A one-time initial filing fee, the design plan fee, and the fee for each insignia (see WAC 296-150V-3000).

(2) If you are requesting insignia under an approved design plan, your completed application must include:

(a) A completed insignia application form; and

(b) The fee for each conversion vendor unit or medical unit insignia (see WAC 296-150V-3000).

NEW SECTION

WAC 296-150V-0240 What documentation do you need to perform an alteration inspection? If you alter a conversion vendor unit or medical unit, we must inspect the alteration.

(1) Before we perform an alteration inspection and attach an alteration insignia, you must send us:

- (a) Description of the proposed alteration;
- (b) The plan review fee;
- (c) The inspection fee; and
- (d) The insignia application and fee.

(2) A design plan review is not required if the alteration can be made without altering any of the existing structure.

Note: All fees are listed in WAC 296-150V-3000 at the end of this chapter.

NEW SECTION

WAC 296-150V-0250 How do I replace lost or damaged insignia? (1) If an insignia is lost or damaged after it is placed on a conversion vendor unit or medical unit, you may obtain a replacement insignia by contacting us and providing the following:

- (a) Your name, address, and telephone number;
 - (b) The name of the manufacturer or person converting the conversion vendor unit or medical unit;
 - (c) The serial number;
 - (d) The manufacturer number (V#) if available;
 - (e) The insignia number if available;
 - (f) The required fee from WAC 296-150V-3000; and
- (2) If we can determine that your unit previously had an insignia, we will:

- (a) Perform an inspection to ensure that no unauthorized remodeling has occurred; and
- (b) Attach an insignia to your unit once we receive your inspection fee listed in WAC 296-150V-3000.

Note: If unauthorized remodeling has occurred see WAC 296-150V-0200.

NEW SECTION

WAC 296-150V-0300 When is design-plan approval required? Design plans for conversion vendor units and medical units are required for units that are sold, leased, or used in Washington state and must be approved when:

- (1) You build a new unit;
- (2) You modify an approved design plan through addendums;
- (3) You add options to an approved design plan through addendums.

NEW SECTION

WAC 296-150V-0310 Who can approve design plans? Your design plan must be approved by the department.

NEW SECTION

WAC 296-150V-0320 What must I provide with my request for conversion vendor unit or medical unit design-plan approval by the department? (1) All requests for design-plan approval must include:

- (a) A completed design-plan approval request form;
- (b) Two sets of design plans, specifications and test results and procedures necessary for a complete evaluation of the design;
- (c) Receipt of the design-plan fee listed in WAC 296-150V-3000;
- (d) Receipt of the initial design-plan filing fee and the initial design-plan fee.

(2) If a structural analysis or test is required for a concentrated floor load, at least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under the engineer or architect's direct supervision shall be signed, dated and stamped with his or her seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed and he or she must prepare a report concerning the plans. This report must:

- (a) Identify which drawings have been reviewed by drawing number and date;
 - (b) Include a statement that the plans are in compliance with current Washington state regulations; and
 - (c) Be stamped and signed by the reviewer.
- (3) Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp.

(4) All plans required by WAC 296-46-140, plan review for health care facilities, require a separate electrical plan review and electrical plan review fees (see fees in WAC 296-150V-3000).

NEW SECTION

WAC 296-150V-0340 When is an engineering analysis or structural load test for design plans required? An engineering analysis or structural load test may be required when there are concentrated loads of 500 pounds or more in a 16 square feet or less area.

NEW SECTION

WAC 296-150V-0350 What must test procedures and results for design plans include? (1) Test to a design must be witnessed by a professional engineer or architect licensed in Washington or by a department employee.

- (2) Test reports must contain the following items:
 - (a) A description of the methods or standards that applied to the test;

- (b) Drawings and a description of the item tested;
- (c) A description of the test set-up;
- (d) The procedure used to verify the correct load;
- (e) The procedure used to measure each condition;
- (f) Test data, including applicable graphs and observations of the characteristics and behavior of the item tested; and
- (g) Analysis, comments, and conclusion.

NEW SECTION

WAC 296-150V-0380 What happens if you approve my design plan? (1) Your design plan will be approved if it meets the requirements of this chapter.

(2) We will send you an approved copy of the design plan with the design-plan approval number.

(3) You must keep copies of the approved design plan available for inspection at each location where the conversion vendor unit or medical unit is built.

(4) If your design plan is not approved, you will be notified in writing of plan deficiencies. You may send a corrected design plan to us along with the resubmittal fee listed in WAC 296-150V-3000.

NEW SECTION

WAC 296-150V-0390 If my design plan is not approved, how much time do I have to submit a corrected design plan? (1) You have ninety days to correct and resubmit your original design plan and send us the resubmittal fee after we notify you of plan deficiencies. After ninety days, your initial design plan is returned to you.

(2) If you submit your corrected design plan after ninety days, the initial design-plan fee is required instead of the resubmittal fee. (See WAC 296-150V-3000.)

NEW SECTION

WAC 296-150V-0400 What happens after my design plan is approved? Once your design plan is approved, we will inspect each conversion vendor unit and medical unit.

NEW SECTION

WAC 296-150V-0410 When does my design plan expire? (1) Your conversion vendor unit or medical unit one-year design plan expires either one year after approval or when there is an electrical code change. You must submit new design plans for approval when there is a state building code cycle change. You may use your design plans to order insignia as long as they comply with the applicable codes.

(2) All National Electrical Code (NEC) amendments may be incorporated by an addendum to your design plan.

NEW SECTION

WAC 296-150V-0415 Who approves addendums to design plans? Any addendums to a design plan must be approved by the department.

NEW SECTION

WAC 296-150V-0500 When is an inspection required? (1) Before we issue an insignia, each unit manufactured or converted must be inspected as many times as required to show compliance with this chapter.

(2) Before we issue an insignia, a conversion vendor unit or medical unit must be inspected at the manufacturing location as many times as required. Inspections may include, but are not limited to:

(a) A "cover" inspection during construction of the unit before the electrical, plumbing, mechanical, and structural systems (if required) are covered;

(b) Insulation and vapor barrier inspection, if required; and

(c) A final inspection after the conversion vendor unit or medical unit is complete.

(3) If we discover a violation during inspection, we will issue a notice of noncompliance. You can correct the violation during the inspection. If you cannot correct the violation during inspection, you must leave the item uncovered until we approve your correction.

(4) If a conversion vendor unit or medical unit is damaged in transit to the building site or during on-site installation, it must be inspected. This is considered an alteration inspection. (See WAC 296-150V-0240.)

(5) Approved plans must be available.

(6) Once your unit is inspected and approved we will attach the insignia. Before we issue an insignia, each conversion vendor unit or medical unit is inspected as follows:

(a) Inspection(s) during conversion or alteration of a conversion vendor unit or medical unit; and

(b) A final inspection after the conversion vendor unit or medical unit is complete.

Note: Each conversion vendor unit or medical unit must have a serial number so we can track inspections.

NEW SECTION

WAC 296-150V-0510 How do I request an inspection? You must contact us and we will let you know where your request for inspection should be submitted. Our address is noted in the definition of department in WAC 296-150V-0020.

(1) We must receive in-state inspection requests at least seven calendar days prior to the date that you want the inspection.

(2) We must receive out-of-state inspection requests at least fourteen calendar days prior to the date that you want the inspection.

NEW SECTION

WAC 296-150V-0520 What happens if my conversion vendor unit or medical unit passes inspection? If your conversion vendor unit or medical unit passes inspection and you have met the other requirements of this chapter, we will attach the insignia.

NEW SECTION

WAC 296-150V-0530 Am I charged if I request an inspection but I am not prepared? If you ask us to inspect a conversion vendor unit or medical unit within Washington state but you are not prepared when we arrive, you must pay the inspection fee and travel. If the inspection is outside of Washington state and you are not prepared, you must pay the inspection fee, travel, and per diem expenses.

NEW SECTION

WAC 296-150V-0540 Who inspects a conversion vendor unit or medical unit installation at the building site or event location? The local enforcement agency (city or county) must approve the installation. Alterations to conversion vendor units or medical units must be inspected and approved by us.

Note: The local enforcement agency may not open the concealed construction of a conversion vendor unit or medical unit to inspect it if our insignia is attached.

NEW SECTION

WAC 296-150V-0550 Do you allow a conversion vendor unit or medical unit to be completed at the installation site? No. Conversion vendor units or medical units must be completed at the manufacturing location before an insignia is attached.

NEW SECTION

WAC 296-150V-0560 What happens if I receive a notice of noncompliance after inspection of the alteration to my conversion vendor unit or medical unit? (1) If your conversion vendor unit or medical unit alteration does not pass our inspection, you will receive a notice of noncompliance. The notice of noncompliance explains what items must be corrected.

(2) You have twenty days after receiving the notice of noncompliance to send us a written response to explain how you will correct the violations.

(3) You are not allowed to sell, lease, offer for sale or use the altered conversion vendor unit or medical unit until you correct the violations. We must inspect and approve the corrections, and you must pay any required inspection and insignia fees listed in WAC 296-150V-3000.

NEW SECTION

WAC 296-150V-0580 Must I obtain an insignia for used conversion vendor units or medical units? All used conversion vendor units or medical units that are to be installed on a building site or used in Washington state must have an insignia of approval from us, with the exception of those in WAC 296-150V-0200(2).

NEW SECTION

WAC 296-150V-0590 How do I obtain insignia for used conversion vendor units or medical units? We con-

sider used conversion vendor units and medical units as new units for purposes of insignia approval. To obtain insignia, you must:

(1) Have the design plan approved (see WAC 296-150V-0300 and 296-150V-0320);

(2) Purchase insignia (see WAC 296-150V-0200 through 296-150V-0230); and

(3) Pass a unit inspection (see WAC 296-150V-0500 through 296-150V-0560).

Note: You will be required to open up as much of the construction of the unit as is necessary for inspection to show compliance with your approved design plan.

NEW SECTION

WAC 296-150V-0700 Must manufacturers of conversion vendor units and medical units notify you if they manufacture at more than one location? (1) If you are manufacturing conversion vendor units and medical units at more than one location, approved design plans must be available at each manufacturing location.

(2) You must send us the following information for each manufacturing location:

(a) Company name;

(b) Mailing and physical address; and

(c) Phone and FAX number, if available.

(3) You must update this information as it changes.

NEW SECTION

WAC 296-150V-0710 Must manufacturers of conversion vendor units and medical units notify you of a change in business name or address? If you are moving you must notify us in writing prior to a change of business name or address and include the change of name and address.

NEW SECTION

WAC 296-150V-0720 Must manufacturers of conversion vendor units and medical units notify you of a change in business ownership? (1) When a manufacturer changes ownership, the new owner must notify us in writing immediately.

(2) A new owner may continue to manufacture the units according to a prior approved design plan if the prior owner provides written releases of the design plan.

NEW SECTION

WAC 296-150V-0800 What manufacturing codes apply to conversion vendor units or medical units? (1) A conversion vendor unit or medical unit must comply with the following codes where applicable:

(a) The Uniform Mechanical Code, with the amendments made by the Washington State Building Code Council, chapter 51-42 WAC;

(b) The National Electrical Code as referenced in chapter 19.28 RCW and chapter 296-46 WAC, installing electric wires and equipment;

(c) The Uniform Plumbing Code 1997 edition with the amendments under chapter 19.27 RCW;

(d) The Washington State Building Code Council, chapter 51-40 WAC, Uniform Building Code, Chapter 11, Accessibility as applies to the exterior of the unit relating to customer service facilities in section 1105.4.7; and

(e) The Washington State Energy Code, chapter 51-11 WAC, and the Washington State Ventilation and Indoor Air Quality Code, chapter 51-13 WAC, when heating and/or air conditioning is installed.

(2) Provide minimum health and safety to the occupants of conversion vendor units and medical units and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The conversion vendor unit or medical unit may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

NEW SECTION

WAC 296-150V-0930 When are structural load tests or structural calculations required? (1) A structural analysis is required when a unit has a concentrated floor load of 500 pounds or more in a 16 square feet or less area.

(2) The structural load test can be used as an alternative.

(a) A structural assembly tested for qualification must sustain the design dead load plus the superimposed design live loads for vendor units and medical units assembly.

(b) An assembly failure is defined as a rupture, fracture, or residual deflection which is greater than the limits.

Note: We will provide test procedure forms upon request.

NEW SECTION

WAC 296-150V-0950 What requirements apply to roof coverings? (1) The roof covering must be securely fastened in an approved manner to the supporting roof construction and must provide weather protection for the vendor unit and the occupants.

(2) Exterior covering materials, including metal coverings, must be moisture and weather resistant and contain corrosion resistant fasteners to prevent wind and rain deterioration.

Note: Electro-plated, electro-deposited zinc, and electro-galvanized staples are not considered corrosion-resistant materials.

(3) All exterior openings or penetrations into the conversion vendor unit or medical unit around piping, ducts, plenums, or vents must be sealed with moisture-resistant material.

NEW SECTION

WAC 296-150V-1040 Are there floor requirements? Wood floors must be made moisture resistant by an overlay of nonabsorbent material applied with water-resistant adhesive.

NEW SECTION

WAC 296-150V-1070 What requirements apply to floor closure material? (1) Floor closure material around piping, ducts, plenums, or vents must prevent damage to the underside of the vendor unit due to air, water, insects, dust, and be rodent resistant.

(2) The floor closure material must meet ASTM D-781 standard or equal and be installed as follows:

(a) Fibrous material (with or without patches) must meet or exceed the level of 48 inch-pounds of puncture resistance as tested.

(b) Patching material must be installed according to installation instructions furnished by the supplier of the material.

(c) The material must be suitable for patches and the patch life must be equivalent to the material life.

Note: ASTM D-781 is a puncture test for bottom board materials.

NEW SECTION

WAC 296-150V-1090 What are the standards for equipment and installations? (1) The manufacturer's equipment and installation specifications must be followed. Other approved standards are acceptable when:

(a) Installed according to the manufacturer's installation instructions; and

(b) Approved by a listing or testing agency.

(2) No solid fuel (e.g., charcoal) appliances may be installed in a conversion vendor unit or medical unit.

Note: Gas furnaces, gas water heaters, and gas refrigerators must be sealed combustion or completely separated from the interior of the conversion vendor unit or medical unit.

NEW SECTION

WAC 296-150V-1100 What are the flame-spread limitations? The flame-spread requirements are that all walls and ceilings must be of 200 flame-spread or less.

NEW SECTION

WAC 296-150V-1110 Combustible limitations. (1) The exposed wall adjacent to the cooking range must be 50 flame-spread or less, such as 5/16 inch gypsum board or material having equivalent fire protective properties.

(2) All openings for pipes and vents in furnace and water heater spaces shall be tight-fitted or fire-stopped.

NEW SECTION

WAC 296-150V-1120 What are the standards for wall and cabinet protection? The bottom and sides of combustible cabinets over cooking appliances or tops including a space of 6 inches from the edge of the burners must be protected with at least 5/16 inch sheetrock with a 25 flame-spread. This material must be behind deep-fat fryers, grills, ranges, and other cooking appliances. It must extend 6 inches beyond the edge of the appliance and range hood.

(1) Range hoods for commercial equipment must meet the requirements of the mechanical code such as fire suppression, etc.

(2) Range hoods for noncommercial equipment may be of a residential type.

(3) The hood must be centered over and at least as wide as the top of the cooking appliance.

NEW SECTION

WAC 296-150V-1170 What are the light and ventilation requirements? Each bathroom must be provided with artificial light and with a window having at least 1/2 square feet of glazed area that can be fully opened, except where a mechanical ventilation system is installed. Any mechanical ventilation system must exhaust directly to the outside of the conversion vendor unit or medical unit.

NEW SECTION

WAC 296-150V-1180 What requirements apply to conversion vendor unit exits on all units approved after December 31, 1999? At least one conversion vending unit or medical unit exit must meet the following requirements:

(1) Exterior doors must be constructed for exterior use.

(2) The exterior door must be at least a 28 inch wide clear opening by 72 inches high.

(3) Locks must be operable from the interior of the unit without use of a key.

(4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.

(5) Existing units with doors less than 28 inches in width must have a second means of exit. The second means of exit for converted units shall be 24 inches by 17 inches, and for newly built units exits must be a minimum of 5 square feet of openable area.

Exception: When there are employees, a minimum of 28 inches clear opening must be provided.

NEW SECTION

WAC 296-150V-1185 What exit door requirements apply to self-propelled medical unit exits? Exit door(s) on self-propelled medical units must meet the following requirements:

(1) Exterior doors must be constructed for exterior use.

(2) The exterior door must be at least a 28 inches wide clear opening by 72 inches high.

(3) Locks must be operable from the interior of the unit without use of a key.

(4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.

(5) Units over 24 feet in length must have a minimum of 2 exit doors.

NEW SECTION

WAC 296-150V-1190 Interior privacy locks. If a conversion vendor unit or medical unit has an interior door, such as a bathroom door, which has a privacy lock, the lock must contain an emergency release. The emergency release must be on the outside to permit entry when the door is locked from the inside.

NEW SECTION

WAC 296-150V-1220 What code and installation requirements apply to conversion vendor unit or medical unit electrical systems? The electrical system in any conversion vendor unit or medical unit must comply with the National Electrical Code as referenced in chapter 19.28 RCW, Article 550 and the applicable portions of other Articles as required by this section.

(1) Appliances must be installed per Articles 422 - Appliances.

(2) Generators must be installed per Article 445 - Generators.

(3) On a 120 volt system a 3-wire system can be used. On a 240 volt system a 4-wire system must be used.

Exception: Sign circuits required by Article 600 will not be required.

NEW SECTION

WAC 296-150V-1303 How must storage batteries be installed in a conversion vendor unit or medical unit? Storage batteries subject to the provisions of this standard must be securely attached to the conversion vendor unit or medical unit. They must be installed in an area which is vapor-tight to the interior and ventilated directly to the exterior of the unit. When batteries are installed in a compartment, the compartment must be ventilated with openings of not less than 2 square inches at the top and 2 square inches at the bottom. Batteries must not be installed in a compartment containing spark or flame producing equipment, except in an engine generator compartment if the only charging source is the generator itself.

NEW SECTION

WAC 296-150V-1330 What are the mechanical requirements for a conversion vendor unit or medical unit? When mechanical and ventilation equipment is installed in or on a conversion vendor unit or medical unit, it must be installed according to the requirements of the Uniform Mechanical Code, and to the conditions of the equipment approval or listing.

NEW SECTION

WAC 296-150V-1350 What are the LPG system enclosure and mounting requirements for a conversion vendor unit or medical unit? (1) LPG containers must not be installed, nor stored temporarily, inside any unit. Exception: This prohibition does not apply to completely self-contained hand torches, lanterns, or similar equipment with con-

tainers having a maximum water capacity of two and one-half pounds (approximately one pound LPG capacity).

(2) Containers, control valves and regulating equipment, when installed, must meet one of the following requirements:

(a) Be mounted on the "A" frame and not lower than the bottom of the trailer frame; or

(b) Installed in a compartment that is vapor-tight to the inside of the conversion vendor unit or medical unit and accessible only from the outside; or

(c) Be mounted on the chassis or to the floor and neither the container nor its supports may be lower than the top of the axle height.

(3) The compartment must be ventilated at top and bottom to diffuse vapors. The compartment must be ventilated with two vents having an aggregate area of not less than two percent of the floor area of the compartment and must open without restriction to the outside. The required vents must be equally distributed between the floor and ceiling of the compartment. If the lower vent is located in the access door or wall, the bottom edge of the vent must be flush with the floor level of the compartment. The top vent must be located in the access door or wall with the bottom of the vent not more than 12 inches below the ceiling level of the compartment. All vents must have an unrestricted discharge to the outside atmosphere. Access doors or panels of compartments must not be equipped with locks or require special tools or knowledge to open.

(4) Doors, hoods, domes, or portions of housings and enclosures required to be removed or opened for container replacement must incorporate means for clamping them firmly in place and preventing them from working loose during transit. Provisions must be incorporated in the assembly to hold the containers firmly in position and prevent their movement during transit.

(5) LPG containers must be mounted on a substantial support or a base secured firmly to the conversion vendor unit or medical unit chassis. Neither the container nor its support can extend below the conversion vendor unit or medical unit frame.

NEW SECTION

WAC 296-150V-1360 What are the fuel gas piping design requirements for a conversion vendor unit or medical unit? Conversion vendor units or medical units requiring fuel gas for any purpose must be equipped with a gas piping system that is designed for LPG only or combination LPG and natural gas.

NEW SECTION

WAC 296-150V-1380 Can gas tubing be concealed in a conversion vendor unit or medical unit? (1) Tubing must not be run inside walls, floors, partitions, or roofs.

(2) If tubing passes through walls, floors, partitions, roofs, or similar installations, the tubing must be protected by the use of weather resistant grommets that snugly fit both the tubing and the hole through which the tubing passes.

NEW SECTION

WAC 296-150V-1390 What are the pipe-joint compound requirements for gas piping in a conversion vendor unit or medical unit? (1) Screw joints must be made tight with pipe-joint compound that is insoluble in liquefied petroleum gas.

(2) Pipe-joint compound must be approved for the type of gas used. The pipe-joint compound must be applied to the male threads only.

NEW SECTION

WAC 296-150V-1400 What are the gas piping hanger and support requirements for a conversion vendor unit or medical unit? (1) All gas piping must be adequately supported by galvanized or equivalently protected metal straps or hangers at intervals of not more than 4 feet, except where adequate support and protection is provided by structural members.

(2) Gas pipe supply connections must be rigidly anchored to a structural member within 6 inches of the supply connections.

NEW SECTION

WAC 296-150V-1410 What are the electrical bonding requirements for gas piping in a conversion vendor unit or medical unit? (1) Gas piping must not be used for an electrical ground.

(2) The gas line must be bonded.

NEW SECTION

WAC 296-150V-1420 How are gas supply connections in a conversion vendor unit or medical unit identified? A label must be permanently attached on the outside of the exterior wall of the conversion vendor unit or medical unit adjacent to the gas supply connection which provides the following information:

(1) The type of system (i.e., liquid petroleum system or natural gas system or combination liquid petroleum and natural gas system);

(2) The appropriate Btuh input rating; and

(3) If excess ("or more") Btuh input is allowed.

(4) An example of a label would be: Natural Gas System, 250,000 Btuh or more.

NEW SECTION

WAC 296-150V-1430 What requirements apply to gas piping system openings? All openings in the gas piping system must be closed gas-tight with threaded pipe plugs or pipe caps.

NEW SECTION

WAC 296-150V-1440 Are gas piping shut-off valves required in a conversion vendor unit or medical unit? (1) In addition to any valve on the appliance, a shut-off valve must be installed in the fuel piping outside of each appli-

ance but inside the conversion vendor unit or medical unit structure and upstream of the union or connector. The shut-off valve must be located within six feet of a cooking appliance and within three feet of any other appliance. A shut-off valve may serve more than one appliance if located as required above.

(2) Shut-off valves used in connection with gas piping must be of a type designed for use with liquefied petroleum gas. Shut-off valves must be tested and approved to ANSI Z21.15 standard or equal.

NEW SECTION

WAC 296-150V-1450 What requirements apply to testing for gas piping leaks before conversion vendor unit or medical unit appliances are connected? (1) The piping system must stand a pressure of at least 10 psi gauge for a period of not less than 15 minutes without showing any drop in pressure.

(2) Pressure must be measured with a gauge calibrated to be read in increments of not greater than 1/10 pound.

(3) The source of pressure must be isolated before the pressure tests are made. Before a test is begun, the temperature of the ambient air and of the piping must be approximately the same, and constant air temperature must be maintained throughout the test.

NEW SECTION

WAC 296-150V-1460 What requirements apply to testing for gas piping leaks after conversion vendor unit or medical unit appliances are connected? (1) After gas appliances have been connected, the gas-piping system must be subjected to a pressure test with the burner valves closed. The test consists of air at not less than 10 inches nor more than 14 inches pressure of water column (6 to 8 ounces). The system must hold this pressure for a period of not less than 10 minutes with no leakage. Before beginning the test, the temperature of the gas-piping system and the test air must be equalized, and this shall be maintained throughout the test.

(2) Appliance shut-off valves ahead of gas cooking appliances may be closed for the performance of this test. When the test is satisfactorily performed, these valves must be opened and, while the system is under pressure, the appliance connectors must be tested with an approved leak detector or approved bubble solution.

NEW SECTION

WAC 296-150V-1470 What are the requirements for appliance installations? (1) The installation of each appliance must conform to the manufacturer's installation instructions. The manufacturer's instructions must be attached to the appliance.

(2) Combustion air inlets and flue gas outlets must be listed as components of the appliance and must be completely separated. The required separation may be obtained by:

(a) The installation of direct vent system (sealed combustion system) appliances; or

(b) The installation of appliances within enclosures so that the appliance combustion system and venting system are separate from the interior atmosphere of the conversion vendor unit or medical unit. There must not be any door, removable access panel, or other opening into the enclosure from the inside of the conversion vendor unit or medical unit. Any openings for ducts, piping, wiring, etc., must be sealed.

(3) Ranges, cooktops, and ovens must not burn outside combustion air.

NEW SECTION

WAC 296-150V-1530 What general plumbing requirements apply? This chapter also applies to the installation of plumbing equipment in any conversion vendor unit or medical unit bearing or required to bear a department insignia. Plumbing fixtures, equipment, and installations in conversion vendor units and medical units must conform to the provisions of the Uniform Plumbing Code and the amendments adopted by the State Building Code Council, except part 1, unless specifically exempted or required by this section. However, the following exceptions apply:

(1) We will allow a 1-1/4 inch drain for handwashing sinks with an antisiphon vent.

(2) An antisiphon vent will be allowed on one and two compartment sinks in units as long as there is one vent to the exterior so the system will function. Sinks with three or more compartments must be installed as required by the Uniform Plumbing Code.

(3) Vent pipes may terminate through the roof or through the sidewall at a point as high as possible and not less than six feet from ground level.

NEW SECTION

WAC 296-150V-1540 What are the plumbing definitions? Definitions contained in the Uniform Plumbing Code apply to this chapter:

"**Drain outlet**" is the discharge end of the conversion vendor unit or medical unit main drain to which a drain connector may be attached.

"**Main drain**" is the principal artery of the conversion vendor unit or medical unit drainage system to which drainage branches may be connected.

"**Water-supply connection**" is the fitting or point of connection of the conversion vendor unit or medical unit water distribution system to a water connector.

NEW SECTION

WAC 296-150V-1550 What requirements apply to drain outlets? Drain outlets must be equipped with a watertight cap or plug that must be permanently attached to the unit.

NEW SECTION

WAC 296-150V-1560 What is the minimum clearance for drain outlets? The drain outlet and couplers must have a minimum clearance of 3 inches in any direction from

all parts of the structure or appurtenances and with at least 18 inches unrestricted clearance directly in front of the drain outlet.

NEW SECTION

WAC 296-150V-1570 What requirements apply to water-supply connections? Water-supply connections must be equipped with a watertight cap or plug that must be permanently attached to the vehicle.

Note: The department of health may have more restrictive requirements. Before modifying your unit to comply with these requirements, be sure to contact that agency.

(ii) A continuous vent serving as a drain from one additional fixture provided the drain portion is increased one pipe size larger than the connected trap arm;

(iii) Two or more vented drains when at least one is wet-vented and each drain is separately connected to the top of the tank;

(f) A fullway termination valve must be installed in the tank; and

(g) No drain connection may be made between liquid and body waste holding tanks upstream of fullway termination valves.

NEW SECTION

WAC 296-150V-1580 What requirements apply to water heater relief valves and safety devices? (1) All water heaters must be installed with approved fully automatic valve or valves designed to provide temperature and pressure relief. Temperature and pressure relief valves must be tested and approved to ANSI Z21.22 standard or equal.

(2) Any temperature relief valve or combined pressure and temperature relief valve installed for this purpose must have the temperature sensing element immersed in the hottest water within the upper 6 inches of the tank. It must be set to start relieving at a pressure of 150 psi or the rated working pressure of the tank, whichever is lower, and at or below a water temperature of 210 degrees Fahrenheit.

(3) Relief valves must be provided with full-sized drains. Drains must be directed to the exterior of the unit, exiting at least 6 inches above the ground, and must exhaust downward. Drain lines must be of a material approved for hot water distribution and must drain fully by gravity, must not be trapped, and must not have their outlets threaded.

NEW SECTION

WAC 296-150V-1590 What requirements apply to waste holding tanks for conversion vendor units? Conversion vendor units may use either portable waste holding tanks approved by the department of health or permanently mounted waste holding tanks.

(1) All portable waste holding tanks must be listed for the intended use and used per their listing.

(2) All permanently mounted waste holding tanks must meet the following specifications:

(a) Tanks must be listed for the intended use, installed per their listing, and be securely installed to prevent displacement during transportation;

(b) Tanks must be easily removable for service, repair or replacement without having to remove any permanent construction;

(c) Neither the inlet nor vent fitting may extend downward into the tank more than 1-1/2 inches;

(d) The drain opening must be located at the lowest point of the tank;

(e) Tanks must be vented at the highest point in the top of the tank by one of the following methods:

(i) A 1-1/4 inch diameter vent pipe;

NEW SECTION

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

Place Illustration Here

Place illustration here.

WAC 296-150V-3000 CONVERSION VENDOR UNITS AND MEDICAL UNITS	
INITIAL FILING FEE	\$28.00
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$192.00
INITIAL FEE - ONE YEAR DESIGN	\$78.75
RENEWAL FEE	\$33.75
RESUBMIT FEE	\$56.25
ADDENDUM (Approval expires on same date as original plan)	\$56.25
RECIPROCAL PLAN REVIEW: (Pending)	
INITIAL FEE-MASTER DESIGN	\$85.75
INITIAL FEE-ONE YEAR DESIGN	\$52.00
RENEWAL FEE	\$52.00
ADDENDUM	\$52.00
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$10.75
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$56.25
TRAVEL (Per hour)*	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$56.25
TRAVEL (Per hour*)	\$56.25
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$16.50
ALTERATION	\$28.00
REISSUED-LOST/DAMAGED	\$10.75
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$56.25
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year)	\$10.75
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in ½ hour increments	
** Per state guidelines	
*** Actual charges incurred	

PROPOSED

WSR 99-13-201
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 23, 1999, 11:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-025.

Title of Rule: Industrial insurance, chapter 296-14 WAC.

Purpose: Agency proposes amendatory changes to industrial insurance rules applicable to chapter 296-14 WAC for Workers' Compensation Insurance by the Department of Labor and Industries.

Statutory Authority for Adoption: RCW 51.04.020.

Statute Being Implemented: RCW 51.32.060, [51.32.]090, [51.32.]110, [51.32.]160, [51.32.]210, [51.32.]220, and [51.32.]240.

Summary: The department proposes to amend four rules contained in chapter 296-14 WAC as they relate to closing and reopening of worker injury claims as managed by the state's workers' compensation system into clear rule writing.

Reasons Supporting Proposal: Chapter 51.32 RCW applies to the closing and reopening of workers' compensation injury claims. The proposed rule changes are intended to provide greater clarification and make rules easier to understand and meets the goals for the Executive Order on Regulatory Improvement (97-02) by rewriting rules into a clear rule writing format.

Name of Agency Personnel Responsible for Drafting: Penny Lewis, Tumwater, Washington, 902-4257; Implementation: Doug Connell/Jody Moran, Tumwater, Washington, 902-4209/902-4300; and Enforcement: Jody Moran, Tumwater, Washington, 902-4300.

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: Chapter 51.32 RCW applies to the closing and reopening of worker injury claims as managed by the state's workers' compensation system for the Department of Labor and Industries.

These rules as proposed would amend WAC 296-14-100, 296-14-400, 296-14-410, and 296-14-420 to better clarify the intent and make the rules easier to understand the closing and reopening of industrial insurance claims. The proposed rules are necessary to meet the goals for the Executive Order on Regulatory Improvement (97-02) by rewriting rules into a clear rule writing format.

Proposal Changes the Following Existing Rules: The proposed rule changes amends WAC 296-14-100, 296-14-400, 296-14-410, and 296-14-420 to better clarify the intent and make each rule easier to understand as directed in the Executive Order on Regulatory Improvement (97-02).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules as proposed do not change the intent of the existing rules, but better clarifies and makes each rule easier to understand as directed in

the Executive Order on Regulatory Improvement (97-02). The proposed rule making does not impose more than a minor cost to businesses in an industry.

RCW 34.05.328 does not apply to this rule adoption. The rule does not meet the definition of a "significant legislative rule" as it simply amends the rules into a clear rule writing format.

Hearing Location: Labor and Industries, Auditorium, 7273 Linderson Way S.W., Tumwater, WA, on July 30, at 10 a.m.

Assistance for Persons with Disabilities: Contact Claims Administration, (360) 902-4257, by July 30, 1999, TDD (360) 902-4257.

Submit Written Comments to: Fax (360) 902-5035, by July 30, 1999.

Date of Intended Adoption: August 30, 1999.

June 23, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending Order 86-33, filed 8/28/86)

WAC 296-14-100 Definition of voluntary retirement (~~((and no longer attached to the work force))~~). (1) (~~For the purpose of this title a claimant will be deemed to be voluntarily retired and no longer attached to the work force if all of the following conditions are met:~~

~~(a) The claimant is no longer receiving income, salary or wages from any gainful employment.~~

~~(b) The claimant has provided no evidence, if requested by the department or the self-insurer, of a bona fide attempt to return to gainful employment after retirement.~~

~~(2) Payment made by the worker or on his or her behalf in the form of premiums, for the purpose of continuation of life or medical insurance coverage, union dues or similar payments shall not constitute attachment to the work force.~~

~~(3) The claimants of new or reopened claims will not be deemed voluntarily retired if the injury or occupational disease was a proximate cause of the decision to retire and sever the attachment to the work force.)~~ **What is voluntarily retired? The worker is considered voluntarily retired if both of the following conditions are met:**

(a) The worker is not receiving income, salary or wages from any gainful employment; and

(b) The worker has provided no evidence to show a bonafide attempt to return to work after retirement.

Time-loss compensation is not paid to workers who voluntarily retired from the work force.

(c) Payment of union dues or medical or life insurance premiums does not constitute attachment to the work force.

(2) When is a worker determined not to be voluntarily retired? A worker is not voluntarily retired when the industrial injury or occupational disease is a reason for retirement.

AMENDATORY SECTION (Amending WSR 90-22-054, filed 11/5/90, effective 12/6/90)

WAC 296-14-400 Reopenings for benefits. ((The director at any time may, upon the workers' application to reopen for aggravation or worsening of condition, provide proper and necessary medical and surgical services as authorized under RCW 51.36.010. This provision will not apply to total permanent disability cases, as provision of medical treatment in those cases is limited by RCW 51.36.010.

The seven-year reopening time limitation shall run from the date the first claim closure becomes final and shall apply to all claims regardless of the date of injury. In order for claim closure to become final on claims where closure occurred on or after July 1, 1981, the closure must include documentation of medical recommendation, advice or examination. Such documentation is not required for closing orders issued prior to July 1, 1981. First closing orders issued between July 1, 1981, and July 1, 1985, shall for the purposes of this section only, be deemed issued on July 1, 1985.

The director shall, in the exercise of his or her discretion, reopen a claim provided objective evidence of worsening is present and proximately caused by a previously accepted asbestos-related disease.

In order to support a final closure based on medical recommendation or advice the claim file must contain documented information from a doctor, or nurse consultant (departmental) or nurse practitioner supervised by a doctor. The doctor or nurse practitioner may be in private practice, acting as a member of a consultation group, employed by a firm, corporation, or state agency.

For the purpose of this section, a "doctor" is defined in WAC 296-20-01002.

When a claim has been closed by the department or self-insurer for sixty days or longer, the worker must file a written application to reopen the claim. An informal written request filed without accompanying medical substantiation of worsening of the condition will constitute a request to reopen, but the time for taking action on the request shall not commence until a formal application is filed with the department or self-insurer as the case may be.

A formal application occurs when the worker and doctor complete and file the application for reopening provided by the department. Upon receipt of an informal request without accompanying medical substantiation of worsening of the worker's condition, the department or self-insurer shall promptly provide the necessary application to the worker for completion.

If, within seven years from the date the first closing order became final, a formal application to reopen is filed which shows by "sufficient medical verification of such disability related to the accepted condition(s)" that benefits are payable, the department, or the self-insurer, pursuant to RCW 51.32.210 and 51.32.190, respectively shall mail the first payment within fourteen days of receiving the formal application to reopen. If the application does not contain sufficient medical verification of disability, the fourteen-day period will begin upon receipt of such verification. If the application to reopen is granted, compensation will be paid pursuant to RCW 51.28.040. If the application to reopen is denied, the

worker shall repay such compensation pursuant to RCW 51.32.240.

Applications for reopenings filed on or after July 1, 1988, must be acted upon by the department within ninety days of receipt of the application by the department or the self-insurer. The ninety-day limitation shall not apply if the worker files an appeal or request for reconsideration of the department's denial of the reopening application.

The department may, for good cause, extend the period in which the department must act for an additional sixty days. "Good cause" for such an extension may include, but not be limited to, the following:

- (1) Inability to schedule a necessary medical examination within the ninety-day time period;
- (2) Failure of the worker to appear for a medical examination;
- (3) Lack of clear or convincing evidence to support reopening or denial of the claim without an independent medical examination;
- (4) Examination scheduled timely but cannot be conducted and a report received in sufficient time to render a decision prior to the end of the ninety-day time period.

The department shall make a determination regarding "good cause" in a final order as provided in RCW 51.52.050.

The ninety-day limitation will not apply in instances where the previous closing order has not become final.)) (1)

Can a worker's closed industrial insurance claim be reopened? Yes, a worker can apply to reopen a closed industrial insurance claim. The worker must provide medical documentation to verify that the condition caused by the industrial injury or occupational disease has become worse since the claim was last closed. A closure becomes final sixty days after the closing order is communicated to all parties unless protested or appealed.

(2) How does a worker request reopening a claim?

(a) The worker initiates a request to reopen the claim to the department or the self-insurer by submitting:

(i) A reopening application form completed by a doctor accompanied by medical findings verifying the condition has worsened; or

(ii) Any written document submitted by the worker indicating their condition has worsened or requests reopening of the claim.

(b) Doctors in Washington state who treat injured workers have copies of the department's claim reopening application form.

(3) What type of medical evidence is needed to reopen a claim?

(a) For all conditions other than mental health conditions, a doctor must submit objective medical findings showing that the condition has worsened. Swelling and X-ray findings are examples of objective evidence. Increased pain alone is not a medical objective finding.

(b) For mental health conditions, subjective complaints or symptoms will be considered.

(4) When will the department make a decision if the claim should be reopened? The department must make a decision on the worker's application within ninety days of receipt of the application. When there is "good cause" the

department may take an additional sixty days to decide. The department will notify the worker, the employer, and the doctor if the decision will not be made within the ninety days.

(a) Examples of good cause are:

(i) The need to schedule an independent medical examination due to the lack of clear or convincing medical evidence to support the approval or denial of the reopening application.

(ii) Inability to schedule the independent medical examination within the ninety-day time period.

(iii) Failure of the worker to appear for a medical examination.

(iv) Failure to receive independent medical examination report, even though the exam was scheduled timely.

(b) The department will issue a legal order either granting or denying the request for reopening. The injured worker, employer, and doctor will be sent a copy of this order. If the worker or the employer disagree with the order, they may protest in writing to the department or appeal in writing to the board of industrial insurance appeals. Either of these actions must be accomplished within sixty days from the date the order is communicated.

(5) Are benefits provided while the department is processing the reopening application?

(a) Medical payments for the initial office visit to complete the reopening request and medical examinations or diagnostic tests used to make the determination will be paid, even if the request for reopening is denied.

(b) Provisional time-loss compensation may be paid, if there is sufficient medical evidence that the injured worker is unable to work and the condition preventing the ability to work was previously accepted under this claim.

(c) If a worker is paid provisional time-loss compensation and the request for reopening is denied, the worker must repay the time-loss compensation.

(6) What benefits will a worker receive if the claim is reopened? When a claim is reopened, the worker will be provided benefits as authorized under the Workers' Compensation Act.

(a) The benefits might include:

(i) Medical and surgical services as authorized.

(ii) Time-loss compensation payments may be paid if there is objective medical evidence to verify the worker is unable to work because of the accepted condition(s).

(b) Only the director has the authority to allow disability compensation benefits (such as time-loss compensation) for claims first closed over seven years or ten years for eye injuries.

(c) The provisions of this rule do not apply to total permanent disability cases, as provisions of medical treatment in those cases is limited by RCW 51.36.010.

AMENDATORY SECTION (Amending WSR 90-19-028, filed 9/12/90, effective 10/13/90)

WAC 296-14-410 Reduction, suspension, or denial of compensation as a result of noncooperation. (~~In accordance with RCW 51.32.110, workers claiming benefits under this title are required to attend and cooperate at medical examinations and vocational evaluations requested by the~~

~~department or self-insurer, to refrain from unsanitary or injurious practices which imperil or retard recovery, and to accept medical and surgical treatment reasonably essential for recovery from the industrial injury or occupational disease.~~

~~When a worker obstructs or delays recovery from the industrial injury or occupational disease or fails to attend or cooperate, without good cause, at scheduled examinations or evaluations, or engages in unsanitary or injurious practices, or refuses, without good cause, to undergo proper and necessary treatment, the department, or self-insurer upon approval of the department, may reduce, suspend, or deny benefits to the worker.~~

~~Actions of a worker's representative that result in refusal, obstruction, delay, or noncooperation will be imputed to the worker.~~

~~The department or self-insurer, upon approval of the department, may reduce, suspend, or deny benefits by any of the following means so long as the refusal, obstruction, delay, or noncooperation continues without good cause: Reduce current or future time-loss compensation by the amount of the charge incurred by the department or self-insurer for any examination, evaluation, or treatment which the worker fails to attend; reduce, suspend, or deny time-loss compensation in whole or in part; or suspend or deny medical benefits.~~

~~Unless otherwise agreed to by the worker, the department or self-insurer shall mail written notice of any requested examination directly to the worker and to the worker's representative, if any, at least fourteen calendar days prior to the requested examination but not greater than sixty days. The notice shall state the date, time, and location of the examination.~~

~~A worker shall not be deemed to have refused to attend a scheduled examination if:~~

~~(1) The department or self-insurer did not mail notice of the examination at least fourteen calendar days prior to the examination;~~

~~(2) The worker arrives at the examination location within thirty minutes after the scheduled time of examination; or~~

~~(3) The worker leaves the examination location later than one hour after the scheduled time of examination and the worker has not yet been called for the examination.~~

~~Prior to the issuance of an order reducing, suspending or denying benefits, the department or self-insurer must request, in writing, from the worker or worker's representative the reason for the refusal, obstruction, delay, or noncooperation.~~

~~If the department determines no good cause exists, or if the worker fails to respond to the department's request for the reason for the refusal, obstruction, delay or noncooperation, within thirty days after the letter is issued the department will issue an order reducing, suspending, or denying benefits.)~~

(1) Can the department or self-insurer reduce, suspend or deny industrial insurance benefits from a worker with a valid open claim? The department or the self-insurer, after receiving the department's order, has the authority to reduce, suspend or deny benefits when a worker (or worker's representative) is noncooperative with the management of the claim.

(2) What does noncooperative mean? Noncooperation is behavior by the worker (or worker's representative) which

obstructs and/or delays the department or self-insurer from reaching a timely resolution of the claim.

(a) Noncooperation can include any one of the following:

(i) Not attending or cooperating with medical examinations or vocational evaluations requested by the department or self-insurer.

(ii) Failure to keep scheduled appointments or evaluations with attending physician or vocational counselor.

(iii) Engaging in unsanitary or harmful actions that jeopardize or slow recovery.

(iv) Not accepting medical and/or surgical treatment that is considered reasonable and essential for recovery from the industrial injury or occupational disease.

(3) Are there ever exceptions to attending a scheduled examination or vocational evaluation? The worker will not be considered uncooperative if refusal to attend a scheduled examination is for any one of the following reasons:

(a) The department or self-insurer did not mail notice to the worker and designated representative at least fourteen but no more than sixty days prior to the examination. The notice must contain the date, time and location of the examination.

(b) If the worker is thirty or less minutes late for the appointment.

(c) If the worker has not been examined or evaluated and leaves after waiting for more than one hour after the scheduled time.

(4) What actions are taken before reducing, suspending or denying industrial insurance benefits?

(a) The department or self insurer must first send a letter to the worker (or the worker's representative) advising that benefits may be suspended and asking for an explanation for the noncooperation, obstruction and/or delay of the management of the claim.

(b) The worker has thirty days to respond in writing to the letter. This written response should include every reason the worker has for not cooperating with the department or self insurer.

(5) What are the actions the department can take if a worker (or a worker's representative) is determined to be noncooperative? If the worker does not respond in thirty days to the letter asking for justification for not cooperating or it is determined there is no good cause the department or self insurer, after receiving the department's order, may take the following action:

(a) Reduce current or future time-loss compensation by the amount of the cost of the examination, evaluation, or treatment that the worker failed to attend.

(b) Reduce, suspend or deny all or part of the time-loss benefits.

(c) Suspend or deny medical benefits.

AMENDATORY SECTION (Amending WSR 93-23-060, filed 11/15/93, effective 1/1/94)

WAC 296-14-420 Payment of benefits~~((—Aggravation reopening/new injury))~~ when there is a question of the responsible insurer. (1) ~~((Whenever an application for benefits is filed where there is a substantial question whether benefits shall be paid pursuant to the reopening of an~~

~~accepted claim or allowed as a claim for a new injury or occupational disease, the department shall make a determination in a single order. Where one of the claims is with a self-insured employer and another is with a state fund employer, such determination shall be made jointly by the program managers for claims administration and self insurance, or their respective designees.~~

~~(2) Pending entry of the order, benefits shall be paid promptly by the entity which would be responsible if the claim were determined to be a new injury or occupational disease.~~

~~(3) The department is required to act under this rule only if:~~

~~(a) There is substantial evidence that the worker will be determined to be entitled to benefits on one of the claims; and~~
~~(b) There is uncertainty regarding which of the entities is responsible.~~

~~(4) Time loss compensation shall be paid at the lesser of the two entitlements that may apply to the claim until responsibility has been determined between state fund and self-insured employer, two self-insured employers, or two state fund employers.~~

~~(5) If, upon final determination of the responsible insurer, the entity that paid benefits under subsection (2) of this section is determined not to be responsible for payment of benefits, such entity shall be reimbursed by the responsible entity for all amounts paid.)~~ Does the worker receive industrial insurance benefits if there is a previous claim, and more than one possible responsible insurer? Yes. If there is substantial evidence that the worker will be entitled to benefits, then the insurer who would be charged if it were a new injury or occupational disease would pay the benefits while a decision on the issue is pending.

(2) If there is more than one rate of possible time-loss compensation while the issues are pending decision, which rate is paid? The worker is paid at the lowest rate of entitlement during this time frame. The amount of benefits will be adjusted once the correct rate is determined.

(3) How does the department determine whether a state fund or self-insured employer is responsible for the claim?

(a) If there is a question of whether a state fund or a self-insured employer is responsible, the matter will be decided by the claims administration program manager and the self-insurance program manager or their designees.

(b) When the decision is made, the department issues a legal order.

(4) What happens if the wrong insurer pays benefits while the department is making the determination? The insurer determined responsible for the claim must repay the insurer who incorrectly paid benefits while this issue was being decided.

PROPOSED

WSR 99-13-202
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 23, 1999, 11:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-12-102.

Title of Rule: Addition of WAC 296-20-02701, 296-20-02702, 296-20-02703, 296-20-02704, 296-20-02705, and 296-20-02850; all relating to criteria used by the department to make medical coverage decisions.

Purpose: To make clear the objective methods and the variety of information sources the department uses to make medical coverage decisions.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Statute Being Implemented: RCW 51.04.030.

Summary: The revised rule defines medical coverage decisions (MCDs), identifies who makes and who uses MCDs, describes where MCDs can be found, identifies the criteria used to make MCDs, clarifies the difference between MCDs and treatment guidelines, and identifies when exceptions may be made to MCDs.

Name of Agency Personnel Responsible for Drafting: Jami Lifka, 7273 Linderson Way S.W., Tumwater, WA, (360) 902-4941; Implementation and Enforcement: Gary Franklin, MD, 7273 Linderson Way S.W., Tumwater, WA, (360) 902-5020.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of these new sections is to make clear the objective methods and the variety of information sources the department uses to make medical coverage decisions.

These new sections:

- Define medical coverage decisions,
- Identify who makes and who uses medical coverage decisions,
- Identify where medical coverage decisions can be found,
- Describe the criteria used by the department to make medical coverage decisions,
- Clarify the difference between medical coverage decisions and treatment or diagnostic guidelines, and
- Identify when exceptions may be made to medical coverage decisions.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department believes that this new language does not require preparation of a small business economic impact statement. This rule has no or minor impact on business, relates to internal government operations, and is statutorily mandated.

RCW 34.05.328 does not apply to this rule adoption. This rule relates to internal government operations and is statutorily mandated.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, on August 6, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jami Lifka, by phone (360) 902-4941, fax (360) 902-4249, or TDD 1-800-833-6388.

Submit Written Comments to: Jami Lifka, Department of Labor and Industries, P.O. Box 44321, Olympia, WA 98501-4321, fax (360) 902-4249, by August 14, 1999.

Date of Intended Adoption: September 14, 1999.

June 22, 1999

Gary Moore

Director

NEW SECTION

WAC 296-20-02700 What is a medical coverage decision? A medical coverage decision is a general policy decision by the director or the director's designee to include or exclude a specific health care service or supply as a covered benefit. These decisions are made to insure quality of care and prompt treatment of workers. Medical coverage decisions include, but are not limited to, decisions on health care services and supplies rendered for the purpose of diagnosis, treatment or prognosis, such as:

- Ancillary services including, but not limited to, home health care services, ambulatory services, specific rehabilitative modalities;
- Devices;
- Diagnostic tests;
- Drugs, biologics, and other therapeutic modalities;
- Durable medical equipment;
- Procedures;
- Prognostic tests; and
- Supplies.

NEW SECTION

WAC 296-20-02701 Who makes medical coverage decisions? The director or the director's designee makes medical coverage decisions.

NEW SECTION

WAC 296-20-02702 Who uses medical coverage decisions? Self-insured employers and state fund claim managers use medical coverage decisions to help them make claim-specific decisions. For example, the director or director's designee may find that a particular medical device is effective in treating a specific category of injuries. The medical coverage decision might be that that device is a covered benefit for that category of injuries. The self-insured employer or state fund claim manager would make a claim-specific decision to pay or deny payment for that device based on a number of factors, one of which is whether the accepted condition on that claim matches the approved category of injuries in the medical coverage decision.

NEW SECTION

WAC 296-20-02703 How can I determine if a specific health care service or supply is the subject of a medical coverage decision? (1) The *Medical Aid Rules*, fee schedules, and provider bulletins and updates specify covered and noncovered services and supplies.

(2) For additional information on existing medical coverage decisions or if you have a question about a new and emerging technology, device, or off-label use of a drug, contact the office of the medical director at:

Department of Labor and Industries
Office of the Medical Director
P.O. Box 44321
Olympia, WA 98504-4321

(3) For questions about what will be authorized on a specific claim, contact the self-insured employer or state fund claim manager.

NEW SECTION

WAC 296-20-02704 What criteria does the director or director's designee use to make medical coverage decisions? (1) In making medical coverage decisions, the director or the director's designee considers information from a variety of sources. These sources include, but are not limited to:

- Scientific evidence;
- National and community-based opinions;
- Informal syntheses of provider opinion;
- Experience of the department and other entities;
- Regulatory status.

Because of the unique nature of each health care service, the type, quantity and quality of the information available for review may vary. The director or director's designee weighs the quality of the available evidence in making medical coverage decisions.

(2) Scientific evidence.

(a) "Scientific evidence" includes reports and studies published in peer-reviewed scientific and clinical literature. The director or the director's designee will consider the nature and quality of the study, its methodology and rigorosity of design, as well as the quality of the journal in which the study was published.

- For treatment services, studies addressing safety, efficacy, and effectiveness of the treatment or procedure for its intended use will be considered.

- For diagnostic devices or procedures, studies addressing safety, technical capacity, accuracy or utility of the device or procedure for its intended use will be considered.

(b) The greatest weight will be given to the most rigorously designed studies and on those well-designed studies that are reproducible. The strength of the design will depend on such scientifically accepted methodological principles as randomization, blinding, appropriateness of outcomes, spectrum of cases and controls, appropriate power to detect differences, magnitude and significance of effect. Additional consideration will be given to those studies that focus on sustained health and functional outcomes of workers with

occupational conditions rather than unsustained clinical improvements.

(3) National and community-based opinion.

(a) "National opinion" includes, but is not limited to, syntheses of clinical issues that may take the form of published reports in the scientific literature, national consensus documents, formalized documents addressing standards of practice, practice parameters from professional societies or commissions, and technology assessments produced by independent evidence-based practice centers.

The director or the director's designee will consider the nature and quality of the process used to reach consensus or produce the synthesis of expert opinion. This consideration will include, but may not be limited to, the qualifications of participants, potential biases of sponsoring organizations, the inclusion of graded scientific information in the deliberations, the explicit nature of the document, and the processes used for broader review.

(b) "Community-based opinion" refers to advice and recommendations of formal committees made up of clinical providers within the state of Washington. As appropriate to the subject matter, this may include recommendations from the department's formal advisory committees:

- The industrial insurance and rehabilitation committee of the Washington State Medical Association;
- The chiropractic advisory committee.

(4) "Informal syntheses of provider opinion" includes, but is not limited to, professional opinion surveys.

(5) Experience of the department and other entities.

The director or director's designee may consider data from a variety of sources including the department, other state agencies, federal agencies and other insurers regarding studies, experience and practice with past coverage. Examples of these include, but are not limited to, formal outcome studies, cost-benefit analyses, and adverse event, morbidity or mortality data.

(6) Regulatory status.

The director or director's designee will consider related licensing and approval processes of other state and federal regulatory agencies. This includes, but is not limited to:

- The federal food and drug administration's (FDA) regulation of drugs and medical devices (21 U.S.C. 301 et seq. and 21 CFR Chapter 1, Subchapters C, D, & H); and
- The Washington state department of health's regulation of scope of practice and standards of practice for licensed health care professionals regulated under Title 18 RCW.

NEW SECTION

WAC 296-20-02705 What are treatment and diagnostic guidelines and how are they related to medical coverage decisions? (1) Treatment and diagnostic guidelines are recommendations for the diagnosis or treatment of accepted conditions. These guidelines are intended to guide providers through the range of the many treatment or diagnostic options available for a particular medical condition. Treatment and diagnostic guidelines are a combination of the best available scientific evidence and a consensus of expert opinion.

(2) The department may develop treatment or diagnostic guidelines to improve outcomes for workers receiving cov-

WSR 99-13-205
PROPOSED RULES
GAMBLING COMMISSION

[Filed June 23, 1999, 11:35 a.m.]

ered health services. As appropriate to the subject matter, the department may develop these guidelines in collaboration with the department's formal advisory committees:

- The industrial insurance and rehabilitation committee of the Washington State Medical Association;
- The chiropractic advisory committee.

(3) In the process of implementing these guidelines, the department may find it necessary to make a formal medical coverage decision on one or more of the treatment or diagnostic options. The department, not the advisory committees, is responsible for implementing treatment guidelines and for making coverage decisions that result from such implementation.

NEW SECTION

WAC 296-20-02850 When may the department cover investigational, controversial, unusual or experimental treatment? (1) The department or self-insurer will not authorize nor pay for treatment measures of an unusual, controversial, obsolete, or experimental nature. (See WAC 296-20-03002.) Under certain conditions, the director or the director's designee may determine that such treatment is appropriate. In making such a decision, the director or director's designee will consider factors including, but not limited to, the following:

(a) Scientific studies investigating the safety and efficacy of the treatment are incomplete, or if completed, have conflicting conclusions, and:

- Preliminary data indicates the treatment or diagnostic procedure or device has improved net health and functional outcomes; and

- No alternative treatment or diagnostic is available; or

(b) The treatment or diagnostic procedure or device is prescribed as part of:

- A controlled, clinical trial that has been reviewed and approved by an institutional review board that was established in accordance with a department of health and human services (DHHS) regulations (45 CFR Part 46); and

- For medical devices not yet cleared for marketing, the clinical evaluation has an approved investigational device exemption (IDE) in accordance with food and drug administration (FDA) regulations (21 CFR Parts 50, 56, and 812); and

- For drugs not yet cleared for marketing, the clinical evaluation has been approved in accordance with food and drug administration (FDA) regulations (21 CFR Part 312); or

(c) The usually indicated procedure or diagnostic test would likely be harmful for the patient because of other unrelated conditions.

(2) The health care provider must submit a written request and obtain approval from the department or self-insurer, prior to using an unusual, controversial, obsolete, or experimental treatment. The written requests must contain a description of the treatment, the reason for the request, potential risks and expected benefits, length of care and estimated cost of treatment.

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-012 with a published date of May 5, 1999.

Title of Rule: Public disclosure.

Purpose: Changes will made to maintain consistency with chapter 10.97 RCW.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654 ext. 301.

Name of Proponent: Staff, 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. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Silverdale on the Bay Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98901, (360) 698-1000, on August 13, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Yeager by August 5, 1999, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, WA 98504-2400, fax (360) 438-8652, by August 5, 1999.

Date of Intended Adoption: August 13, 1999.

June 23, 1999

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending Order 203, filed 1/18/90, effective 2/18/90)

WAC 230-60-025 Public records available—Location—Time available. All public records of the commission are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by chapter 42.17 RCW, and WAC 230-60-050. The records available, their location, and the times they are available for inspection as follows:

(1) Public records - The following are deemed public records:

(a) The license application form and all supplemental information submitted at the commission's request subject to the exemptions in chapter 42.17 RCW and other applicable laws including, but not limited to, chapter 10.97 RCW: Provided, ~~That ((statements regarding arrest or conviction records of persons are not public records and will not be disclosed))~~ consistent with chapter 10.97 RCW, the commission may disclose conviction data of an applicant or licensee;

(b) All activity reports and attachments required to be submitted to the commission on a periodic basis;

(c) All completed administrative proceedings; and

(d) All opinions and interpretive statements;

(e) All policies and procedures: Provided, That investigative procedures that, when disclosed, would hinder the commission's ability to conduct inspections, audits, or other investigative procedures will not be disclosed.

(2) Location of public records - All public records of the commission are located at the administrative office in Lacey.

(3) Times public records are available - All public records are available during normal office hours as set out in WAC 230-02-030: Provided, That public records may not be available during the period 12:00 noon to 1:00 p.m. unless a prior written request is made.

AMENDATORY SECTION (Amending Order 262, filed 12/5/94, effective 1/5/95)

WAC 230-04-020 Certification procedure—General requirements—Mandatory training required. Applicants for license from the commission shall submit all applications, including the proper fee, as established by WAC 230-04-202, 230-04-203 or 230-04-204 to the administrative office of the commission in Lacey. The application process is as follows:

(1) The application shall be made using a form provided by the commission. The application form must be completed in every respect, containing all the information and attachments requested;

(2) The application shall be signed under oath by an individual attesting that the information set forth in the application and any accompanying materials is true, accurate and complete and that they assume full responsibility for the fair and lawful operation of all licensed activities that the applicant conducts. The following person(s) shall sign the application:

(a) The highest ranking officer/official of a charitable, nonprofit or profit seeking corporation;

(b) The principal owner of a sole proprietorship;

(c) All partners of a partnership or general partner of a limited partnership; and

(d) The mayor or the mayor's designated representative if the application is being submitted by or on behalf of an incorporated city or town.

(e) The director may also require the following persons to sign the application:

(i) The chairman of the board of directors or trustees;

(ii) The person in charge of financial records; and/or

(iii) Persons with a substantial interest in the applicant business or charitable/nonprofit organization.

(3) The commission will consider only those applications that have been fully completed. Failure to respond to

written notification of an incomplete application, within twenty days of such notice, shall be cause for administrative closure of the application. The following reasons will cause an application to be incomplete:

(a) Failure to provide all information requested on the application form and/or attachments;

(b) Failure to provide supplemental information requested during the licensing investigation;

(c) Failure to attend mandatory preclicensing training;

(d) Failure to provide fingerprints or samples of handwriting; and

(e) Failure to submit proper fees.

(4) The commission may disclose to the public or discuss at a public meeting all information set forth in the application and all supplemental information submitted ~~((except statements regarding arrests or convictions of any person))~~ subject to the exemptions in chapter 42.17 RCW and other applicable laws including, but not limited to, chapter 10.97 RCW: Provided, That consistent with chapter 10.97 RCW, the commission may disclose conviction data of an applicant or licensee.

(5) The commission shall not issue a license until it is satisfied that the applicant is completely qualified to operate the activity for which a license is requested. Prior to issuing a license, the commission will:

(a) Conduct a review and investigation of all information available, whether submitted as a part of the application or otherwise obtained, to the degree deemed necessary to attest to the qualification of the applicant and the gambling premises; and

(b) Require all persons who sign the application, as set out in subsection (2) of this section, plus the manager or other designated person(s) responsible for conducting the gambling activity or completing records, to complete a training course as established and provided by the commission: Provided, That mandatory training shall not be required for manufacturers; manufacturers representatives; or applicants or licensees with special circumstances as approved by the director. Mandatory training shall be completed within the following time lines:

(i) New applicants - Within sixty days of application and prior to being granted a license: Provided, That cardroom employees and bingo managers must attend training no later than thirty days after the first day of work;

(ii) Annual recertification - no later than sixty days after the effective date of the license: Provided, That only those person(s), as set out in subsection (2) of this section, which are newly designated to sign the application since the last license application shall be required to attend training if they have not attended within the previous three years; and

(iii) Changes to managers or other designated persons responsible for conducting gambling activities or completing records - no later than sixty days after the first day of work.

WSR 99-13-206
PROPOSED RULES
GAMBLING COMMISSION

[Filed June 23, 1999, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-010 with a published date of May 5, 1999.

Title of Rule: Established business defined.

Purpose: Two versions of one rule are up for discussion: **Alternative #1** would require a business to be open to the public for at least thirty days before it can offer gambling activities. **Alternative #2** would require a business to have been open to the public for at least thirty days prior to submitting a gambling application to the commission. **Both** versions of the rule provide that if a business is purchased or transferred, it will be considered established if it has held a gambling license for at least thirty days prior to the date of purchase or transfer and that the thirty days of licensure must have taken place within the past six months.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Lacey, (360) 438-7654 ext. 374; Implementation: Ben Bishop, Lacey, (360) 438-7640; and Enforcement: Sherri Winslow, Lacey, (360) 438-7654 ext. 301.

Name of Proponent: Staff, 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. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Silverdale on the Bay Hotel, 3037 Bucklin Hill Road, Silverdale, WA 98901, (360) 698-1000, on August 13, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Yeager by August 5, 1999, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

Submit Written Comments to: Susan Arland, Mailstop 42400, Olympia, WA 98504-2400, fax (360) 438-8652, by August 5, 1999.

Date of Intended Adoption: August 13, 1999.

June 23, 1999

Susan Arland

Rules Coordinator

ALTERNATIVE #1

AMENDATORY SECTION [(Amending WSR 95-07-094, filed 3/17/95)]

WAC 230-02-380 Established business defined. "Established business" means any business that has applied for and received all licenses or permits required by any state or local jurisdictions and ~~((has been))~~ is open to the public for at least thirty days at the time the gambling license is issued ((a period of not less than ninety days)): Provided, That ((the commission may grant "established" status to a business that:

~~(1) Has completed all construction and is ready to conduct business;~~

~~(2) Has obtained all required licenses and permits;~~

~~(3) Provides the commission a planned operating schedule which includes estimated gross sales from each separate activity to be conducted on the proposed premises, including but not limited to the following:~~

~~(a) Food and/or drinks for on-premises consumption;~~

~~(b) Food and/or drinks "to go"; and~~

~~(c) All other business activities.~~

~~(4) Passes an inspection by the commission))~~ if a food and drink business is purchased or otherwise transferred pursuant to WAC 230-04-340 or WAC 230-04-350, it will be considered established if it has been licensed for gambling activities for at least thirty days prior to the date of the purchase. Provided further, That the thirty days of licensure must have occurred within the past six months.

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

ALTERNATIVE #2

AMENDATORY SECTION [(Amending WSR 95-07-094, filed 3/17/95)]

WAC 230-02-380 Established business defined. "Established business" means any business that has applied for and received all licenses or permits required by any state or local jurisdictions and ~~((has been))~~ is open to the public for at least thirty days at the time the gambling application is submitted ((a period of not less than ninety days)): Provided, That ((the commission may grant "established" status to a business that:

~~(1) Has completed all construction and is ready to conduct business;~~

~~(2) Has obtained all required licenses and permits;~~

~~(3) Provides the commission a planned operating schedule which includes estimated gross sales from each separate activity to be conducted on the proposed premises, including but not limited to the following:~~

~~(a) Food and/or drinks for on-premises consumption;~~

~~(b) Food and/or drinks "to go"; and~~

~~(c) All other business activities.~~

~~(4) Passes an inspection by the commission))~~ if a food and drink business is purchased or otherwise transferred pursuant to WAC 230-04-340 or WAC 230-04-350, it will be considered established if it has been licensed for gambling activities for at least thirty days prior to the date of the purchase. Provided further, That the thirty days of licensure must have occurred within the past six months.

PROPOSED

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

AMENDATORY SECTION (Amending WSR 95-07-094, filed 3/17/95, effective 7/1/95)

WAC 230-04-080 Certain activities to be operated as a commercial stimulant only—Licensing of food and/or drink businesses. The commission may issue a license to operate punch boards and pull-tabs or public card rooms as commercial stimulants to any established business primarily engaged in the sale of food and/or drink items for consumption on the licensed premises. Such activities shall not be operated other than as a commercial stimulant and the food and/or drink business shall be open and providing service to the general public at all times gambling activities are operated. The following requirements apply to applicants for a license to use gambling activities to stimulate food and/or drink sales:

(1) For purposes of chapter 9.46 RCW and these rules, a business shall be presumed to be a "food and/or drink business" as defined by WAC 230-02-370 if:

(a) It is licensed by the liquor control board to sell alcohol beverages at retail to the public for on-premises consumption and:

(i) It is a tavern that holds a valid Tavern - No Persons Under 21 Allowed License (formerly referred to as a Class "B" liquor license); or

(ii) It is a restaurant with a cocktail lounge that holds a valid Spirits, Beer and Wine Restaurant License (formerly referred to as a Class "H" liquor license).

(b) It sells food and/or drink items at retail to the public and:

(i) All food is prepared and served for consumption on the licensed premises: Provided, That food may be prepared at other locations and served on the premises if the food is:

(A) Prepared by the licensed business; or

(B) Purchased from caterers by the licensed business as a wholesale transaction and resold to customers at retail.

(ii) The total gross sales of food and/or drink, for on-premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises when measured on an annual basis. Applicants seeking qualification for a license under this subsection shall submit data necessary to evaluate compliance with these requirements as a part of their application. For purposes of determining total gross sales of food and drink for on-premises consumption, meals furnished to employees, free of charge, shall be treated as sales only if:

(A) Detailed records are maintained;

(B) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and

(C) No more than one meal per employee is recorded during any four-hour work shift.

(2) When an individual, partnership, or corporation operates two or more businesses within the same building or building complex and such businesses meet the requirements of subsection (1)(a) or (b) of this section, one of the busi-

nesses may be designated as a "food and/or drink business" if all of the following conditions are met:

(a) The business being stimulated is physically isolated from all other businesses by walls and doors that clearly demonstrate the business is separate from other business being transacted at that location;

(b) All business transactions conducted by the applicant business are separated from the transactions conducted by all other businesses:

(i) Legally in the form of a separate corporation or partnership; or

(ii) By physical separation of all sales and accounting functions, and the methods of separation are approved by the commission;

(c) All gambling activities are located and occur upon the licensed premises, as defined in the license application and approved by the commission; and

(d) All gambling activities occur only when the food and/or drink business is open for customer service.

PROPOSED



WSR 99-13-007
WITHDRAWAL OF
EXPEDITED ADOPTION
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 3, 1999, 2:04 p.m.]

The Washington State Department of Fish and Wildlife withdraws WSR 99-12-097, filed June 1, 1999.

Evan Jacoby
 Rules Coordinator

WSR 99-13-008
EXPEDITED ADOPTION
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 3, 1999, 2:08 p.m.]

Title of Rule: Commercial fishing rules.

Purpose: Amend Puget Sound net rules for 1999 salmon season.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Sets 1999 Puget Sound seasons and requirements.

Reasons Supporting Proposal: The salmon seasons are based on stock abundance projections and expected capture rates. Limitations are needed to protect stocks of concern, particularly chinook and coho. These rules are needed to allow commercial harvest while ensuring brood stock survival.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, (360) 902-2325; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 220-20-016, requires take-home fish to be consistent with current sport rules in effect for area being fished. WAC 220-47-302, deletes contrasting cork requirement, simplifies gear requirements. WAC 220-47-304, sets 1999 salmon species seasons and eliminates unnecessary section. WAC 220-47-307, clarifies closures in east San Juan Islands. WAC 220-47-311, sets purse seine season. WAC 220-47-325, requires brailing of salmon in purse seine fishery to reduce impact on nontargeted stocks. WAC 220-47-401, sets reef net season. WAC 220-47-410, editing change only. WAC 220-47-411, sets gill net season. WAC 220-47-427, reduces participation requirement in experimental beach seine fishery. WAC 220-47-428, sets beach seine season. WAC 220-47-430, establishes log book requirement in Fraser River sockeye and pink species season in order to ascertain by-catch.

Proposal Changes the Following Existing Rules: Retention, gear, seasons and closed areas.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Evan Jacoby, Rules Coordinator, Washington State Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, AND RECEIVED BY August 23, 1999.

June 3, 1999

Evan Jacoby
 Rules Coordinator

AMENDATORY SECTION (Amending Order 85-43, filed 5/10/85)

WAC 220-20-016 Sale of commercial caught salmon.

It is unlawful for any person licensed to take salmon for commercial purposes as required under chapter 75.28 RCW to:

(1) ~~((Keep more than three salmon taken under such license for personal use, up to a maximum of six salmon in possession for multi-day trips.))~~ Retain for personal use more than the equivalent of one daily sport bag limit for the area being fished. All salmon taken under commercial license must be recorded on state of Washington fish receiving tickets. The daily limit and possession limit described in this subsection also apply to crew members of the licensed fishing vessel.

(2) Sell any salmon he takes under such license to any one other than a licensed wholesale dealer located within or outside the state of Washington: Provided, That a person who is himself licensed as a wholesale dealer under the provisions of RCW 75.28.300 may sell his catch to individuals or corporations other than licensed wholesale dealers.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-302 Puget Sound—Lawful gear—Gill net. (1) Lawful drift gill net salmon gear in Puget Sound shall not exceed 1,800 feet in length nor contain meshes of a size less than 5 inches.

(2) Lawful skiff gill net salmon nets in Puget Sound shall not exceed 300 feet in length and 90 meshes in depth nor contain meshes of a size less than 5 inches. Nets must be retrieved by hand (no hydraulics may be used). Nets must be attended by the fisher at all times.

(3) Drift gill nets and skiff gill nets shall be operated substantially in a straight line. Circle setting or setting other than substantially in a straight line shall be unlawful.

(4) ~~((All gill net gear used in Puget Sound must have floats or corks of a contrasting color attached in 50-foot intervals along the corkline.))~~

EXPEDITED ADOPTION

(5)) It shall be unlawful to take or fish for salmon with gill net gear beginning in 1998 in Areas 7 or 7A sockeye or pink fisheries unless said gill net gear is constructed so that the first 20 meshes below the corkline are composed of five-inch mesh white opaque minimum 210d/30 (#12) diameter nylon twine.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-304 Puget Sound—All citizen salmon species seasons and gill net mesh sizes. ((The following are Puget Sound all citizens salmon species seasons listed by area and species:

AREA	SPECIES	DATE	RANGE
6D:	COHO	9/20	- 10/24
7,7A:	FRASER SOCKEYE	6/21	- 9/26
	CHUM	9/27	- 11/14
7B:	CHINOOK	8/9	- 9/5
	COHO	9/6	- 10/24
	CHUM	10/25	- 12/12
7C:	CHINOOK	8/9	- 10/10
8:	CHUM	10/25	- 11/28
8A:	CHUM	10/18	- 11/28
8D:	COHO	9/20	- 11/7
	CHUM	11/8	- 12/19
9A:	COHO	9/13	- 10/31
10, 11:	COHO	9/6	- 10/10
	CHUM	10/11	- 11/28
12:	CHUM	10/18	- 11/20
12A:	COHO	8/30	- 10/10
12B:	CHUM	10/18	- 11/20
12C:	CHUM	10/25	- 11/27))

(1) The following are the 1999 Puget Sound all citizens salmon species seasons listed by area and species:

AREA	SPECIES	DATE	RANGE
6D:	COHO	9/19	= 10/23
	FRASER SOCKEYE		
	AND PINK		
	CHUM	6/26	= 9/25
		9/26	= 11/13
7,7A:	FRASER SOCKEYE	6/26	= 9/25
	AND PINK CHUM	9/26	= 11/13
7B:	CHINOOK	8/8	= 9/4
	COHO	9/5	= 10/23
	CHUM	10/24	= 12/11
7C:	CHINOOK	8/8	= 10/9
8:	PINK	8/22	= 9/18
	COHO	8/29	= 10/23
	CHUM	10/24	= 11/27
8A:	PINK	8/8	= 9/11
	COHO	9/5	= 10/16
	CHUM	10/17	= 11/27
8D:	COHO	9/19	= 11/6
	CHUM	11/7	= 12/18
9A:	COHO	9/19	= 10/30
10, 11:	COHO	9/5	= 10/9
	CHUM	10/10	= 11/27

AREA	SPECIES	DATE	RANGE
12:	COHO	9/26	= 10/16
	CHUM	10/17	= 11/20
12A:	COHO	8/29	= 10/16
12B:	COHO	10/13	= 10/16
	CHUM	10/17	= 11/20
12C:	CHUM	10/31	= 11/27

(2) It is unlawful to fish for or possess salmon taken with gill net gear using mesh other than the mesh listed below for the species seasons set out in this section:

CHINOOK SEASON	7 INCH MINIMUM MESH
COHO SEASON	5 INCH MINIMUM MESH
PINK SEASON	5 INCH MINIMUM MESH
	5-1/2 INCH MAXIMUM MESH
	AND IN SMCRA 8 - 60 MESH
	MAXIMUM DEPTH
CHUM SEASON	6-1/4 INCH MINIMUM MESH
FRASER SOCKEYE	5 INCH MINIMUM MESH
	5-1/2 INCH MAXIMUM MESH

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-307 Closed areas—Puget Sound salmon. It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas, except that closures listed in this section shall not apply to reef net fishing areas listed in RCW 75.12.140:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-47-266.

Area 6D - That portion within ((1,000 feet)) 1/4 mile of each mouth of the Dungeness River.

Area 7 - (1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point thence west to a point intercepting a line projected from the northernmost point of Jones Island thence 90° true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

(6) Those waters easterly of a line projected from Biz Point on Fidalgo Island to the Williamson Rocks Light, thence to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the south-westernmost point of Fidalgo Head, and including those waters within 1,500 feet of the western shore of Allan Island,

EXPEDITED ADOPTION

those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from the southwesternmost point of Fidalgo Head northerly to Shannon Point.

(7) Additional Fraser sockeye and pink seasonal closure:

Those waters within 1,500 feet of the shore of Fidalgo Island from the Initiative 77 marker northerly to Biz Point(~~those waters easterly of a line projected from Biz Point on Fidalgo Island to the Williamson Rocks light, thence to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the southwesternmost point of Fidalgo Island, those waters within 1,500 feet of the western shore of Allan Island, those waters within 1,500 feet of the western shore of Burrows Island, and those waters within 1,500 feet of the shore of Fidalgo Island from Fidalgo Head northerly to Shannon Point~~)).

~~((7))~~ (8) Those waters within 1,500 feet of the eastern shore of Lopez Island from Point Colville northerly to Lopez Pass, and those waters within 1,500 feet of the eastern shore of Decatur Island from the southernmost point of land northerly to Fauntleroy Point(~~(-~~

~~(8))~~), and including those waters within 1,500 feet of the shore of James Island.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-47-252.

Area 7B - That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the south-eastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 - (1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island, thence across the Skagit River to the terminus of the jetty with McGlenn Island.

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point.

Area 8A - (1) Those waters easterly of a line projected from Mission Point to Buoy C1, excluding the waters of Area 8D, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D.

(2) Additional pink seasonal closure: Those waters southerly of a line projected from the Clinton ferry dock to the Mukilteo ferry dock.

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point light to Sierra Echo buoy thence to Forbes Landing wharf, east of Hansville.

Area 10 - (1) Those waters easterly of a line projected from Meadow Point to West Point.

(2) Those waters of Port Madison northwest of a line from the Agate Pass entrance light to the light on the end of the Indianola dock.

(3) Additional coho seasonal closure: Those waters of Elliott Bay east of a line from Alki Point to the light at Four-mile Rock and those waters northerly of a line projected from Point Wells to "SF" Buoy then west to President's Point.

Area 10E - Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton ferry terminal.

Area 11 - (1) Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

(2) Additional coho seasonal closure: Those waters south of a line projected from the light at the mouth of Gig Harbor to the Tahlequah ferry dock then south to the Point Defiance ferry dock, and those waters south of a line projected from the Point Defiance ferry dock to Dash Point.

Area 12 - Those waters inside and easterly of a line projected from Lone Rock to the navigation light off Big Beef Creek, thence southerly to the tip of the outermost northern headland of Little Beef Creek.

Area 12A - Those waters north of a line projected due east from Broad Spit.

Area 12B - Those waters within 1/4 mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

Areas 12, 12A, and 12B - Additional chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point to Triton Head.

Areas 12, 12B and 12C - Those waters within 1,000 feet of the eastern shore.

Area 12C - (1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park and the Hoodsport marina dock.

(2) Those waters south of a line projected from the Cushman Powerhouse to the public boat ramp at Union.

(3) Those waters within 1/4 mile of the mouth of the Dewatto River.

Areas 12 and 12D - Additional coho and chum seasonal closure: Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on the opposite shore, bounded on the west by the Area 12/12B boundary line, and those waters of Area 12D.

Area 13A - Those waters of Burley Lagoon north of State Route 302, those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay including all waters of Minter Creek Bay, those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove, and those waters within 1/4 mile of Green Point.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-311 Purse seine—Open periods. During ~~((1997))~~ 1999, it is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas dur-

ing the periods provided for hereinafter in each respective Management and Catch Reporting Area:

(AREA	TIME	DATE	TIME	DATE	AREA	TIME	DATE	TIME	DATE
						6AM	10/25	4PM	10/29
						6AM	11/1	4PM	11/5
						6AM	11/8	4PM	11/12
7, 7A:	7AM	-	6PM	10/20, 10/26		6AM	11/15	4PM	11/19
	7AM	-	5PM	11/04, 11/05, 11/09, 11/10, 11/11, 11/12		6AM	11/22	4PM	11/26
7B:	6AM	9/08	4PM	9/11		6AM	11/29	4PM	12/3
	6AM	9/14	4PM	9/18	8:	6AM	12/6	4PM	12/10
	6AM	9/20	4PM	10/31		7AM	-	6PM	10/25
	6AM	11/02	4PM	11/06		7AM	-	5PM	11/2, 11/8, 11/16, 11/22
	6AM	11/09	4PM	11/13	8A:	5AM	-	9PM	8/24, 8/30
	6AM	11/16	4PM	11/20		7AM	-	7PM	10/11
	6AM	11/23	4PM	11/27		7AM	-	6PM	10/20, 10/21, 10/25, 10/26
	6AM	11/30	4PM	12/04		7AM	-	5PM	11/3, 11/4, 11/8, 11/9, 11/17, 11/18, 11/22, 11/23, 11/24
8:	7AM	-	6PM	10/26		7AM	-	6PM	10/20, 10/21, 10/25, 10/26
	7AM	-	5PM	11/03, 11/09, 11/17, 11/23	8D:	7AM	-	7PM	9/21, 9/22, 9/23, 9/28, 9/29, 9/30, 10/4, 10/5, 10/6, 10/7, 10/11
8A:	7AM	-	6PM	10/21, 10/22, 10/26, 10/27		7AM	-	6PM	10/20, 10/21, 10/25, 10/26
	7AM	-	5PM	11/04, 11/05, 11/09, 11/10, 11/18, 11/19, 11/23, 11/24, 11/25, 11/30, 12/01		7AM	-	5PM	11/3, 11/4, 11/8, 11/9, 11/17, 11/18, 11/22, 11/23, 11/24
8D:	7AM	-	7PM	9/21, 9/22, 9/23, 9/24, 9/29, 9/30, 10/01, 10/02, 10/05, 10/06, 10/07, 10/08, 10/13, 10/14, 10/15, 10/16,	10, 11:	7AM	-	6PM	10/19, 10/25
	7AM	-	6PM	10/21, 10/22, 10/26, 10/27		7AM	-	5PM	11/2, 11/3, 11/8, 11/16
	7AM	-	5PM	11/04, 11/05, 11/09, 11/10, 11/18, 11/19, 11/23, 11/24, 11/25, 11/30, 12/01	12, 12B:	7AM	-	6PM	10/19, 10/25
10, 11:	7AM	-	6PM	10/26		7AM	-	5PM	11/3, 11/4, 11/8, 11/9, 11/16
	7AM	-	5PM	11/03, 11/04, 11/09, 11/17, 11/23	12C:	7AM	-	5PM	11/16, 11/22
12, 12B:	7AM	-	6PM	10/20, 10/26					
	7AM	-	5PM	11/04, 11/05, 11/09, 11/10, 11/17					
12C:	7AM	-	5PM	11/17, 11/23))					
AREA	TIME	DATE	TIME	DATE					
7, 7A:	7AM	=	6PM	10/19, 10/25					
	7AM	=	5PM	11/3, 11/4, 11/8, 11/9, 11/10, 11/11					
7B:	6AM	9/7	4PM	9/9					
	6AM	9/13	4PM	9/15					
	6AM	9/19	4PM	10/23					

EXPEDITED ADOPTION

It is unlawful to retain chinook salmon taken with purse seine gear. It is unlawful to retain coho salmon taken with purse seine gear in Areas 7 and 7A. It is unlawful to retain chum salmon taken with purse seine gear in Areas 7 and 7A prior to October 1. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 97-124, filed 7/29/97, effective 8/29/97)

WAC 220-47-325 Purse seine—Release of incidentally caught fish. (1) It is unlawful for any purse seine vessel operator landing salmon to land salmon directly into the hold. All salmon must be landed to the deck, or sorting tray or table, of the harvesting vessel with the hold hatch cover(s) closed until release of salmon that may not be retained is complete and additionally:

(2) During Fraser sockeye and pink salmon species seasons in Areas 7 and 7A, it is unlawful for any purse seine vessel operator to bring salmon aboard a vessel unless all salmon captured in the seine net are removed from the seine net using a brailer or dip net meeting the specifications in this section prior to the seine net being removed from the water.

(3) The brailer shall be constructed in the following manner and with the following specifications:

(a) A bag of web hung on a rigid hoop attached to a handle;

(b) The bag shall be opened by releasing a line running through rings attached to the bottom of the bag; and

(c) The web shall be of soft knotless construction and the mesh size may not exceed 57 mm (2.25 inches) measured along two contiguous sides of a single mesh.

(4) Hand held dip nets shall be constructed of a shallow bag of soft, knotless web attached to a handle.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-401 Reef net open periods. During ((1997)) 1999, it is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas, during the periods provided for hereinafter in each respective area:

AREA	TIME	DATE(S)
7,7A	7AM - 7PM Daily	((DAILY 9/7 - 9/11 9/14 - 9/18 9/21 - 9/25 9/28 - 10/2 10/5 - 10/9 10/12 - 10/16 10/19 - 10/23 10/26 - 10/30 11/2 - 11/6 11/9 - 11/13)) 9/12 through 11/13

It is unlawful to retain chinook salmon taken with reef net gear. It is unlawful to retain coho salmon taken with reef net gear while the Fraser River Panel of the Pacific Salmon Commission maintains regulatory control of fisheries in Area 7. It is unlawful to retain chum salmon taken with reef net gear prior to October 1. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-410 Gill net—Daily hours. It ((shall be)) is unlawful to take or fish ((for sockeye or pink salmon)) during the Fraser sockeye and pink salmon species seasons in Areas 7 or 7A with gill net gear from 12:00 midnight to 1.5 hours after sunrise.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-411 Gill net—Open periods. During ((1997)) 1999, it is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

((AREA	TIME	DATE(S)
6D:	7AM - 7PM Daily	9/21 - 9/25 9/28 - 10/2 10/5 - 10/9 10/12 - 10/16 10/19 - 10/23
Note:	Area 6D skiff gill net only. It is unlawful to retain chinook, pink, or chum salmon in Area 6D.	
7,7A:	7AM - 7PM 7AM - 6PM	10/19 10/27, 11/2, 11/3, 11/9, 11/10, 11/11, 11/12
7B:	7PM - 9AM 6AM - 9/8 6AM - 9/14 6AM - 9/20 6AM - 11/2 6AM - 11/9 6AM - 11/16 6AM - 11/23 6AM - 11/30 6AM - 12/7	NIGHTLY - - 4PM 9/11 - 4PM 9/18 - 4PM 10/31 - 4PM 11/6 - 4PM 11/13 - 4PM 11/20 - 4PM 11/27 - 4PM 12/4 - 4PM 12/11
7C:	7PM - 9AM	NIGHTLY - 8/17, 8/24, 8/31
8:	7AM - 6PM	10/27, 11/2, 11/10, 11/16 11/24
8A:	7AM - 5PM 7AM - 7PM 7AM - 6PM 7AM - 5PM	10/19, 10/20 10/28, 10/29, 11/2, 11/3, 11/11, 11/12, 11/16, 11/17 11/23, 11/24, 11/25, 12/2, 12/3
8D:	6PM - 8AM 7AM - 7PM 7AM - 6PM 7AM - 5PM	NIGHTLY - 9/21 - 9/24 9/28 - 10/1 10/5 - 10/8 10/12 - 10/15 10/19, 10/20 10/28, 10/29, 11/2, 11/3, 11/11, 11/12, 11/16, 11/17 11/23, 11/24, 11/25, 12/2, 12/3
9A:	6AM - 9/13 through	4PM 10/31
10, 11:	5PM - 8AM 4PM - 8AM	10/26, 10/27 NIGHTLY - 11/2, 11/3, 11/9, 11/16, 11/23

EXPEDITED ADOPTION

12, 12B:	7AM – 7PM	10/19
	7AM – 6PM	10/27, 11/2, 11/3, 11/11, 11/12, 11/16
12C:	7AM – 6PM	11/16
	7AM – 5PM	11/24

All other saltwater and freshwater areas—closed.
Nightly openings refer to the start date.))

AREA	TIME	:	DATE(S)
6D:	7AM	:	7PM
			9/20, 9/21, 9/22, 9/23, 9/24, 9/27, 9/28, 9/29, 9/30, 10/1, 10/4, 10/5, 10/6, 10/7, 10/8, 10/11, 10/12, 10/13, 10/14, 10/15, 10/18, 10/19, 10/20, 10/21, 10/22

Note: Area 6D skiff gill net only, using 5-inch minimum and 5 1/2-inch maximum mesh. It is unlawful to retain chinook or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 16. In Area 6D, any chinook or pink salmon captured at any time, or any chum salmon captured prior to October 16, must be removed from the net by cutting the meshes ensnaring the fish.

7.7A:	7AM	:	8PM	10/18, 10/26, 11/1, 11/2, 11/8, 11/9, 11/10, 11/11
7B:	7PM-9AM	NIGHTLY		8/16, 8/23, 8/24, 8/30, 8/31
	6AM	9/7	:	4PM 9/9
	6AM	9/13	:	4PM 9/15
	6AM	9/19	:	4PM 10/23
	6AM	10/25	:	4PM 10/29
	6AM	11/1	:	4PM 11/5
	6AM	11/8	:	4PM 11/12
	6AM	11/15	:	4PM 11/19
	6AM	11/22	:	4PM 11/26
	6AM	11/29	:	4PM 12/3
	6AM	12/6	:	4PM 12/10
7C:	7PM-9AM	NIGHTLY		8/16, 8/23, 8/24, 8/30, 8/31
8:	6AM	:	11PM	8/24, 8/30
	7AM	:	8PM	10/26, 11/1, 11/9, 11/15, 11/23
8A:	6AM	:	11PM	8/23, 8/31
	7AM	:	8PM	10/12, 10/18, 10/19, 10/27, 10/28, 11/1, 11/2, 11/10, 11/11, 11/15, 11/16, 11/22, 11/23, 11/24
8D:	6PM-8AM	NIGHTLY		9/20, 9/21, 9/22, 9/27, 9/28, 9/29, 10/4, 10/5, 10/6, 10/7, 10/12, 10/18, 10/19, 10/27, 10/28, 11/1, 11/2, 11/10, 11/11, 11/15, 11/16, 11/22, 11/23, 11/24
	7AM	:	8PM	10/12, 10/18, 10/19, 10/27, 10/28, 11/1, 11/2, 11/10, 11/11, 11/15, 11/16, 11/22, 11/23, 11/24
9A:	6AM	9/19	through	4PM 10/30
10, 11:	5PM-8AM	NIGHTLY		10/18, 10/25
	4PM-8AM	NIGHTLY		11/1, 11/2, 11/8, 11/15
12, 12B:	7AM	:	8PM	10/18, 10/26, 11/1, 11/2, 11/10, 11/11, 11/15
12C:	7AM	:	8PM	11/15, 11/23

All other saltwater and freshwater areas - closed.
Nightly openings refer to the start date.

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-427 Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear.

(1) The Puget Sound beach seine salmon fishery is designated as an emerging commercial fishery for which a vessel is required. An emerging commercial fishery license and an experimental fishery permit are required to participate in this fishery.

(2) The department will issue five Quilcene Bay salmon beach seine experimental fishery permits (Quilcene permits).

(3) The following is the selection process the department will use to offer a Quilcene permit.

(a) Persons who held a Quilcene Bay salmon beach seine experimental fishery permit in ~~((1997))~~ 1998 will be eligible for a permit in ~~((1998))~~ 1999.

(b) The department established a pool of applicants by drawing on September 9, 1996. The pool established by this drawing will be maintained to replace any permit(s) which may be voided.

(4) Permit holders are required to participate in the Quilcene Bay salmon beach seine experimental fishery.

(a) For purposes of this section, "participation" means the holder of the Quilcene permit being aboard the designated vessel in the open fishery area ~~((four days each week during the open fishing period, except that during the Fraser sockeye and pink salmon species season in Areas 7 and 7A "participation" means the holder of the Quilcene permit being aboard the designated vessel in the open fishery area))~~ two days each week during the open fishing period.

(b) If the Quilcene permit holder fails to participate, the Quilcene permit issued to that fisher will be void and a new Quilcene permit will be issued through a random drawing from the applicant pool established in 1996.

(c) The department may require proof of participation by registering with state, federal or tribal officials each day the Quilcene permit holder participates.

(d) Persons who participate, but violate conditions of a Quilcene permit, will have the permit voided and a new Quilcene permit will be reissued through a random drawing from the pool of the voided permit holder.

~~(5)~~ Chum salmon may not be retained by a Quilcene permit holder. Chum salmon must be released alive, or, at the direction of federal or state officials, submitted for brood-stock purposes.

~~((5))~~ (6) Any person who fails to purchase the license, fails to participate, or violates the conditions of a Quilcene permit will have his or her name permanently withdrawn from the pools.

~~((6))~~ (7) It is unlawful to take salmon with beach seine gear that does not meet the requirements of this subsection.

(a) Beach seine salmon nets in Puget Sound shall not exceed 600 feet in length or 100 meshes in depth, or contain meshes of a size less than 3 inches or greater than 4 inches.

(b) Mesh webbing must be constructed with a twine size no smaller than 210/30d nylon, 12 thread cotton, or the equivalent diameter in any other material.

EXPEDITED ADOPTION

AMENDATORY SECTION (Amending Order 98-122, filed 7/15/98, effective 8/15/98)

WAC 220-47-428 Beach seine—Open periods. During ((1997)) 1999, it is unlawful to take, fish for, or possess salmon taken with beach seine gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the periods provided hereinafter in each respective Management and Catch Reporting Area:

AREA	TIME	DATE(S)
12A:	7AM - 7PM Daily	((8/31—9/4 9/7—9/11 9/14—9/18 9/21—9/25 9/28—10/2 10/5—10/9)) 8/30, 8/31, 9/1, 9/2, 9/3, 9/6, 9/7, 9/8, 9/9, 9/10, 9/13, 9/14, 9/15, 9/16, 9/17, 9/20, 9/21, 9/22, 9/23, 9/24, 9/27, 9/28, 9/29, 9/30, 10/1, 10/4, 10/5, 10/6, 10/7, 10/8, 10/11, 10/12, 10/13, 10/14, 10/15

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-47-412	Drift gill net and skiff gill net—Mesh sizes.
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NEW SECTION

WAC 220-47-430 Puget Sound commercial salmon—Log book required. It is unlawful for any licensed commercial salmon fisher fishing for salmon in Puget Sound SMCRA 7 and 7A during the Fraser sockeye and pink salmon season set out in WAC 220-47-304 to fail to possess and maintain a department-approved Puget Sound Commercial Salmon Log Book as provided for in this section:

(1) The log book must be kept aboard the vessel while it is fishing in SMCRA 7 and 7A, or while in possession of fish caught in these areas. The fisher must submit the completed log book for inspection immediately upon request by authorized department representatives.

(2) In each purse seine log book the fisher shall record the vessel name and license number. For each day fished, the fisher shall record the date. Immediately following each retrieval of the net the fisher shall record the Puget Sound Commercial Salmon Log Book Location Code, the time of the retrieval, and the number of chinook, coho and chum salmon in the net upon retrieval.

(3) In each gill net log book the fisher shall record the vessel name and license number. For each day fished, the fisher shall record the date. Immediately following each retrieval of the net the vessel operator shall record the Puget Sound Commercial Salmon Log Book Location Code where

the net is retrieved, the start and end time of the set, and the number of chinook, coho and chum salmon in the net upon retrieval.

(4) The following are the Puget Sound Commercial Salmon Log Book Location Codes that are required entries in purse seine log books and gill net log books as provided for in this section:

(a) Location Code 1: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7A northerly of a line projected from Birch Point to Savage Point on Tumbo Island.

(b) Location Code 2: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7A southerly of a line projected from Birch Point to Savage Point on Tumbo Island.

(c) Location Code 3: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 easterly of a line projected true north from Orcas Island through the easternmost point on Matia Island to the intersection with the 7/7A boundary line and easterly of a line projected from Point Colville on Lopez Island to Smith Island.

(d) Location Code 4: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 westerly and northerly of a line projected from Point Colville on Lopez Island to Smith Island and thence to the Y B "VD" buoy on Beaumont Shoal (as listed on NOAA Chart 18421 [38th ed., Oct. 31/92]) and southerly of a line projected from Cadboro Point on Vancouver Island 60 degrees true to the point of land on San Juan Island.

(e) Location Code 5: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 southerly of a line projected from Smith Island to the Y B "VD" buoy on Beaumont Shoal (as listed on NOAA Chart 18421 [38th ed., Oct. 31/92]).

(f) Location Code 6: Those waters of Puget Sound Commercial Salmon Management and Catch Reporting Area 7 northerly of a line projected from Cadboro Point on Vancouver Island 60 degrees true to the point of land on San Juan Island and westerly of a line projected true north from Orcas Island through the easternmost point on Matia Island to the intersection with the 7/7A boundary line.

(5) In each reef net log book the fisher shall record the fisher's name and license number and the location of the fishing site. For each day fished the fisher shall record the date and the total number of chinook, coho and chum salmon caught.

(6) All log books must be sent to the department no later than October 10 of each year.

Reviser's note: The brackets and enclosed material in the text of the about section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 99-13-110

EXPEDITED ADOPTION

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 3:02 p.m.]

Title of Rule: General definitions.

EXPEDITED ADOPTION

Purpose: To set forth for purposes of unemployment insurance taxes the definitions of wages, wages paid, wages constructively paid, and deductions.

Statutory Authority for Adoption: Chapter 50.12 RCW.

Statute Being Implemented: Policy manual definitions per RCW 50.12.010.

Summary: To revise the rule to promote clarity and delete any archaic language. This rule is being rewritten and renumbered. The definition of wages constructively paid is being added for the convenience of all users.

Reasons Supporting Proposal: To comply with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

Name of Proponent: Employment Security Department, UI Division, Unemployment Insurance Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The major change to this rule involves renumbering, rewording and deleting archaic language. We are also adding the definition of wages constructively paid from our policy manual for employer liability determinations (the status manual) to assist all users. This creates no new requirements for users but adds the definition to clarify the way in which the department views wages constructively paid. This rule should read better to the general public and is more informative.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered in accordance with Executive Order 97-02 and the department's new easier system for identifying rules for all users. We have added the term wages constructively paid and its definition from our statute manual for the convenience of users. There is no change to the manner in which these definitions have been, and are being, applied.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employment Security Department, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999
Carver Gayton
Commissioner

WAC 192-100-WAC

NEW SECTION

WAC 192-100-500 General definitions - relating to wages. For purposes of unemployment insurance taxes only:

(1) **Wages.** Includes all payments for personal services performed by an employee for an employer including the cash value of all remuneration paid in any medium other than cash including salaries, commissions, vacation pay, dismissal wages, bonuses and reasonable value of board, rent, housing, lodging, payments in kind, tips, and any other similar advantage received from the individual's employer or directly with respect to work for the employer.

(2) **Wages paid.** Includes wages that are actually received by an individual and wages that are contractually due but are not paid because the employer refuses or is unable to make such payment. (See RCW 50.24.015).

(3) **Wages constructively paid.** Those wages set aside, by mutual agreement of both parties (employer and employee) to be paid at a later date. They are reported for tax purposes when actually paid to the employee. The wages set aside can have no substantial limitation or restriction as to the time or manner or condition upon which payment is to be made. In addition the ability to draw on the wages must be within the control and disposition of the employee.

(4) **Deductions.** When any federal or state law requires an employer to deduct any amount from the wages of an individual in its employ and to pay the amount deducted to the federal or state government, or any their political subdivisions. The amount deducted will be considered wages and to have been paid to the individual at the time of the deduction. Other amounts deducted from the wages of an individual by an employer also constitute wages paid to the individual at the time of the deduction.

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 sections of the Washington Administrative Code are repealed:

WAC 192-12-010 General definitions.

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 99-13-111
EXPEDITED ADOPTION
EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 3:03 p.m.]

Title of Rule: Immediate family member of partners or corporate officers for RCW 50.04.150.

Purpose: To tie the exemption in RCW 50.04.150 for family employment on corporate farmers and a partnership entity.

EXPEDITED ADOPTION

Statutory Authority for Adoption: Chapter 50.12 RCW.
Statute Being Implemented: Portion of RCW 50.04.150.
Summary: To revise the rule to promote clarity and renumber the rule.

Reasons Supporting Proposal: To comply with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

Name of Proponent: Employment Security Department, UI Division, Unemployment Insurance Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: A simple renumbering and title change to make the rule easier to read.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered and retitled in accordance with Executive Order 97-02 and the department's new easier system for identifying rules for all users.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employment Security Department, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999
Carver Gayton
Commissioner

Chapter 192-300-WAC

NEW SECTION

WAC 192-300-100 Immediate family member of partners or corporate officers for RCW 50.04.150. The exemption in RCW 50.04.150 for family members employed on "corporate farms" includes family membership of all legal entities operating the farm.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-360	Interpretive regulation— Inclusion of immediate family members as partners.
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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 99-13-112

EXPEDITED ADOPTION

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 3:04 p.m.]

Title of Rule: Joint accounts.

Purpose: To set forth the criteria for the reporting of joint accounts for unemployment insurance tax purposes.

Statutory Authority for Adoption: Chapter 50.12 RCW.

Statute Being Implemented: Portion of RCW 50.24.170.

Summary: To revise the rule to promote clarity and delete archaic language. This rule is being rewritten and renumbered with recent mandates from the state legislature and the governor's office requiring the deletion of language that is hard to understand and to clarify the intent of a rule. Adds our limitation for common paymaster from the status manual for employer liability.

Reasons Supporting Proposal: This rule is being amended in compliance with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

Name of Proponent: Employment Security Department, UI Division, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule clarifies archaic language and complies with Governor Locke's Executive Order 97-02. This rule should read better to the general public. It establishes how employers are to report and form joint accounts.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered in accordance with Executive Order 97-02. The department's new numbering system has been used. We have added the limitation on common paymasters for public information from the status manual. This does not change existing policy and should assist in clarification of the rule.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employment Security Department, UI Tax Administration, P.O. Box

9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999
Carver Gayton
Commissioner

Chapter 192-300-WAC

NEW SECTION

WAC 192-300-180 Joint accounts. Relates to RCW 50.24.170.

(1) Any two or more employers may form joint accounts (consolidate) for the purposes of reporting and dealing with the unemployment insurance division of the department.

(2) Joint accounts must be acceptable to the department and cannot:

- (i) impair any obligation by these employers to the unemployment insurance division;
- (ii) interfere with the payment of benefits to workers;
- (iii) result in any administrative inconvenience to the division; or
- (iv) allow an employer to receive an experience rate to which it was not entitled.

(3) Joint accounts must provide for the maintenance of all records necessary under the Employment Security Act.

(4) Joint accounts may not be formed until the department has approved the plan of consolidation, in writing.

(5) A joint account should never be confused with a common paymaster. A common paymaster is an independent third party who contracts with, and represents, two or more employers; and who files a combined tax report for those employers. Common paymaster does not meet the department's definition of a joint account. We do not allow this type of reporting.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-060 Joint accounts.

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 99-13-113

EXPEDITED ADOPTION

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 3:05 p.m.]

Title of Rule: Definitions relating to RCW 50.04.145 and 50.24.130.

Purpose: To set forth for purposes of unemployment insurance taxes the definitions of same work, at the same time, project and separate set of books or records in accordance with RCW 50.04.145 and 50.24.130.

Statutory Authority for Adoption: Chapter 50.12 RCW.

Statute Being Implemented: Portions of RCW 50.04.145 and 50.24.130.

Summary: To renumber the rule.

Reasons Supporting Proposal: To comply with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

Name of Proponent: Employment Security Department, UI Division, Unemployment Insurance Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule has not been changed from the original other than to renumber it.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered in accordance with Executive Order 97-02 and the department's new easier system for identifying rules for all users.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employment Security Department, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999
Carver Gayton
Commissioner

Chapter 192-100-WAC

NEW SECTION

WAC 192-100-510 Definitions relating to RCW 50.04.145 and 50.24.130. For the purposes of RCW 50.04.145 and 50.24.130.

Definitions:

(1) **Same work.** Means work performed in the same trade or craft (i.e. carpenters, electricians, etc.).

(2) **At the same time.** Means occurring concurrently as opposed to the case of one contractor replacing another in the same trade.

(3) **Project.** Means any work performed under a contract within the scope of a building permit; or, if a building permit is not required, work performed under a contract.

(4) **Separate set of books or records.** Means records other than those maintained by the contractor for which services are performed.

EXPEDITED ADOPTION

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-015 Definitions relating to RCW
50.04.145 and 50.24.130.

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

ment Security Department, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999
Carver Gayton
Commissioner

Chapter 192-310**NEW SECTION**

WAC 192-310-060 Tips as wages. For the department to make timely and accurate employer liability determinations and unemployment insurance payments, tips as wages, are those tips that an employee is required to report to the employer by federal law.

(1) The employer must report tips each quarter on an "as paid" basis. Tips are considered "paid" when the employee reports them to the employer for federal income tax purposes; or when they are distributed by the employer to the employee.

(2) Tips are not considered wages for benefit calculation purposes when the value has not been reported to the employer.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-066 Tips as wages.

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 99-13-115**EXPEDITED ADOPTION****EMPLOYMENT SECURITY DEPARTMENT**

[Filed June 15, 1999, 3:20 p.m.]

Title of Rule: Value of meals, lodging, and in-kind compensation.

Purpose: To set forth the criteria for establishing the value of meals, lodging and in-kind compensation for any medium other than cash paid for personal services.

Statutory Authority for Adoption: Chapter 50.12 RCW.
Statute Being Implemented: Portion of RCW 50.04.320.

Summary: To revise the rule to promote clarity and delete archaic language. This rule is being rewritten and renumbered with recent mandates from the state legislature and the governor's office requiring the deletion of language that is hard to understand and to clarify the intent of a rule.

Reasons Supporting Proposal: This rule is being amended in compliance with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; **Implementation and Enforcement:** Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

WSR 99-13-114**EXPEDITED ADOPTION****EMPLOYMENT SECURITY DEPARTMENT**

[Filed June 15, 1999, 3:18 p.m.]

Title of Rule: Tips as wages.

Purpose: To designate to employers how the department views the reporting of wages for unemployment insurance tax purposes.

Statutory Authority for Adoption: Chapter 50.12 RCW.
Statute Being Implemented: RCW 50.04.320.

Summary: To revise the rule to promote clarity and delete any archaic language. This rule is being rewritten and renumbered.

Reasons Supporting Proposal: To comply with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; **Implementation and Enforcement:** Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

Name of Proponent: Employment Security Department, UI Division, Unemployment Insurance Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule has not been changed from the original rule other than to clarify archaic language and to comply with Governor Locke's Executive Order 97-02. This rule should read better to the general public. It establishes how employers and employees are to report tips as wages.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered in accordance with Executive Order 97-02. The department's new numbering system has been used. There are no substantive changes to the existing rule.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employ-

Name of Proponent: Employment Security Department, UI Division, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule has not been changed from the original rule other than to clarify archaic language and to comply with Governor Locke's Executive Order 97-02. This rule should read better to the general public. It sets forth the value of meals, lodging and in-kind compensation for payments to employees other than in cash. It deletes the old values for meals, room and board, and lodging.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered in accordance with Executive Order 97-02. The department's new numbering system has been used. There are no substantive changes to the existing rule.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employment Security Department, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999

Carver Gayton
Commissioner

Chapter 192-310

NEW SECTION

WAC 192-310-070 Value of meals, lodging and in-kind compensation. Relates to compensation paid for personal services including commissions and bonuses and the cash value of all remuneration paid in any form other than cash.

(1) The value of meals and/or lodging for the convenience of the employer (i.e. provided by the employer, on the employer's premises, or as a condition of employment) is not considered reportable compensation, unless it comprises twenty-five (25) percent, or more, of the employee's total pay.

(2) Compensation for personal services paid in-kind, or in any medium other than cash will be given its current prevailing market value. This value will be considered as wages in computing taxes due under unemployment insurance laws. If any hiring contract fixes the value of such items, the value will be considered the actual value.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-070 Value of meals, lodging and in-kind compensation.

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

WSR 99-13-116

EXPEDITED ADOPTION

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 15, 1999, 3:21 p.m.]

Title of Rule: Posting of notices by employers.

Purpose: To designate to employers which notices are required to be posted at their place(s) of business where employees might see and read them.

Statutory Authority for Adoption: Chapter 50.12 RCW.
Statute Being Implemented: RCW 50.20.140.

Summary: To revise the rule to promote clarity and delete any archaic language. This rule is being rewritten and renumbered.

Reasons Supporting Proposal: To comply with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA, (360) 902-9642; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA, (360) 902-9303.

Name of Proponent: Employment Security Department, UI Division, Unemployment Insurance Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The major change to this rule involves renumbering, rewording and deleting archaic language. This rule should read better to the general public. It tells employers which notices have to be posted for employees to read for unemployment insurance purposes - especially tax.

Proposal Changes the Following Existing Rules: The existing rule is repealed. The new rule is being renumbered in accordance with Executive Order 97-02 and the department's new easier system for identifying rules for all users. There are no substantive change to the previous rule.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO George Mante, Employ-

ment Security Department, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, AND RECEIVED BY August 21, 1999.

June 9, 1999
Carver Gayton
Commissioner

Chapter 192-310-WAC

NEW SECTION

WAC 192-310-100 Posting of notices by employers. (Relating to RCW 50.20.140). Employers who are responsible for unemployment insurance coverage of their employees must post and maintain printed notices to individuals who are employed by the employer. These notices inform the individual that this employer is liable for taxes under the Employment Security Act.

(1) The notices provide information to individuals who may be unemployed about how to register for work, file claims for benefits, and rights to benefits. The notices are to be posted in conspicuous places close to the actual location where the personal services are performed.

(2) The department will provide notices to employers.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-12-100 Posting of notices by employers.

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 99-13-165
EXPEDITED ADOPTION
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 22, 1999, 11:36 a.m.]

Title of Rule: Safeguarding of power transmission parts, chapter 296-24 WAC, Part C.

Purpose: State initiated changes are being proposed to WAC 296-24-205 in order to correct errors and clarify language to the rule as it was recently adopted. This adoption was an OSHA/WISHA collaborative effort to clear rule write the standard. These proposed changes are being done prior to the effective date of the current adopted rule in order to incorporate them as part of the final rule. In addition, the revisions will be consolidated into the user guide that WISHA will complete and distribute prior to the effective date of the rule. There will be no change in requirements.

Safeguarding Power Transmission Parts,
Chapter 296-24 WAC, Part C,
General Safety and Health Standards

WAC 296-24-20501 What is the employer's duty to protect employees from hazards of power transmission parts?

- Clarified language.
- Modified the current format.

WAC 296-24-20503 What requirements must guards meet?

- Added clarifying language relating to reaching over, under, through, or past a guard.
- Modified the current format.

WAC 296-24-20505 What requirements must devices meet?

- Modified the current format.

WAC 296-24-20507 What requirements must safeguarding by distance meet?

- Added clarifying language relating to the horizontal distance between power transmission parts and fixed ladders, stairs or other walking/working surfaces.
- Modified the current format.

WAC 296-24-20509 What requirements must safeguarding by location meet?

- Moved requirements from WAC 296-24-20511, relating to safeguarding by location, to this section.

WAC 296-24-20511 What other responsibilities beyond safeguarding does an employer have to protect employees from power transmission parts?

- Clarified language.
- Modified the current format.
- Moved requirements from this section relating to safeguarding by location to WAC 296-24-20509.

WAC 296-24-20513 When may a guardrail be used as a safeguard?

- Added a reference to also see WAC 296-24-20515 for other requirements.
- Added clarifying language relating to guardrails used for safeguarding a machine.
- Modified the current format.

WAC 296-24-20515 What are the requirements for flywheels?

- Added clarifying language which corrects an error making it clear that flywheels must be guarded by a guardrail and an enclosure guard.
- Changed "gas" to "gasoline."
- Modified the current format.

WAC 296-24-20517 What are the additional requirements for shafting?

- Added clarifying language relating to shaft ends having a smooth edge and end.

WAC 296-24-20521 What are the requirements for belt and rope drives?

- Added clarifying language relating to belt and rope drives that require dressing.
- Added clarifying language relating to the use of an idler when using quarter-twist belts.
- Clarified the language relating to the space between the upper and lower runs of a horizontal belt.

- Clarified the language relating to guarding an overhead belt located more than seven feet above the floor or working surface.
- Modified the current format.
- Changed "runs" to "can run" and "both" to "either."
- Changed "platform" to "working surface."
- Deleted the word "chain" from the heading.
- Deleted the word "belt" in relation to nip points.

WAC 296-24-20525 What are the additional requirements for belt shifters?

- Added the words "drive and idler."
- Clarified language.
- Modified the current format.

WAC 296-24-20527 What are the additional requirements for sewing machines?

- Changed the title heading for clarification.
- Added clarifying language relating to belt drives on a light or medium duty sewing machines.
- Modified the current format.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (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.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Selwyn Walters, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY September 4, 1999.

June 22, 1999

Gary Moore
Director

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20501 What is an employer's duty to protect employees from hazards of power transmission

parts? ~~((1))~~ An employer must protect employees from the hazards of power transmission ~~((parts))~~ created by~~(:~~

- ~~(a) Moving objects;~~
- ~~(b) Flying objects;~~
- ~~(c) Falling objects; and~~
- ~~(d)) moving objects and parts, including flying objects, falling objects, and inherently hazardous surfaces, such as sharp edges, burrs, and protruding nails and bolts.~~

Specifically, an employer must use enclosure guards, devices, a safe distance, or a safe location to protect employees from the following:

- (1) Belt and rope drives, including pulleys;
- (2) Chain drives;
- (3) Shafts, crankshafts, shaft ends, couplings;
- (4) Gears;
- (5) Flywheels;
- (6) Cams and piston rods;
- (7) Other machine parts that transmit power and expose workers to hazards.

"Power transmission parts" means the mechanical components of a piece of equipment that, together with a source of power (sometimes referred to as a prime mover), provide the motion to a part of a machine or piece of equipment.

~~((2) An employer must use one or more of the methods of safeguarding listed below to eliminate the hazards described in subsection (1) of this section:~~

- ~~(a) Guard;~~
- ~~(b) Device;~~
- ~~(c) Safe distance; or~~
- ~~(d) Safe location.)~~

Note: Guardrails are not generally accepted as a safeguarding method, but see WAC 296-24-20513 for exceptions when guardrails may be used.

Note: See WAC 296-24-20521(1) for a list of power transmission belts that are exempt from the requirements of this section.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20503 What requirements must guards meet? ~~((To safeguard using a guard, an employer must ensure that the guard:))~~ If relying upon a guard, the employer must ensure that it does the following:

- ~~((1))~~ Prevents any part of an employee's body from reaching the hazard by reaching over, under, through, or past the guard;
- ~~((2))~~ Prevents objects from flying ~~((out))~~ toward, or falling onto, an employee;
- ~~((3))~~ Is made of durable material designed to withstand the forces to which it could be exposed;
- ~~((4))~~ Is securely fastened at least every three feet to a fixed part of the machine it safeguards or the building structure; and
- ~~((5))~~ Creates no additional hazards such as from sharp edges or from motion between it and moving parts.

EXPEDITED ADOPTION

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20505 What requirements must devices meet? To safeguard using a device, an employer must ensure that it:

((+)) • Stops motion of the power transmission parts before an employee is exposed to the hazard of coming into contact with a moving part; and

((2)) • Prevents the machine from restarting unless an employee manually resets it.

Note: Emergency stop controls or warning signals are not considered devices that, by themselves, effectively safeguard power transmission parts.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20507 What requirements must safeguarding by distance meet? To safeguard by distance, an employer must ensure that:

((+)) • The vertical distance between power transmission parts and a floor or walking or working surface is more than seven feet;

• The horizontal distance between power transmission parts and fixed ladders or stairs or other walking or working surface prevents any part of an employee's body from reaching the hazard;

((2)) • The power transmission parts are supported so they will not fall on an employee below; and

((3)) • No parts or material may fall on an employee below.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20509 What requirements must safeguarding by location meet? To safeguard by location, an employer must ensure that the location of power transmission parts eliminates the possibility that any part of an employee's body can inadvertently reach the hazard.

An employer may safeguard any location used exclusively for power transmission parts by ensuring that the location:

• Is locked;
• Prohibits unauthorized entrance;
• Has a passageway with an effective vertical clearance of at least five feet six inches;

• Is well lit;
• Has a dry, level, firm floor; and
• Has a safe, well-marked route for an authorized employee to follow.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20511 What other responsibilities beyond safeguarding does an employer have to protect employees from power transmission parts? (1) An employer must remove, make flush, or guard with metal cov-

ers all projections on moving parts, including keys, set-screws, bolts, and nuts.

((a)) However, an employer is not required to remove, make flush, or guard keys or setscrews:

((+)) • Within an enclosure;

((+)) • Below the rim of a pulley that is less than twenty inches in diameter; or

((+)) • Where employee contact is not possible.

((b)) (a) An employer must fill or cover unused keyways.

((e)) (b) An employer must use only cylindrical revolving collars and ensure that screws or bolts used in collars do not project beyond the outside of the collar.

(2) An employer must ensure that power transmission parts are inspected at least once every sixty days for compliance with this standard, and are kept in good working condition at all times. An employer's inspection must ensure that:

((a)) • A pulley with a ~~((aek))~~ cracked or broken piece is not used.

((b)) • All bolts and screws holding power transmission equipment together or supporting the equipment are tight.

((e)) • Belts, lacings, and fasteners are in good repair.

((d)) • Power transmission parts are kept in proper alignment.

(3) ~~((An employer may safeguard any location used exclusively for power transmission parts by ensuring that the location:~~

~~((a) Is locked;~~

~~((b) Prohibits unauthorized entrance;~~

~~((c) Has a passageway with an effective vertical clearance of at least five feet six inches;~~

~~((d) Is well lit;~~

~~((e) Has a dry, level, firm floor; and~~

~~((f) Has a safe, well-marked route for an authorized employee to follow.~~

((4)) If it is necessary to lubricate power transmission parts while the parts are moving, an employer must ensure that:

(a) The tool an oiler uses, such as an oil can or grease gun, has a long spout to keep the oiler's hands away from the hazard.

((a)) (b) An oiler must wear closely fitting clothing.

((b)) (c) Drip cups and pans must be securely fastened.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20513 When may a guardrail be used as a safeguard? (1) An employer may use a guardrail as a safeguard for:

((a)) • A flywheel, when the guardrail is at least fifteen inches from the rim (also see WAC 296-24-20515 for other requirements on flywheels);

((b)) • Cranks and connecting rods;

((e)) • Tail rods and extension piston rods, when the guardrail is at least fifteen inches from the fully extended end of the rod;

((d)) • A horizontal belt in a power generating room;

((e)) • A clutch, cutoff coupling, or clutch pulley in an engine room occupied only by an engine room attendant; or

((f)) • A runway used only for oiling, maintenance, running adjustment, or repair work.

(2) An employer must ensure that a guardrail used for safeguarding a machine:

- (a) Has a toeboard at least four inches high; and
- (b) Complies with WAC 296-24-75011.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20515 What are the additional requirements for flywheels? (1) Flywheels located so that any part is seven feet or less above the floor or platform must be guarded with an enclosure and must be guarded with a guardrail placed not less than fifteen nor more than twenty inches from the rim. When other safeguarding methods cannot be used, an employer must safeguard a spoked flywheel with a smooth rim five feet or less in diameter by using a disk guard.

(2) The disk must cover the flywheel spokes on the exposed side, and create a smooth surface and edge.

((a)) • An open space, a maximum of four inches wide, between the outside edge of the disk and the rim of the wheel may exist to turn the wheel over.

((b)) • A key or other uncovered projection must be cut off.

((2)) (3) An employer may provide an adjustable guard at the flywheel of a ((gas)) gasoline or diesel engine for starting the engine or for a running adjustment. A slot opening for a jack bar is permitted.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20517 What are the additional requirements for shafting? (1) An employer must secure shafting against excessive endwise movement.

(2) An employer must maintain shafting so that it is free from excess oil or grease and pitting from corrosion.

(3) An employer may safeguard shafting under a bench machine by using a guard that extends to:

- (a) Within six inches of the underside of the table or the floor; and
- (b) At least two inches beyond the shafting.
- (4) An employer must ensure that projecting shaft ends:
 - (a) Have a smooth edge and end and project no more than one-half the diameter of the shaft; or
 - (b) Are guarded by a nonrotating cap or safety sleeve.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20521 What are the additional requirements for belt((s)) and rope((, and chain)) drives?

(1) An employer is not required to safeguard belts operating at two hundred fifty linear feet per minute or less that are:

- ((a)) • Flat and one inch wide or less; or
- ((b)) • Flat and between one to two inches wide with no metal lacings or fasteners; or
- ((c)) • Round and one-half inch or less in diameter; or

((d)) • Single strand v-belts thirteen thirty-seconds inch wide or less.

(2) An employer may use a nip point ((belt)) and pulley guard on a vertical or inclined belt that:

- ((a)) • Is two and one-half inches wide or less;
- ((b)) • Is running at a speed of less than one thousand feet per minute; and
- ((c)) • Is free from metal lacings or fastenings.

"**Nip-point belt and pulley guard**" means a device that encloses the pulley and has rounded or rolled edge slots for the belt to pass through.

(3) When the space between the upper and lower runs of a horizontal belt would allow an employee to pass between them, an employer ((may)) must:

- ((a)) • Guard along the upper run; or
- ((b)) • Provide a platform over the lower run((s)) and ((e- Provide)) a railing over the lower run that will prevent employees from leaving the platform.

((d)) In a power generating room, only the lower run of a horizontal belt must be guarded.

(4) ((An)) The employer must use ((a)) an idler when using quarter-twist belts ((with an idler on a drive)) that can run((s)) in ((both)) either direction((s)).

(5) ((An)) On those belt and rope drives that require dressing, the employer must apply ((a)) the dressing to a moving belt or rope where the belt or rope leaves the pulley.

(6) An employer ((may not safeguard by distance or location an overhead belt located more than seven feet above a floor or platform)) must guard an overhead belt located more than seven feet above the floor or working surface when:

((a)) • The belt is located over a passageway or work space and travels at a speed of one thousand eight hundred feet or more per minute; or

((b)) • The distance between the centers of its pulleys is ten feet or more; or

((c)) • The belt is wider than eight inches.

(7) An employer must ensure that a belt shifted by hand is not fastened with metal or other material that creates a hazard.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20525 What are the additional requirements for belt shifters? (1) An employer must ensure that the equipment listed below, if installed after August 17, 1971, has a permanent, mechanical belt shifter:

- ((a)) • Tight and loose (drive and idler) pulleys; and
- ((b)) • A cone pulley belt.

(2) An employer must ensure that a belt shifter or clutch handle:

- (a) Safeguards the nip point;
- (b) Is rounded;
- (c) Is within easy reach, but minimizes the chance of accidental contact with the operator; and
- (d) Is located over a machine or bench, or has handles cut off six feet six inches above the floor level.

(3) No belt shifter is required if:

~~((a))~~ • The belt is endless or ~~((aeeed))~~ laces with raw-hide; and

~~((b))~~ • The nip point of the belt and pulley is safeguarded by a nip point guard in front of the cone~~((s))~~; and

~~((c))~~ • The guard ~~((must))~~ extends at least to the top of the largest step of the cone~~((s))~~ and is ~~((it))~~ ~~The guard must be~~ formed to show the contour of the cone.

(4) An employer must ensure that each belt shifter and clutch handle of the same type in a workplace moves in the same direction to stop a machine, i.e., either all right or all left.

(a) A friction clutch handle on a countershaft carrying two clutch pulleys with open and crossed belts is not required to move in the same direction; and

(b) The clutch handle must have three positions with the machine at rest when the clutch handle is in the center position.

(5) An employer must ensure that a belt tightener used to activate machinery:

(a) Is substantially constructed and securely fastened;

(b) Has bearings securely capped;

(c) Has a mechanism to prevent it from falling; and

(d) Is securely held in the "off" position by gravity, or by an automatic mechanism that must be released by hand.

(6) An employer may not use a belt pole to shift a belt on and off a fixed pulley. When a belt shifter cannot be used, an employer may use a belt pole that is:

(a) Smooth; and

(b) Large enough for an employee to grasp securely.

Note: A belt pole is also known as a "belt shipper" or "shipper pole."

(7) An employer must use a substantial belt perch, such as a bracket, roller, etc., to safely shift an idle belt away from ~~((the))~~ a shaft when a loose pulley or idler is not practical.

(8) An employer must ensure that a bearing support immediately adjacent to a friction clutch or cutoff coupling has self-lubricating bearings requiring infrequent attention.

AMENDATORY SECTION (Amending WSR 98-10-073 and 98-24-120, filed 5/4/98 and 12/2/98, effective 10/1/99)

WAC 296-24-20527 What are the ~~((alternate safe-guarding))~~ **additional requirements** ~~((that apply to))~~ **for sewing machines?** No guard is required for belt drives on a light or medium duty sewing machine if:

~~((1))~~ • It uses either a flat or a round belt without metal lacings and fasteners;

~~((2))~~ • The belt is located above the table top;

~~((3))~~ • The machine is not used to sew heavy materials such as leather, canvas, denim, or vinyl;

~~((4))~~ • The operators' hands are not in, near, or on the wheel, nip point, or belt area when the machine is operating;

~~((5))~~ • The distance between the area where the operator is holding and feeding material with both hands and the belt or wheel location~~((s))~~ is great enough that the operator is not exposed to a motion hazard; and

~~((6))~~ • The table top is designed so that employees near the machine are not exposed to motion hazards while they work or as they pass by.

WSR 99-13-167
EXPEDITED ADOPTION
DEPARTMENT OF
GENERAL ADMINISTRATION

[Filed June 22, 1999, 1:35 p.m.]

Title of Rule: WAC 236-20-020, 236-20-030, and 236-20-040.

Purpose: To clarify and revise the process for approval of insignia on state owned vehicles under ten thousand pounds gross weight.

Other Identifying Information: Applies only to state-owned vehicles.

Statutory Authority for Adoption: RCW 46.08.065.

Statute Being Implemented: WAC 236-20-020 to 236-20-040.

Summary: The current writing includes reference to the obsolete automotive policy board, and it not clear in identifying who gives approval for insignia designs on state-owned vehicles under ten thousand pounds. These changes address these issues.

Reasons Supporting Proposal: These amendments are the result of discussions with customers, and agency transportation officers.

Name of Agency Personnel Responsible for Drafting and Implementation: John A. Lungo, State Motor Pool, P.O. Box 41032, Olympia, WA 98504, (360) 438-8246; and Enforcement: Kathy L. McComb, State Motor Pool, P.O. Box 41032, Olympia, WA 98504, (360) 438-8237.

Name of Proponent: General Administration, State Motor Pool, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 236-20-020, 236-20-030, and 236-20-040 specify guidelines, definitions and exception criteria for insignias on state owned passenger motor vehicles under ten thousand pounds gross weight. The current writing includes processes that no longer apply.

Proposal Changes the Following Existing Rules: Eliminates the need to send requests to the automobile policy board. This policy board no longer exists. Clarifies when exceptions will be granted.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO John A. Lungo, General Administration, P.O. Box 41032, Olympia, WA 98504-1032, AND RECEIVED BY August 24, 1999.

June 22, 1999
Kathy McComb
Fleet Manager

AMENDATORY SECTION (Amending Order 75-8, filed 11/17/75)

WAC 236-20-020 Definitions. Agencies—As used in this chapter, the word "agencies" includes state departments, offices, agencies, boards, commissions or institutions financed in whole or part by funds appropriated by the legislature.

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 75-8, filed 11/17/75)

WAC 236-20-030 Approval of distinctive insignia. Agencies may request approval of a distinctive insignia in lieu of the state seal in marking vehicles. A standard decal must include the words "State of Washington", agency's name and "for official use only". The request for approval shall be sent to the ~~((department of general administration))~~ the director of general administration. ~~((and shall include the number of vehicles to be marked and a description of the heraldry aspects of the insignia.))~~ A scale drawing in color, or other example, shall accompany the request. The ~~((department of general administration))~~ director or designee will ~~((review))~~ approve or deny the request ~~((, and, if it deems the insignia to be appropriate and the request meritorious it will submit the insignia to the next meeting of the automotive policy board for its consent.))~~ and notify the agency.

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 75-8, filed 11/17/75)

WAC 236-20-040 Exceptions to marking requirements. (1) Requests for exceptions ~~((to vehicle marking requirements for vehicles used for law enforcement, confidential public health work, and public assistance fraud or support investigative purposes shall))~~ shall be forwarded to the director of general administration by the head of the agency owning or controlling the vehicle. ~~((Vehicles will be identified by make, model, year and state license number. The justification will include type of activity in which the vehicle will be used, percentage of time used in this activity, general areas where the activity will take place, and location where the vehicle will be garaged when not being used for official business.))~~ Requests for exceptions normally will not be granted unless the vehicle is used more than 50% of the time for law enforcement, confidential public health work, public assistance fraud or support investigative purposes.

(2) Vehicles leased or rented on a casual basis for a period less than ninety days and not issued a state exempt license plate need not be marked.

(3) Vehicles issued confidential license plates under the provisions of section 2, chapter 169, Laws of 1975 1st ex. sess. and chapter 46.08 RCW, are exempt from marking requirements.

~~((4) The above exceptions are the only exceptions to the marking requirements which will be granted.))~~

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

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

WSR 99-13-174

EXPEDITED ADOPTION

DEPARTMENT OF ECOLOGY

[Order 99-14—Filed June 22, 1999, 4:48 p.m.]

Title of Rule: Chapter 173-495 WAC, Weather modification.

Purpose: This amendment is being proposed to correct errors in grammar, punctuation, make agency address and program name changes, and to clarify the language of a rule without changing its effect.

Statutory Authority for Adoption: RCW 70.94.331.

Statute Being Implemented: Chapters 70.94 and 43.37 RCW.

Summary: This chapter establishes the responsibilities for the supervision and control of all weather modification activities within the state, and representation by the state in all interstate contacts relating to weather modification and control.

Reasons Supporting Proposal: This amendment is being proposed to correct errors in grammar, punctuation, make agency address and program name changes, and to clarify the language of a rule without changing its effect.

Name of Agency Personnel Responsible for Drafting: Kathy Carpenter, Headquarters, (360) 407-6216; Implementation and Enforcement: Tom Todd, Headquarters, (360) 407-7528.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment corrects typographical errors and updates addresses and program names.

Proposal does not change existing rules.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600,

Olympia, WA 98504-7600, AND RECEIVED BY August 24, 1999.

June 22, 1999
Daniel J. Silver
Deputy Director

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-010 Purpose. This chapter, (~~promulgated~~) adopted under chapters 43.37 and 70.94 RCW establishes the responsibilities for the supervision and control of all weather modification activities within the state, and representation by the state in all interstate contacts relating to weather modification and control. This regulation provides the basic framework for carrying out the state's responsibility for such a program through the establishment of license and permit requirements and procedures, reporting, and fee requirements. The provisions of this chapter (~~shall~~) apply to all weather modification activities in all parts of the state except as specifically exempted in this chapter.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, words and phrases as used in this chapter (~~shall~~) have the following meanings:

(1) "Operation" means the performance of weather modification and control activities using a single permit or license under contract for the purpose of producing or attempting to produce a weather modifying effect within a geographical area.

(2) "Research and development" means theoretical analysis, exploration and experimentation, and the extension of investigative findings of theories of a scientific or technical nature into practical application for experimental and demonstration purposes. This includes the experimental production and testing of models, devices, equipment, materials, and (~~processing~~) processes.

(3) "Weather modification and control" means changing or attempting to change or control by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-040 Requirements for exempt activities. The following weather modification and control (~~activity shall be~~) activities are exempt from the license and permit requirements of RCW 43.37.100, (~~the permit requirements of RCW 43.37.100,~~) and the liability requirements of RCW 43.37.190:

(1) All research and experiments related to weather modification control conducted within laboratories(-);

(2) Those weather modification operations designed to alleviate sudden, unexpected, hazardous conditions which require expeditious localized action for:

(a) Protection against fire;

(b) Prevention of frost;

(c) Dispersal of fog;

(3) Field research and development by institutions of higher learning(-);

(4) Any person(~~(s)~~) proposing to conduct weather modification and control activities as described in subsection (2) of this section shall notify the air quality program(~~(s)~~), department of ecology, headquarters offices in Olympia, Washington, before proceeding (~~(of)~~). Notification must include the type of activity to be carried out, the person carrying out the activity, and the materials and technique of the application to be used(-);

(5) Any person proposing to conduct weather modification and control activities as described in subsection (3) (~~above~~) of this section shall provide (~~a written description of the proposed program, notice of actual operations ten days prior to commencement, and quarterly reports of operations and status to the Headquarters Office Department of Ecology, Olympia, Washington~~):

(a) A written description of the proposed program;

(b) Notice of actual operations ten days before beginning those activities; and

(c) Quarterly reports of operations and status to the Headquarters Office, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-045 Requirements for a regular license. All applicants for a weather modification license (~~shall~~) must be certified professional members of the American Meteorological Society or possess the academic achievements and professional experience necessary to receive such a certification. In cases where the applicant is an organization, the individual or individuals who will be in control and in charge of the weather modification and control activities (~~shall~~) must be required to meet the above standard.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-060 Procedures for issuing license. (1) Any person or organization desiring to obtain a license or restricted license shall (~~make an application~~) apply to ecology on the form prescribed, listing name, business address, etc.

(2) Ecology may require additional information of the applicant to determine competency in the field of meteorology. (~~Such~~) The additional information (~~shall~~) must be requested of the applicant by certified mail, and (~~shall~~) must be submitted in writing.

(3) (~~Prior to the issuance of~~) Before issuing any license, the applicant shall pay a fee of (~~(\$100)~~) one hundred dollars to the state of Washington.

(4) The application shall be deemed received by ecology when received at the Headquarters Offices, Air Quality Program, Department of Ecology, P.O. Box 47600, Olympia, Washington, 98504-7600.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-065 Period of license. (1) Licenses issued ~~((pursuant to))~~ under chapter 43.37 RCW and these regulations ~~((shall be))~~ are effective for a period of one year, ~~((to))~~ and will terminate at the end of the calendar year of issuance.

(2) ~~((No later than thirty days prior to the end of the calendar year, the licensee may request a renewal of the license.))~~ The licensee may request a renewal of the license no later than December 1st. Ecology shall review the license renewal request after receiving a renewal fee of one hundred dollars made payable to the state of Washington.

(3) In the determination of whether or not to grant a license renewal, ecology shall consider information provided by the applicant ~~((of))~~ on the facts and circumstances used to issue the original permit that were changed or altered. If ecology determines that the licensee no longer meets the requirements of competency in the field of meteorology, ecology may refuse to renew ~~((said))~~ the license.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-070 Permit requirements. (1) Each weather modification operation not specifically exempted by statute or these regulations ~~((shall))~~ requires a permit. A separate permit ~~((shall))~~ must be issued for each operation.

(2) A license holder desiring to conduct a weather modification operation shall submit an application for a permit to ecology.

(3) The permit applicant must hold a valid weather modification license from the state of Washington.

(4) The applicant shall publish a notice of intention at least once a week for three consecutive weeks in a ~~((legal))~~ newspaper ~~((having))~~ that has general circulation ~~((and published))~~ within ~~((any))~~ the county in which the operation is to be conducted or affected. ~~((If no legal newspaper is published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county.))~~

(5) The licensee shall file proof of publication of the notice of intention ~~((shall be filed by the licensee))~~ with ecology within fifteen days from the date of last publication of the notice.

(6) The notice of intention ~~((shall))~~ must contain at least the following:

- (a) The name and address of the licensee;
- (b) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (c) The area in which and the appropriate time during which the operation will be conducted;
- (d) The area intended to be affected by the operation; and

(e) The materials and methods to be used in conducting the operation.

(7) The applicant shall furnish proof of financial responsibility, as described in WAC 173-495-120 of this chapter.

(8) The applicant shall pay a permit fee of one and one-half percent of the estimated cost of the operation. The estimated cost will be computed by ecology from available data.

(9) ~~((Prior to issuance of))~~ Before issuing a permit, ecology shall state, in writing, that the weather modification and control activities proposed have been determined to be for the general welfare and public good.

(10) Ecology shall hold ~~((an open))~~ a public hearing ~~((at its headquarters office in Olympia prior to))~~ before any ~~((such))~~ weather modification permit ~~((issuance))~~ is issued.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-080 Permittee's report of operations—Requirement. The permittee ~~((shall be))~~ is required to maintain reports on all operations on a daily basis, and submit them twice a month (1st day and 15th day) to ecology. The semi-monthly reports ~~((shall))~~ must include the following information:

- (1) Number of days under contract~~((:));~~
- (2) Number of days of operation and number of hours of each day, for all stations operated~~((:));~~
- (3) The consumption rate and name of seeding agent used~~((:));~~
- (4) A brief summary statement evaluating the past fifteen day period in regard to the seeding potential and experience~~((:));~~
- (5) Location of operations~~((:));~~
- (6) Name and mailing address of each individual, other than the licensee, participating or assisting in the operation~~((:));~~
- (7) A brief statement of projected plans for the ~~((coming))~~ upcoming fifteen-day period~~((:));~~
- (8) The permittee shall, in the event operations are unexpectedly terminated, submit a special report covering ~~((that fraction))~~ the portion of the half-month period of operation ~~((is required))~~. All reports must be post-marked not later than one day after due date~~((:));~~
- (9) All ~~((such records))~~ semi-monthly reports are public records, which ~~((shall be))~~ are open to public inspection.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-100 Revocation, suspension, modification. (1) All permits authorized by RCW 43.37.110 ~~((shall))~~ must contain the following provisions: "Ecology may, if it appears that continuing operation under this permit will cause immediate injury to persons or property, terminate or otherwise modify the terms of this permit in order to alleviate an emergency situation by giving notice to the permittee by telegram or other writing."

(2) All permits authorized by RCW 43.37.110 may be revoked, suspended, or modified when ecology has reason to believe that good cause exists and that the revocation, sus-

pension, or modification is required for the general welfare and public good. ~~((Any such))~~ A written notice must be sent by certified mail to the permittee before any revocation, suspension, or modification ~~((shall not be undertaken prior to written notice by certified mail to the permittee))~~ of the permit is executed. Opportunity for comment by the permittee ~~((shall))~~ must be allowed. Any final ecology decision ~~((shall))~~ must be in writing.

(3) In the event the applicant desires to appeal any permit revocation, modification, or suspension action by ecology ~~((such))~~ the appeal must be filed with the pollution control hearings board in Olympia within thirty days of ecology's action. An appeal does not constitute a stay.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-495-120 Proof of financial responsibility.

A permit applicant shall furnish proof of financial responsibility to ecology by one of the following:

- (1) Copy of insurance policy or binder for the operator~~((:))~~;
- (2) A current balance sheet showing sufficient assets to demonstrate financial responsibility~~((:))~~;
- (3) A bond for safe performance~~((:))~~; or
- (4) ~~((Such))~~ Other information ~~((as))~~ the applicant may provide to ecology, in writing, if ~~((one of))~~ the alternate ~~((methods))~~ documents contained in subsections (1) through (3) of this section, ~~((is))~~ are not feasible or available~~((, provided the applicant explains the infeasibility or unavailability))~~. If other information is provided, the applicants must explain the reason the documents listed in subsections (1) through (3) of this section are not provided.



WSR 99-12-072
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Adult Services Administration)
[Filed May 27, 1999, 2:14 p.m.]

Date of Adoption: May 27, 1999.

Purpose: The adult day health services WAC will establish client eligibility, care levels, payment rates and criteria for provider eligibility.

Statutory Authority for Adoption: RCW 74.39A.007 and 74.08.090.

Adopted under notice filed as WSR 98-22-101 on November 4, 1998.

Changes Other than Editing from Proposed to Adopted Version: The concern regarding proration of services has been addressed in the final rule by deleting the provision for proration in WAC 388-15-661. WAC 388-15-661 is also changed to accurately reflect the levels of residential programs.

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 13, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 13, 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 27, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-15-650 Purpose. To assist individuals to remain in the community in the least restrictive environment while enabling families and other caregivers to continue providing needed support. WAC 388-15-650 through 388-15-662 is to regulate adult day health facilities that receive Medicaid or state general funding for client care. Adult day health programs that do not receive any Medicaid or state general funds are exempt from these requirements.

NEW SECTION

WAC 388-15-651 Definitions. "Adult day care" (level I). Adult day care provides supervised daytime programs where frail and disabled adults can participate in social, educational, and recreational activities. Services at this level are the basic "core services" that must be provided

in all adult day care and adult day health programs. Level I is appropriate for clients who have chronic medical conditions that do not require the services of a skilled health professional on a routine basis. A registered nurse and social worker provide consultation regarding the individual's participation in the program and assessment of the client's overall well-being and need for additional services. Level I offers respite to caregivers by providing a safe alternative to home care.

"Adult day health" (level II). Adult day health is a structured program that provides licensed rehabilitative and skilled nursing services in an environment that also offers social work services and socialization for frail and disabled adults. Level II services provide rehabilitative, nursing, and professional level of psychological/counseling services with a focus on prevention, teaching, and health monitoring. Each participant has a specialized plan of care designed to structure his or her participation and to address particular needs.

"Certification." The process by which an area agency on aging as authorized by the department certifies an adult day health center to be eligible for Medicaid (Title XIX) reimbursement for direct, level II services provided to eligible individuals. The program must directly provide the services and meet requirements set by the department including fiscal requirements for contracting with the department. Adult day health centers that do not accept Medicaid or state-funded clients are not certified through this process.

"Core services." A common set of services that is provided by all programs. Services must include: client screening, individual assessment, plan of care; basic health monitoring with consultation from a registered nurse; social services, therapeutic activities, at least one nutritional meal per day, including modified diet if needed; coordination and/or provision of transportation; and emergency care for participants.

"Intake evaluation." The screening process conducted by the adult day health program must be completed in order to gain an initial assessment of the appropriateness of the adult day health program for the client. During the intake process, clients for whom the program is not appropriate, are referred to other community agencies.

"Plan of care." The written plan that is developed with the participation of the client, and/or the client's authorized representative, is monitored by the individual responsible from the multidisciplinary team for each participant's plan. The plan of care details the services to be provided through identifying services needed with goals, objectives, and duration of the services.

NEW SECTION

WAC 388-15-652 Adult day care (COPES level I). (1) Determining eligibility for COPES level I adult day care.

(a) Home and community services staff (HCS) or area agency on aging (AAA) case managers determine eligibility, by determining the needs of the client cannot be appropriately met in a less structured setting and in accordance with the criteria listed in subsection (2) of this section.

(b) The need for services must be documented in the plan of care, assessed, and re-authorized at regular, specified intervals.

(c) A physician does not need to authorize adult day care services as is required for level II adult day health.

(2) A person who is eligible for COPES and needing supervision or activities of daily living who can benefit from level I services to remain in their own home may receive level I services if it is an approved part of the clients service plan developed by HCS staff, AAA staff or authorized sub-contractors.

Eligibility criteria for adult day care COPES level I. Clients are eligible when they are:

(a) Eligible for COPES as defined in WAC 388-15-620; and

(b) Ineligible for, and/or are eligible for, but do not have access to, level II adult day health; and

(c) Determined to be in need of one or more of the following services:

(i) Provision of personal care as defined in WAC 388-15-202(38);

(ii) Basic health monitoring with consultation from a registered nurse;

(iii) Therapeutic activities; or

(iv) Supervision or protection.

(3) Identifying providers. The AAA directly designates adult day care level I providers through a COPES contract.

(4) Rates and sources of payment for adult day care level I.

(a) Transportation is not reimbursed under this rate. Arrangements for transportation for eligible Medicaid recipients are made with the local Medicaid transportation brokers or with individual client COPES funds.

(b) Services are reimbursed on an hourly basis up to four hours per day. Any service provided over four hours per day shall be reimbursed at the daily rate. Effective July 1, 1999 the rates are as follows:

Counties	COPES Level I	
	Daily rate	Hourly rate
King	\$34.51	\$8.62
Benton, Clark, Franklin, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima	\$30.70	\$7.68
All other counties	\$29.10	\$7.27

(c) Service plan for adult day care level I. The level I service is a part of the COPES service plan for the client. This plan is developed by HCS, AAA (or authorized subcontractor) staff. A client/participant may receive both level I and level II services on different days. If, according to an adult day health center plan of care, a client/participant may need a level II service three days per week, but only wishes and would benefit from socialization or activities of daily living (ADL) assistance two additional days, both services may be authorized to complement the week.

NEW SECTION

WAC 388-15-653 Adult day health (level II). (1) Determining eligibility for level II.

(a) Certified providers assess the prospective client's need for day health. The assessment must include all services

that the client has been authorized to receive. A state-approved assessment tool must be used. The two approved tools are:

(i) The OARS multidimensional functional assessment; and

(ii) The comprehensive assessment (CA) provided by AASA. The CA must not contain the AASA/DSHS logo.

(b) The adult day health provider must document the client's need for skilled nursing care or rehabilitative therapy and the frequency of the planned care provision.

(c) Day health providers must verify each client's Medicaid (Title XIX) and/or COPES eligibility.

(d) The provider must obtain a current medical report from the client's physician. The report must have been completed and dated by the client's physician within the last three months. The facility must inform the physician that he or she is documenting the need for skilled nursing or professional rehabilitative therapy services. The facility staff must obtain, from the attending physician, the following additional medical information:

(i) Frequency with which the client must be seen by the physician (client must agree to visits as ordered by the physician);

(ii) Orders for physical, speech, and hearing or other rehabilitative therapy; and

(iii) The physician's signature shall indicate that the client has a medical need for adult day health services and orders the development of a plan of care, and the provision of adult day health services.

(e) The multidisciplinary team, in preparing the plan of care, shall include input from the attending physician of any client funded by Medicaid.

(f) The plan of care shall be forwarded to the attending physician within one week of completion.

(g) Medicaid clients shall have their plan of care reassessed at least once every three months by the multidisciplinary team, which is to include the clients attending physician.

(h) Progress notes on Medicaid clients must be recorded weekly.

(i) Changes in the Medicaid clients plan of care are to be filed in their case record and a copy forwarded to the clients physician.

(2) Eligibility criteria for adult day health level II.

(a) Applicants are considered eligible for level II when they are:

(i) Active Title XIX recipients in the following categories:

Medical ID Code	Medical program eligibility
CNP	Categorically needy program
CNP-QMB	Categorically needy qualified medical beneficiaries
GAU/W	General assistance unemployable alcohol and drug addiction treatment and support act

or

(ii) Enrolled COPES clients receiving at least one COPES service (not including level II day health).

PERMANENT

(b) In addition to subsection (1)(a) of this section, eligible clients must also be in need of one or more of the following and not have access to:

(i) Skilled nursing services: Skilled nursing services are services provided by a registered nurse (RN), or a licensed practical nurse (LPN). Reminding or coaching a client is not a skilled service. Skilled nursing services may include, but is not limited to, one or more of the following:

(A) Observation and assessment: This service may be medically necessary for a client who is in an unstable condition.

(B) Teaching and training activities: Teaching and training activities enable the client to become independent. Examples of teaching a client are:

- (I) Self-administration of an injection,
- (II) Prefill insulin syringes,
- (III) Irrigate a catheter,
- (IV) Care for a colostomy or ileostomy,
- (V) Dressing changes and aseptic techniques,
- (VI) Management of activities of daily living,
- (VII) Understand an illness, medications, its symptoms and how to cope.

(C) Intervention: Services provided directly by the licensed nurse may include, but are not limited to:

- (I) Insert or irrigate a catheter,
- (II) Administer medications or medical gases,
- (III) The administration and management of infusion therapy services.

(ii) Rehabilitative therapies: Therapy services must be medically necessary for preventing further deterioration or restoring a function affected by the client's illness, disability, or injury. These services must be provided by or under the supervision of the therapist.

(A) Physical therapy: Physical therapy must be provided according to applicable state practice laws and regulations. Physical therapy may include but not be limited to:

- (I) Assessing the participant's mobility level, strength, range of motion, endurance, balance, ability to transfer.
- (II) Provide treatment to relieve pain and/or develop, restore, or maintain functioning.
- (III) Establish a maintenance program and provide written and verbal instructions to program staff and the family/caregiver to assist the participant with implementation.

(B) Occupational therapy: Occupational therapy services must be provided according to applicable state practice laws and regulations. Occupational therapy may include, but are not limited to:

(I) Administer basic evaluation to determine baseline level of functioning, ability to transfer, range of motion, balance, strength and coordination, activities of daily living and cognitive-perceptual functioning.

(II) Teach and train participant and/or staff in the use of therapeutic, creative, and self-care activities to improve or maintain the participant's capacity for self-care and independence, and increase the range of motion, strength and coordination.

(C) Speech pathology and audiology: Speech pathology and audiology services must be provided according to applicable state practice laws and regulations. Services may include, but are not limited to:

(I) Establish a treatment program to improve communication ability and correct disorders.

(II) Provide speech therapy procedures that include auditory comprehension tasks, visual and/or reading comprehension tasks, language intelligibility tasks, or training involving the use of alternative communication devices.

(III) Swallowing assessment and treatment.

(c) The client must receive services from one of the licensed professionals listed above. If, at the time of reassessment, it is determined that the participant requires fewer or more days of attendance, based on documentation of care delivered, the plan of care will be adjusted.

(3) Identifying providers. Level II providers for billing purposes are designated through a contract with the DSHS medical assistance administration (MAA). In order to be eligible to contract with MAA, they must be certified by the AAA. The AAA is required to conduct an annual review for continuing certification for each provider.

(4) Rates for level II and sources of payment.

(a) Transportation is not reimbursed under level II adult day health rate. Arrangements for transportation are made with the local Medicaid transportation brokers.

(b) Effective July 1, 1999 the rates are as follows:

Counties	Rate
	Level II
King	\$44.92
Benton, Clark, Franklin, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima	\$40.73
All other counties	\$38.49

(c) There is a one time only intake evaluation that is reimbursed at eighty-four dollars and fifty-six cents.

NEW SECTION

WAC 388-15-654 Plan of care. The plan of care:

(1) Is developed by the multidisciplinary team of the adult day health program. In determining days of attendance for each participant, the program will assess the individual for the frequency of need for any of the above listed services. In addition, the plan should determine the frequency for active psycho-social therapy, which includes assessment for and treatment of mental illness, which must be provided by an appropriate therapist as defined in RCW or state regulations.

(2) For level II determine the frequency of attendance based on frequency of need for skilled nursing or rehabilitation therapy.

(3) Must be authorized by the participant's physician. The physician must be informed that he or she is documenting the participant's need for services described in the plan of care.

(4) Must include at a minimum the following:

- (a) Identified needs in each service area;
- (b) Time-limited measurable goals and objectives of the care for the person served;
- (c) Type and scope of interventions to be provided in order to reach predicted outcomes;

(d) Discharge/transition plan for the person, including specific criteria for discharge/transition.

NEW SECTION

WAC 388-15-655 Title XIX adult day health certification and monitoring. (1) Administration.

(a) Role of the AAA.

(i) The AAA, as authorized by the department, is responsible for the administration of the certification process for determining eligibility of an adult day health program to receive Medicaid (Title XIX) funds. The AAA will make the initial certification and annual review (recertification) of applicants. A letter of certification will be given to applicants meeting all requirements, administrative and fiscal, for contracting with the department. The AAA shall notify the department in writing of all certifications.

(ii) When an applicant applying for initial certification does not meet all the certification requirements, certification will be denied. A notice from the AAA setting forth the reason for denial will be mailed to the applicant within thirty days after completion of the site visit.

(iii) The department may take action such as, but not limited to, stop placement, corrective action or revocation of certification at any time the adult day health center is found not to be in compliance with client eligibility requirements, or not meeting the administrative or fiscal requirements. The AAA shall notify the program in writing of the reasons for revocation. Revocation will become effective sixty days after notice is mailed to the facility. Revocation may be suspended if the program submits an approved corrective action plan within thirty days after the mailing date of the revocation notice. The AAA will determine the date by which the corrective action must be completed.

(2) Minimum requirements for certification.

(a) Mission statement, articles of incorporation and bylaws.

(b) Names and addresses of the board of directors (including minutes of the last three meetings) if the applicant is a nonprofit organization. Names and addresses of all owners if the applicant is a proprietary.

(c) Organizational chart.

(d) Total program operating budget including all revenue sources and client fees generated.

(e) Program policies and operating procedures manual (all programs must operate at least three days a week and provide a structured program for participants at least four hours a day.

(f) Personnel policies and job descriptions of each paid staff position and volunteer positions.

(g) Definitions, policies and procedures about suspected abuse, neglect, or exploitation and mandatory reporting to adult protective services.

(h) Financial statement or the latest audit report of the organization by a certified public accountant (CPA).

(i) A floor plan of the facility indicating usage of space with interior measurements.

(j) Building inspection report, fire department inspection report, local health department inspection report, and food handler permit if food is prepared in the facility.

(k) Updated TB test for each staff member.

(l) All forms used in client's case records/files.

(m) Program/activities calendar for the month prior to application.

NEW SECTION

WAC 388-15-656 Administration and organization.

(1) Governing board.

(a) Unless the program is independently owned or functions through a governmental unit, a formal governing body shall have full legal authority and fiduciary responsibility for the operation of the program, adopting bylaws, and rules that address:

(i) Purposes of the program;

(ii) Governing body's composition and size, and members' and committee chairs' terms of office;

(iii) Frequency of meetings.

(b) The organization shall develop a written plan, reviewed on a regular basis, that addresses:

(i) The core values and mission of the organization, that promote seeing the persons served as the focus of the adult day health program;

(ii) That supports leadership that identifies and demonstrates ethical behavior in business, marketing, communication, and the provision of services; and

(iii) Information dissemination from a variety of sources to plan and improve performance and to educate, inform and demonstrate to all stakeholders the value of adult day health services.

(2) The advisory committee.

(a) Every adult day health program shall have a body that serves as an advisory committee. When an adult day health program is a subdivision or subunit of a multifunction organization, a committee or subcommittee of the governing body of the multifunction organization may serve as the advisory committee of the program.

(b) For a single purpose agency the governing body may fulfill the functions of the advisory committee.

(c) The advisory committee shall meet at least twice a year, but preferably quarterly, and shall have an opportunity, at least annually, to review and make recommendations on program policies. The advisory committee should be representative of the community and include family members of current or past participants and nonvoting staff representatives.

(3) A written plan of operation.

The administrator shall be responsible for the development of a current, written plan of operation with approval of the governing body. The plan of operation shall be reviewed, and if necessary, revised annually. The plan may include:

(a) Short- and long-range program goals;

(b) Definition of the target population, including number, age and needs of participants;

(c) Geographical definition of the service area;

(d) Hours and days of operation;

(e) Description of basic services and any optional services;

(f) Policies and procedures for service delivery;

(g) Policies and procedures for admission and discharge;

(h) Policies and procedures for assessment and reassessment, and the development of a plan of care with participants and/or family/caregiver by an interdisciplinary team;

(i) Staffing pattern;

(j) A plan for utilizing community resources;

(k) Policies and procedures for recruitment, orientation, training, evaluation, and professional development of staff and volunteers;

(l) General record policies;

(m) Statement of participant rights;

(n) Mandated reporting procedures;

(o) Marketing plan;

(p) Strategic planning;

(q) Accident, illness, and emergency procedures;

(r) Grievance procedures;

(s) Procedures for reporting suspected abuse;

(t) Payment mechanisms, funding sources and rates; or

(u) Operational budget.

(4) A written emergency plan. A written plan for handling emergencies shall be developed, and posted at each program site and on all program owned vehicles. Staff shall be trained to ensure smooth implementation of the emergency plan. If a single participant is present, at least one staff member on site shall be trained in cardiopulmonary resuscitation (CPR) and first aid.

(5) Lines of supervision and responsibility.

(a) To ensure continuity of direction and supervision, there shall be a clear division of responsibility between the governing body and the adult day health program administrator.

(b) An administrator shall be appointed and given full authority and responsibility to plan, staff, direct, and implement the program. The administrator shall also have the responsibility for establishing collaborative relations with other community organizations to ensure necessary support services to participants and their families/caregivers.

(c) The administrator or the individual(s) designated by the administrator shall be on site to manage the program's day-to-day operations during hours of operation. If the administrator is responsible for more than one site, or has duties not related to adult day health administration or provision of services, a program director shall be designated for each additional site and shall report to the administrator.

(d) An organizational chart shall be developed to illustrate the lines of authority and communication channels, and shall be provided to all staff.

(6) Administrative policies and procedures.

(a) Every adult day health program shall demonstrate fiscal responsibility by utilizing generally accepted principles of accounting in all its financial transactions. Fiscal policies, procedures, and records shall be developed to enable the administrator to meet the fiscal reporting needs of the governing body.

(b) Every adult day health program shall develop a plan to address the future financial needs of the program. The plan shall include projected program growth, capital purchases, projected revenue, projected expenses, and plans for fund raising.

(7) Quality improvement.

(a) Every adult day health program shall develop a quality improvement plan, with specific measurable objectives, designed to meet requirements of any licensing, funding sources, and professional standards.

(b) Policies and procedures for monitoring program quality and determining further action shall be developed by the administrator with the advice of the multidisciplinary staff team and the advisory committee with the approval of the governing body.

(8) Personnel policies and practices.

(a) There shall be a written job description for each staff position that specifies:

(i) Qualifications for the job;

(ii) Delineation of tasks; and

(iii) Lines of supervision and authority.

(b) Each employee shall receive, review, and sign a copy of the job description at the time of employment. Volunteers who function as staff also shall be provided written descriptions of responsibilities.

(c) Provision shall be made for orientation of new employees and volunteers. All staff and volunteers shall receive regular in-service training and staff development that meet their individual training needs. This shall be documented.

(d) Probationary evaluations and annual performance evaluations, in accordance with job descriptions, shall be conducted and shall conform to the policy of the funding or parent organization. Staff members shall review the written evaluation, that shall be signed by both the employee and supervisor. Copies shall be kept in locked personnel files.

(e) Each employee shall receive and/or review a copy of the program's personnel policies at the time of employment.

(f) Each employee shall have an individual file containing: Employee's qualifications, verification of training completed, signed job description and all performance evaluations. In addition, personnel files shall contain a copy of a current license or certificate, if applicable to the staff position, and certification of CPR and first aid training, if applicable.

(g) Whenever volunteers function in the capacity of staff, all applicable personnel policies pertain.

(h) The program shall conform to federal and state labor laws, must be in compliance with equal opportunity guidelines, and must adhere to federal and state employment regulations.

(9) Participant policies. Policies shall define the target population, admission criteria, discharge criteria, medication policy, participant rights, fee schedule, confidentiality, grievance procedures, and staff/participant ratios. Policies shall conform to the following:

(a) Nondiscrimination policy. No individual shall be excluded from participation in or be denied the benefits of or be otherwise subjected to discrimination in the adult day health program on the grounds of age, race, color, sex, religion, or national origin, creed, marital status, Vietnam era or disabled veteran's status, sensory, physical, or mental handicap.

(b) Bill of rights. A participant bill of rights shall be developed, posted, distributed to, and explained to partici-

pants, families, staff, and volunteers in the language understood by the individual.

(c) **Illness/injury procedure.** There shall be written procedures to be followed in case a participant becomes ill or is injured. The procedures shall be posted in at least one visible location at all program sites and shall be thoroughly explained, to staff, volunteers and participants. The procedures shall describe arrangements for hospital inpatient and emergency room service and include directions on how to secure ambulance transportation.

(d) **Medications.** Participants who need to take medications while at the program, and who are sufficiently mentally alert, shall be encouraged and expected to bring, keep and take their own medications as prescribed. Some participants may need assistance with their medications, and a few may need to have their medications administered by program staff. In order for program staff to administer any prescribed medication, there must be a written authorization from the participant's physician stating that the medication is to be administered at the program site and identifying the licensed person responsible for administration.

(e) The program shall develop written mediation procedures that are explained to all staff and anyone else who has responsibility in this area. At a minimum, these procedures shall describe the following:

- (i) How medications will be stored;
- (ii) Under what conditions licensed program staff will administer medications;
- (iii) How medications brought to the program by a participant must be labeled;
- (iv) How general medications such as aspirin or laxatives are to be used;
- (v) How the use of medications will be entered in participants' case records.

(10) **General record.**

The adult day health program shall maintain a secure participant record system to ensure confidentiality. The record system shall include, but is not limited to:

- (a) A permanent registry of all participants with dates of admission and discharge;
- (b) A written policy on confidentiality and the protection of records that defines procedures governing their use and removal, and conditions for release of information contained in the records;
- (c) A written policy on conditions that require authorization in writing by the participant or the legally responsible party for release of appropriate information not otherwise authorized by law;
- (d) A written policy providing for the retention and storage of records for at least five years (or in accordance with state or local requirement) from the date of the last service to the participant;
- (e) A written policy on the retention and storage of such records in the event the program discontinues operation, depending on the requirements of funding sources;
- (f) A policy and procedure manual governing the record system and procedures for all agency staff;
- (g) Maintenance of records on the agency's premises in secure storage area;

(h) Notes and reports in the participant's record that are typewritten or legibly written in ink, dated, and signed by the recording person with his/her title.

(11) **Participant records.** The following shall be maintained as a record for each participant. This shall include, but is not limited to, the following:

- (a) Application and enrollment forms;
- (b) Medical history and functional assessment (initial and ongoing);
- (c) Plan of care (initial and reviews) and revisions;
- (d) Fee determination form;
- (e) Service contract;
- (f) Signed authorizations for releases of medical information and photos, as appropriate;
- (g) Signed authorizations for participant to receive emergency medical care if necessary;
- (h) Correspondence;
- (i) Attendance and service records;
- (j) Transportation plans;
- (k) Where appropriate:
 - (i) Medical information form;
 - (ii) Documentation of physicians' orders;
 - (iii) Physical examinations;
 - (iv) Treatment, therapy, and medication notes;
- (l) Progress notes, chronological and timely;
- (m) Where appropriate, discharge plan and summary;
- (n) Current photograph of client;
- (o) Emergency contacts;
- (p) Signed statement that participant or legal representative has read the policies of the program with respect to the Patient Self-Determination Act of 1990.

(12) **Administrative records.** Administrative records shall include the following:

- (a) Personnel records (including personnel training);
- (b) Fiscal records;
- (c) Statistical records;
- (d) Government-related records (funding sources/regulatory);
- (e) Contracts;
- (f) Organizational records;
- (g) Results of quality improvement plan which could include annual evaluation, utilization review, or care plan audit;
- (h) Board and advisory group meeting minutes;
- (i) Certificates of fire and health inspections;
- (j) Incident reports;
- (k) Emergency plan;
- (l) Criteria for participant termination.

(13) **Community relations.** Adult day health programs shall provide information on adult day health to target populations and the general public. Participants and their families shall be made aware of community agencies for financial, social, recreational, educational and medical services. In addition, the program staff shall establish linkages with other community agencies and institutions to coordinate services and form service networks.

NEW SECTION

WAC 388-15-657 Staffing. (1) Staff selection is dependent on participant needs, program design, and regulatory requirements. The program must have the proper balance of professionals and paraprofessionals or nonprofessionals to adequately meet the needs of participants. Services must be delivered by those with adequate professional training. One staff person can have multiple functions; for example, an administrator who is also responsible for providing nursing services or social services.

(2) All core services shall have an administrator/program director and an activity coordinator on staff. Health care and social services personnel may be on staff or consulting. Personnel delivering level II services may be on staff or on contract.

(3) Staffing levels in all adult day health programs will vary based upon the number of participants and the care provided. The staffing level shall be sufficient to:

(a) Serve the number and functioning levels of adult day health program participants;

(b) Meet program objectives;

(c) Provide access to other community resources.

(4) The staff-participant ratio shall be a minimum of one to six. Persons counted in the staff-participant ratio are those who provide direct service with participants. When there is more than one participant present there shall be at least two staff members on the premises, one of whom is directly supervising the participants.

(5) As the number of participants with functional impairments increases, the staff-participant ratio shall be adjusted accordingly. Programs serving a high percentage of participants who are severely impaired shall have a staff-participant ratio of one to four. All programs shall have a written policy regarding staff-participant ratios.

(6) To ensure adequate care and safety of participants, there shall be provision for qualified substitute staff.

(7) Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualification standards of the organization, and have designated responsibilities.

NEW SECTION

WAC 388-15-658 Personnel requirements. (1) Administrator. The administrator:

(a) Is responsible for the development, coordination, supervision, fiscal control and evaluation of services provided through the adult day health program.

(b) Shall have a master's degree and one year supervisory experience in health or social services (full-time or equivalent) or a bachelor's degree and two years supervisory experience in a social or health service setting.

(2) Program director.

(a) For level I, adult day care services the program director shall have a bachelor's degree in health, social services or a related field, with one year supervisory experience (full-time or equivalent) in a social or health service setting, or a high school diploma and four years of experience in a health

or social services field of which two years must be supervision.

(b) For level II, adult day health services, minimum requirements for the program director shall be a bachelor's degree in health, social services or a related field, with one year supervisory experience (full-time or equivalent) in a social or health service setting.

(3) Social worker.

(a) The social worker shall have a master's degree in social work or counseling and at least one year of professional work experience (full-time or the equivalent), or a bachelor's degree in social work or counseling and two years of experience in a human service field.

(b) Depending on the setting and licensing requirements, social work functions may be performed by other human service professionals, such as rehabilitation counselors, gerontologists, or mental health workers (although they may not call themselves social workers without appropriate credentials).

(4) Registered nurse (RN). The nurse shall be a registered nurse (RN) with valid state credentials and a minimum of one year applicable experience (full-time equivalent).

(5) Licensed practical nurse (LPN). The licensed practical nurse (LPN) shall have valid state credentials and a minimum of one year applicable experience (full-time equivalent).

(6) Activities coordinator. The activities coordinator shall have a bachelor's degree in recreational therapy or a related field and one year of experience (full-time equivalent) in social or health services or an associate degree in recreational therapy or a related field plus two years of appropriate experience.

(7) Certified occupational therapy assistant (COTA) or physical therapy assistant. The COTA or physical therapy assistant shall be certified with valid state credentials and a minimum of one year applicable experience (full-time equivalent).

(8) Nursing assistant/certified (NAC). The nursing assistant shall be certified with valid state credentials and a minimum of one year applicable experience (full-time equivalent).

(9) Program assistant/aide/personal care aide. The program assistant or aide shall have one or more years of experience in working with adults in a health care or social service setting.

(10) Therapists. Physical therapists, occupational therapists, speech therapists, recreation therapists, mental health therapists or any other therapists, utilized shall have valid state credentials and one year of experience in a social or health setting.

(11) Consultants. Consultants shall be available to provide services as needed in order to supplement professional staff and enhance the program's quality.

(12) Secretary/bookkeeper. The secretary/bookkeeper shall have at least a high school diploma or equivalent and skills and training to carry out the duties of the position.

(13) Driver. The driver shall have a valid and appropriate state driver's license, a safe driving record, and training in first aid and CPR. The driver shall meet any state requirements for licensure or certification.

(14) Volunteers. The volunteers shall be individuals or groups who desire to work with adult day health participants and shall take part in program orientation and training. The duties of volunteers shall be mutually determined by volunteers and staff. Duties, to be performed under the supervision of a staff member, shall either supplement staff in established activities or provide additional services for which the volunteer has special talents.

NEW SECTION

WAC 388-15-659 Facility. (1) Location.

(a) Selection of a location for a program facility shall be based on information about potential participants in its service area and be made in consultation with other agencies, organizations, and institutions serving older individuals and those with functional impairments, as well as considering the availability of a suitable location.

(b) Space.

(i) The facility shall comply with applicable state and local building regulations, zoning, fire, and health codes or ordinances. When possible, the facility shall be located on the street level. If the facility is not located at street level, it is essential to have a ramp and/or elevators. An evacuation plan for relocation of participants shall also be in place in the event of an emergency.

(ii) Each adult day health program, when it is co-located in a facility housing other services, shall have its own separate identifiable space for main activity areas during operational hours. Certain space can be shared, such as the kitchen and therapy rooms.

(iii) The facility shall have sufficient space to accommodate the full range of program activities and services. The facility shall provide at least sixty square feet of program space for multi-purpose use for each day health participant. In determining adequate square footage, only those activity areas commonly used by participants are to be included. Dining and kitchen areas are to be included only if these areas are used by participants for activities other than meals. Reception areas, storage areas, offices, restrooms, passage ways, treatment rooms, service areas, or specialized spaces used only for therapies are not to be included when calculating square footage.

(iv) The facility shall be adaptable to accommodate variations of activities (group and/or individual) and services. The program shall provide and maintain essential space necessary to provide services and to protect the privacy of the participants receiving services. There shall be sufficient private space to permit staff to work effectively and without interruption. There shall be sufficient space available for private discussions.

(v) There shall be adequate storage space for program and operating supplies.

(vi) The facility's restrooms shall be located as near the activity area as possible, preferably no more than forty feet away. The facility shall include at least one toilet for each ten participants. Programs that have a large number of participants that require more scheduled toileting or assistance with toileting shall have at least one toilet for each eight participants. The toilet shall be equipped for use by mobility-lim-

ited persons, easily accessible from all program areas, and one or two of the toilet areas should be designed to allow assistance from one or two staff.

(vii) Each bathroom shall contain an adequate supply of soap, toilet tissues and paper towels.

(ix) In addition to space for program activities, the facility shall have a rest area and designated areas to permit privacy and to isolate participants who become ill or disruptive, or may require rest. It shall be located away from activity areas and near a restroom and the nurse's office. There shall be at least one bed, couch or recliner for each ten participants which can be used for resting or the isolation of a participant who is ill or suspected of coming down with a communicable disease. If beds are used, the mattresses shall be protected and linen changed after each use by different participants.

(x) A loading zone with sufficient space for getting on and off a vehicle shall be available for the safe arrival and departure of participants. There should be sufficient parking available to accommodate family caregivers, visitors, and staff. Adequate lighting should be provided.

(2) Atmosphere and design.

(a) The design shall facilitate the participants' movement throughout the facility and encourage involvement in activities and services. The environment shall reinforce orientation and awareness of the surroundings by providing cues and information about specific rooms, locations, and functions that help the participant to get his/her orientation to time and space.

(b) A facility shall be architecturally designed in conformance with the requirements of sections 504 of the Rehabilitation Act of 1973 to accommodate individuals with a disability and meet any state and local barrier-free requirements and/or the Americans with Disabilities Act.

(c) Illumination levels in all areas shall be adequate, and careful attention shall be given to avoiding glare. Attention shall be paid to lighting in transitional areas such as outside to inside and different areas of the facility.

(d) Sound transmission shall be controlled. Excessive noise, such as fan noise, shall be avoided.

(e) Comfortable conditions shall be maintained within a comfortable temperature range. Excessive drafts shall be avoided uniformly throughout the facility.

(f) Sufficient furniture shall be available for the entire participant population present. Furnishings shall accommodate the needs of participants and be attractive, comfortable, sturdy and safe. Straight-backed chairs with arms shall be used during activities and meals.

(g) An adult day health facility shall be visible and recognizable as a part of the community. The entrance to the facility shall be clearly identified. It shall also be appealing and protective to participants and others.

(h) When necessary, arrangements shall be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for people entering and exiting the facility.

(i) A telephone shall be available for participant use.

(3) Safety and sanitation.

(a) The facility and grounds shall be safe, clean, and accessible to all participants. It shall be designed, con-

structed, and maintained in compliance with all applicable local, state, and federal health and safety regulations.

(b) There shall be an area for labeled medication, secured and stored apart from participant activity areas. If medications need to be refrigerated, they should be in a locked box - if not in their own refrigerator.

(c) Safe and sanitary handling, storing, preparation, and serving of food shall be assured. If meals are prepared on the premises, kitchen appliances, food preparation area, and equipment must meet state and local requirements.

(d) Toxic substances, whether for activities or cleaning, shall be stored in an area not accessible to participants. They must be clearly marked, the contents identified, and stored in original containers.

(e) At least two well-identified exits shall be available. Nonslip surfaces or bacteria-resistant carpets shall be provided on stairs, ramps, and interior floors.

(f) Alarm/warning systems are necessary to ensure the safety of the participants in the facility in order to alert staff to potentially dangerous situations. It is recommended that call bells be installed or placed in the rest areas, restroom stalls, and showers.

(g) An evacuation plan shall be strategically posted in each facility.

(h) The facility shall be free of hazards, such as high steps, steep grades, and exposed electrical cords. Steps and curbs shall be painted and the edges of stairs marked appropriately to highlight them. All stairs, curb cuts, ramps, and bathrooms accessible to those with disabilities shall be equipped with properly anchored handrails.

(i) Procedures for fire safety as approved by the local fire authority shall be adopted and posted, including provisions for fire drills, inspection and maintenance of fire extinguishers, periodic inspection, and training by fire department personnel. The program shall conduct and document quarterly fire drills and keep reports of drills on file. Improvements shall be made based on the fire drill evaluation. Smoke detectors shall also be used.

(j) Emergency first-aid kits shall be visible and accessible to staff. Contents of the kits shall be replenished after use and reviewed as needed. A nurse or personnel trained in first aid and CPR shall be on hand whenever participants are present. Infection control procedures shall be followed by all staff. All staff shall be trained in and use Universal Precautions.

(k) There shall be sufficient maintenance and housekeeping personnel to assure that the facility is clean, sanitary, and safe at all times. Maintenance and housekeeping shall be carried out on a regular schedule and in conformity with generally accepted sanitation standards, without interfering with the program.

(l) If smoking is permitted, an adequately ventilated special area away from the main program area shall be provided and supervised.

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 388-15-660 Coordination of services. The need for coordination of care shall be considered for each participant. If the person is a client of another agency and/or receiving services from the department, the plan of care shall be developed in conjunction with the services provided by the other agencies or the department.

NEW SECTION

WAC 388-15-661 Clients in residential care or nursing facility care settings. Residential clients may receive adult day health level II services when the service is an approved part of the service plan developed by AASA staff. Clients receiving nursing facility care shall not be authorized adult day health services. Clients who reside in enhanced adult residential care, adult residential care, assisted living or adult family homes shall not be authorized COPES funded adult day care.

NEW SECTION

WAC 388-15-662 Expenditures not to exceed. If program expenditures exceed the budget appropriations, the department shall have the authority to limit services by setting forth alternative ways of determining eligibility such as:

- (1) Authorizing service to only those clients with the greatest care needs.
- (2) Department staff shall assess and authorize all adult day health services.
- (3) Limit the number of days a client may receive services.
- (4) The department shall comply with established rules and procedures for client notification should action in this section become necessary.

WSR 99-13-001

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed June 3, 1999, 8:25 a.m.]

Date of Adoption: June 3, 1999.

Purpose: (1) Establish an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and regulations adopted thereunder, including Title 21 C.F.R.; (2) identify steps leading to enforcement actions by the department; and (3) establish criteria for licensing food establishments under chapters 69.07 and 69.10 RCW.

Statutory Authority for Adoption: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020, and 69.10.055.

Adopted under notice filed as WSR 99-08-088 on April 6, 1999.

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

PERMANENT

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 7, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, 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 7, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 28, 1999

Jim Jesernig

Director

Chapter 16-165 WAC

FOOD INSPECTION

NEW SECTION

WAC 16-165-100 Food establishments—Inspection criteria—Purpose. The purpose of the following rules is to:

(1) Establish an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and regulations adopted thereunder, including Title 21 CFR.

(2) Identify steps leading to enforcement actions by the department.

(3) Establish criteria for licensing food establishments under chapters 69.07 and 69.10 RCW.

NEW SECTION

WAC 16-165-110 Food processor licensing—New application—Inspection criteria. To qualify for a new food processing plant license issued under chapter 69.07 RCW, the Washington Food Processing Act, a food processing facility must first make application to the department. After the department receives a complete application, the department will inspect the facility. The facility must be in compliance with the following requirements prior to issuance of a license:

The food processing facility must achieve a score of ninety points or higher on the preclicensing inspection AND be in compliance with licensing criteria. Refer to WAC 16-165-140 for the inspection criteria. For the purposes of licensing, a food processing facility may incur a one-point debit of a licensing criteria that has sliding scale.

NEW SECTION

WAC 16-165-120 Food establishments—Definitions. (1) Definitions for terms used in this chapter may be found in

chapters 69.04, 69.07 and 69.10 RCW, and Title 21 CFR as adopted, unless otherwise provided in this chapter.

(2) For the purposes of this chapter, the following definitions apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Critical violation" means a violation of the inspection criteria that is a direct violation of RCW 69.04.040 (1), (2), (3) or (4) with respect to adulterated food or a violation that results in food adulteration that could cause injury or illness in consumers, or that has the potential to contribute to conditions resulting in such adulteration.

(c) "Department" means the department of agriculture of the state of Washington (WSDA).

(d) "Director" means the director of agriculture.

(e) "Establishment or food establishment" means any premise, plant, building, room, area, or facility which processes, prepares, handles or stores food or food products for sale in intrastate commerce including food processors, food storage warehouses, custom slaughter operations, refrigerated lockers, and dairy manufacturing plants.

(f) "Licensing criteria violation" means any violation of the inspection criteria required to be in compliance prior to the issuance of a food processor's license under chapter 69.07 RCW.

(g) "Sanitize" means to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(h) "Significant violation" means any violation of the inspection criteria not deemed to be a critical violation as defined in WAC 16-165-140(2).

NEW SECTION

WAC 16-165-130 Food establishments—Inspection criteria definitions—Interpretations. WSDA will use the definitions and interpretations in this section to determine if a food establishment inspection complies with the inspection criteria.

(1) "Clean and adequate protective clothing and hair restraints" means the clothing or the outside layer of clothing, which can occasionally or incidentally contact food, either directly or indirectly, is:

(a) Clean at the start of the work shift; and

(b) Changed when the clothing becomes so soiled during the course of the work shift that contamination of food, food packaging or food contact surfaces becomes imminent; and

(c) Suitable to the specific food processing operation for protection against the contamination of food, food packaging, and food contact surfaces.

Clean and effective hair restraints, such as hairnets, or beard nets if appropriate, are worn for the protection of food from contamination. Hats, caps, scarves or other head cover are acceptable if the hair is properly contained to protect food from contamination. Hair spray and/or tying back the hair in ponytails, etc., are not considered effective hair restraints.

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(2) **"Adequate washing and sanitizing of hands as necessary"** means washing and sanitizing hands thoroughly to protect against contamination of food from undesirable microorganisms in an adequate hand wash facility by:

(a) Using proper hand washing methods which consist of:

- (i) Applying soap to hands;
- (ii) Using warm water;
- (iii) Scrubbing hands thoroughly;
- (iv) Rinsing and drying hands using methods that prevent food contamination;

(b) Washing hands before beginning work, after each absence from the work station, and any time hands become soiled or contaminated; and

(c) Sanitizing hands when appropriate in addition to, but not in place of, the proper hand washing methods.

(3) **"Garments and personal belongings stored appropriately; not a source of contamination"** means personal belongings and garments, either personal or plant supplied, are stored or kept separately from food processing, handling and storage operations such as in an area, locker, cupboard, or other closeable unit that is dedicated to the storing or hanging of personal belongings and clothing so not to become a source of contamination to food, food packaging or food contact surfaces; and

No food, packaging materials, utensils or equipment used in the food processing operation are kept, stored or commingled with personal belongings or garments.

(4) **"Processes separated as required"** means there is a separation of processes for the purpose of reducing potential contamination in food processing operations where contamination is likely to occur. One or more of the following means may accomplish this:

- (a) Location;
- (b) Time;
- (c) Partition;
- (d) Air flow;
- (e) Enclosed systems; or
- (f) Other effective method.

(5) **"Adequate light"** means a minimum of 25 foot candles at the working surfaces of food processing areas and a minimum of 10 foot candles at the floor level in all other food processing areas.

(6) **"Detergents, sanitizers and toxic materials properly identified"** means:

(a) Labeling any container containing detergent, sanitizer or toxic material with the:

- (i) Product name;
- (ii) Chemical description;
- (iii) Directions for use;
- (iv) Any required precautionary and warning statements;
- (v) First aid instructions;
- (vi) Name and address of the manufacturer or distributor;

and

(vii) Any other additional information required by the federal Environmental Protection Agency or other laws or rules; or

(b) Small transport or use containers for detergents, sanitizers or toxic materials are used only under the following conditions:

(i) The contents are properly identified on the container. Labeling the container with the common name is acceptable if the original storage container is on hand and properly identified;

(ii) No food container is used as a container for detergents, sanitizers or toxic materials;

(iii) No container used for detergents, sanitizers or toxic materials, is used as a food container.

(7) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential"** means:

(a) Product contact surfaces of equipment, utensils, containers and other articles used in the processing of food, when its continued use is apparent, are not soiled with any residue or contaminant that could adulterate food products as defined in RCW 69.04.210; and

(b) Food residues are removed from food product contact surfaces frequently enough to prevent residues from becoming unwholesome or unfit for food, decomposed, filthy, putrid, or injurious to health; and

(c) The food product contact surfaces are sanitized prior to use and after cleaning.

(8) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential: Critical violation"** means it is a critical violation if a food product contact surface comes into contact with potentially hazardous food and the surface is not sanitized after cleaning or prior to use.

Product contact surfaces that become contaminated, but are cleaned and sanitized prior to use are not considered a critical violation.

(9) **"Nonproduct contact surfaces of equipment cleaned and maintained in a sanitary condition"** means nonproduct contact surfaces of equipment used in the processing of food are kept reasonably free from dirt, old food residues, foreign material, dust, mold, mildew, slime and other accumulations that occur because of day-to-day food processing operations.

(10) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses"** means the utensils used in the processing of foods, such as knives, scrapers, scoops, shovels, cutters, and other hand tools and equipment, are placed or stored in a manner to prevent food contact surfaces from being contaminated with filth. Filth includes, but is not limited to, microorganisms, unsuitable toxic chemicals, and microscopic physical contaminants.

Storage and placement of utensils or equipment in the following manner is considered inappropriate storage:

(a) In contact with the floor, dirty equipment frames, other insanitary nonfood contact surfaces;

(b) In contact with containers of nonpotable water (other than sterilizing solutions); and

(c) In contact with other contaminants.

(11) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination**

between uses: Critical violation" means that it is a critical violation when a utensil or piece of equipment is or has been stored in such a manner that it becomes obviously contaminated with filth and its continued use is apparent.

Utensils and equipment that become contaminated are not considered a critical violation if the utensils and equipment are cleaned and sanitized prior to the next use.

(12) **Water supply—"Safe and of sanitary quality"** means the water supply used in the processing of food is potable from an approved source and is monitored in accordance with applicable laws and rules. Water from an approved source and monitored in accordance with applicable laws and rules means:

(a) Food processors who produce bottled water meet the requirements of 21 CFR, Part 129 and comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(b) Food processors who produce ice comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(c) Food processors with twenty-five or more employees and operating sixty days or more annually comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(d) Processors with less than twenty-five employees or operating less than sixty days annually, except single-family residences employing only household members, comply with the state department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC).

(e) Processors that operate from single-family residences on private water supplies meet the department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC) with respect to monitoring for bacteriological, chemical and physical properties. Processors that do not use water as an ingredient or incorporate water into their product need only meet the bacteriological testing requirements.

(f) Water used for certain purposes within the food processing operation (such as circulated water used in the washing of soil from raw agricultural commodities or fluming) is acceptable if:

(i) The water does not impart harmful or deleterious substances or additives to food products; and

(ii) The food products in contact with the water undergo a final potable water wash/rinse; and

(iii) The water meets the requirements of the good manufacturing practices under 21 CFR, Part 110.

(13) **"Current satisfactory water test"** means analysis verifying the bacteriological, physical and chemical safety of the water has been conducted according to appropriate group A or B water system monitoring schedules or, in the case of bottled water operations, according to the requirements of Title 21 CFR, Part 129 and that reports of such analysis are on file at the processing facility and available for review by WSDA during routine facility inspection.

(14) **"Ice from an approved source"** means:

(a) Ice is manufactured on the premises of a food establishment with water that is safe and of sanitary quality; or

(b) Ice is supplied by an establishment that is under license and inspection of a federal, state or local government agency, and proof of the water's potability is on file with the food processing plant using the ice.

(15) **"Ice properly handled"** means ice is processed, handled and held according to sanitary practices provided in 21 CFR, Part 110, and ice used in the processing of food is protected from contamination by taking the necessary precautions during its manufacture, storage, transport and use. Necessary precautions include, but are not limited to:

(a) Storage bins and containers of water are covered;

(b) All storage and packaging containers, including ice house or storage room contact surfaces, are sanitary, readily cleanable, and do not impart deleterious materials to the ice. Wooden totes are not to be used for the transporting or holding of ice;

(c) Scoops, shovels and other utensils used in the handling of ice are in a sanitary condition, properly stored, readily cleanable, and do not impart deleterious materials to the ice;

(d) The ice does not come into contact with floor areas where foot traffic is possible; and

(e) Equipment used to manufacture ice is in a sanitary condition, readily cleanable and does not impart any deleterious or other foreign substances to the ice.

(16) **"No cross connections, no back siphonage"** means there is no backflow from or cross connection between piping systems that discharge waste water sewage and piping systems that carry water for food manufacturing. This includes any cross connection between a potable water system and:

(a) A system in which the water contains boiler additives; or

(b) A CIP (clean in place) system; or

(c) A recirculating system used to wash or flume food products, such as raw fruits or vegetables.

(17) **"Adequate floor drains and plumbing to convey wastes and sewage from the plant, into approved sewage disposal system"** means:

(a) Plumbing is designed, sized, installed and maintained in accordance with applicable state and local plumbing codes so that sewage and liquid disposable waste is readily conveyed from the plant;

(b) Floor drainage is sufficient to prevent excessive pooling of water or other disposable waste;

(c) Plumbing and drains do not provide a source of contamination to food, potable water, food contact surfaces or food packaging material or create any insanitary condition; and

(d) Sewage is disposed into a municipal sewer system or other system approved by a federal, state or local agency having jurisdiction.

(18) **"Adequate, readily accessible toilet facilities"** means:

(a) A food establishment provides its employees with toilet facilities that are located within a reasonable distance to the work area, and the toilet facilities are maintained in accordance with 21 CFR, Part 110.37, and:

(i) Toilet facilities are located on the premises of a licensed food establishment; or

(ii) If the food establishment shares space in a multiple building complex, toilet facilities are located within the complex and within a reasonable distance from the work area; or

(iii) A domestic toilet facility is sufficient if the food processing operation is a family operation where only family members are employed and if the domestic toilet facility meets applicable requirements provided in 21 CFR, Part 110.37.

(b) Outhouses, chemical toilets or other nonflush toilets may not be used in a food establishment.

(19) **"Toilets clean, in good repair, not opening directly into process areas, self-closing doors"** means toilet rooms are kept clean, free of trash and litter, in good repair and all toilet room doors are self-closing and do not open directly into a food processing area.

(20) **"Hand wash facilities adequate and convenient, with hot and cold or tempered water"** means food handlers in a food establishment have access to one or more hand washing facilities with hot, cold, or tempered running water, and:

(a) There is at least one hand wash facility located in the food processing area in a location convenient to each food handling area when hands come into contact with or manipulate unwrapped or unpackaged ready to eat food. (Hand sanitizing stations may be required if appropriate); or

(b) Hand wash facilities are located in rest rooms or other areas in operations where food is not manipulated by hand and hands do not contact the food; or

(c) Hand wash facilities are located in rest rooms or other areas and hand sanitizing stations are located in food processing areas in operations where food would normally undergo further preparation (for example washing, cleaning, cooking or other processing) either in the plant or by the consumer that would adequately eliminate physical, chemical and microbiological contaminants introduced by handling.

(21) **"Hand dips provided as necessary"** means hand sanitizing stations are provided, and properly positioned and maintained in all food operations as provided in subsection (20)(c) of this section.

(a) For the purposes of this subsection "properly positioned" means:

(i) Food handlers have ready access to hand sanitizing stations when returning from the toilet, hand wash stations, lunch and breaks and whenever necessary while working; and

(ii) At least one hand sanitizing station is inside the process room entryways on each side of the processing table, lines and equipment where food is manipulated by hand, and at least one hand sanitizing station for every ten food handlers at processing tables, lines and equipment.

(b) For the purposes of this subsection "properly maintained" means sanitizing solutions are checked and recharged to a strength equal to 10 PPM chlorine or 25 PPM iodine, and changed every four hours while in use.

(c) Hand sanitizing stations are recommended for all food operations provided for in subsection (20)(c) of this section.

(22) **"Food protected from contamination in storage"** means food is stored under conditions that protect food against physical, chemical and microbial contamination, as well as against deterioration of the food and the container.

(23) **"Food protected from contamination in storage: Critical violation"** means it is a critical violation when:

(a) A storage situation allows potential contamination of products. This includes, but is not limited to, the storing of raw materials in such a fashion that they cross-contaminate finished food products, particularly ready to eat food. For example, the storage of raw fish and seafood, meat, poultry and other food which inherently contains pathogenic and spoilage microorganisms, as well as soil and other foreign material, is in direct contact with other food in the same container or in any other cross-contaminating circumstance with finished food products; or

(b) Raw materials or food products from unapproved or uncertified sources are used that are inherently associated with food-borne illnesses. Raw products include, but are not limited to:

(i) Unpasteurized milk and dairy products;

(ii) Unpasteurized eggs used in products which are not heated to pasteurization temperatures during processing;

(iii) Home canned low-acid foods;

(iv) Raw uncertified shellfish; and

(v) Uninspected meat products.

(24) **"Adequate records maintained as required"** means all records are maintained as provided under Title 21 CFR, Part 113 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acid Foods; Part 129, Bottled Water; and any other law or rule requiring recordkeeping, EXCEPT that water tests under Part 129 are covered under subsection (13) of this section, "Current satisfactory water test."

(25) **"Adequate records maintained as required: Critical violation"** means it is a critical violation when a record is not maintained on any food process and/or controls as provided for in subsection (24) of this section, or so poorly maintained that the information intended to be conveyed by the record is lacking or cannot be determined.

(26) **"Products coded as required"** means all products are coded as provided under Title 21 CFR, Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring that products be coded.

(27) **"Products coded as required: Critical violation"** means it is a critical violation when a product is not coded as required in subsection (26) of this section, or so inadequately coded with respect to the food product, the plant where manufactured, the date manufactured, time or batch manufactured, cannot be readily identified.

(28) **"Packaging material properly handled and stored"** means:

A food contact surface of food packaging material is protected from potential sources of contamination during handling and storage. This includes, but is not limited to:

(a) Boxes, liners and other primary containers are stored off floors or other insanitary surfaces;

(b) Top containers in a nested stack of lined or primary containers are inverted or otherwise protected;

(c) All single service containers, caps, roll stock, liner jars, bottles, jugs and other preformed containers are stored in closed sanitary tubes, wrappings, boxes or cartons prior to use;

(d) The forming, make-up or other package assembly is conducted in a manner that precludes contamination; and

(e) The handling of packaging material and containers prior to filling or wrapping is conducted so not to expose them to contamination by dust, foreign material or other contaminants.

(29) "Potentially hazardous food" means any food, whole or in part, capable of supporting the germination, growth and/or toxin production by infectious or toxic microorganisms is at temperatures between 38°F and 145°F, and/or food is otherwise harmful to health.

NEW SECTION

WAC 16-165-140 Food establishment—Inspection criteria. The food inspection criteria shall be in accordance with the following table for determining:

(1) If a food establishment is in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and rules adopted thereunder;

(2) The debit value for each significant violation; and

(3) Whether a violation is critical, or a licensing requirement:

INSPECTION CRITERIA Critical Inspection Criteria		
Criteria Item-Critical*		Licensing Requirement?
1.	Food products free from adulteration.	Yes
2.	Persons with apparent infections or communicable diseases properly restricted.	Yes
3.	Adequate washing and sanitizing of hands as necessary, gloves used in food handling sanitary conditions.	Yes
4.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	Yes
5.	In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	No
6.	Water used safe and of adequate sanitary quality; from approved source.	Yes
7.	No cross connections; no back-siphonage.	Yes

INSPECTION CRITERIA Critical Inspection Criteria		
Criteria Item-Critical*		Licensing Requirement?
8.	Ice from approved source.	Yes
9.	Hot and cold water, under pressure, in areas where foods are processed or equipment washed.	Yes
10.	Adequate, readily accessible toilet facilities provided.	Yes
11.	No evidence of human defecation or urination about the premises.	Yes
12.	Handwash facilities adequate and convenient, including hot and cold or tempered water.	Yes
13.	Food protected from contamination in storage.	No
14.	Critical control points and factors such as time, temperature, pressure, flow rate, pH, Aw, inhibitors adequate to ensure safety of product.	Yes
15.	Process registered as required; processes approved as required.	Yes
16.	Persons involved in LACF, acidified food, pasteurized operation licensed or certified as required.	No
17.	Adequate records maintained as required.	No
18.	Products coded as required.	No
19.	Required critical control point monitoring devices such as retort thermometers, recorder/controllers, pH meters, approved, accurate and in place.	Yes
20.	Required critical control point monitoring, measurements, test, and analysis on products and containers performed as required.	No
21.	Potentially hazardous foods maintained at proper temperatures.	Yes

*A critical violation results in an establishment not being in substantial compliance, therefore no debit values are assigned.

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INSPECTION CRITERIA Significant Inspection Criteria		
Criteria Item-Significant	Debit Value	Licensing Requirement?
1. Jewelry, watches other personal items not a source of contamination.	1	No
2. Clean and adequate protective clothing and hair restraints.	1-2	No
3. Use of tobacco, eating and drinking of food and beverages and gum chewing restricted to appropriate areas.	1	No
4. Garments and personal belongings stored appropriately, not a source of potential contamination.	2	No
5. Employee work procedures preclude contamination.	1-2	No
6. Grounds: Free from pest attractions, breeding places, harborage, excessive dust and other contaminants.	1	No
7. Suitable size and location, construction including walls, floors, ceiling, counters, shelving, other fixtures, smooth, readily cleanable and in good repair.	1-5	Yes
8. Processes separated as required.	1-2	Yes
9. No operations in domestic living or sleeping quarters (including domestic kitchens).	0	Yes
10. Adequate light.	1-2	Yes
11. Lights; glass over food protected; breakproof.	1	No
12. Adequate ventilation to minimize vapors, steams, noxious fumes.	1-2	Yes

INSPECTION CRITERIA Significant Inspection Criteria		
Criteria Item-Significant	Debit Value	Licensing Requirement?
13. Drip or condensate from ceiling, fixtures, pipes, ducts not a potential source of contamination.	1-3	No
14. Screened or protected to exclude pests.	1-2	No
15. Building, fixtures, facilities clean; including transport vehicles.	1-5	Yes
16. Detergents, sanitizers, toxic materials safely used and stored.	1-3	No
17. Detergents, sanitizers and toxic materials properly identified.	1-2	No
18. Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	1-2	No
19. Nonproduct contact surfaces of equipment clean and maintained in a sanitary condition.	1-2	No
20. In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	1-2	No
21. Effective measures taken to exclude pests from the facility. No harborage/breeding areas.	1-2	No
22. Pesticides safely used and stored.	1-3	No
23. No evidence of rodents, insects, birds or other animals.	1-5	Yes
24. Current satisfactory water supply test.	5	Yes
25. Water supply sufficient in quantity for intended operations.	2	Yes

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INSPECTION CRITERIA Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
26.	Adequate floor drains and plumbing to convey wastes and sewage from plant.	1-2	Yes
27.	Sewage and waste lines protected not a source of contamination.	1-2	Yes
28.	Adequate offal, rubbish and waste disposal.	1-2	Yes
29.	Toilet facilities clean and in good repair, no direct opening to process area, self-closing door.	1-2	Yes
30.	Soap and single service towels or suitable drying devices provided at handwash facilities. Adequate refuse receptacles provided.	1-2	No
31.	Readily understandable handwash signs provided at handwash facilities.	1	No
32.	Hand dips provided as necessary.	1-2	No
33.	Design, material and workmanship durable, readily cleanable and in good repair. Contact surfaces nontoxic and corrosion resistant.	1-3	Yes
34.	Design and use preclude contamination with lubricants, fuel, contaminated water, paint, rust, compressed air/gas and other contaminants.	1-3	No
35.	Freezers and cold storage units equipped with adequate thermometers.	1	No

INSPECTION CRITERIA Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
36.	Incoming raw materials, ingredients or processed food from an approved source, in an obvious sanitary condition. Items inspected on receipt, suitable for intended use, segregated as necessary and properly stored (clean storage containers, facilities, products properly covered), frozen foods stored frozen, properly thawed; ingredients properly identified; raw materials washed or cleaned as required.	1-5	No
37.	Adequate records maintained as required - noncritical.	1	No
38.	Products coded as required - noncritical.	1	No
39.	Required monitoring, measurements, tests, analysis on products and containers performed as required - noncritical.	1	No
40.	No contaminating material used, stored or transported with supplies, ingredients or processed foods.	1-2	No
41.	Packing material properly handled and stored.	1	No
42.	Food products not misbranded, including pull dates.	1	Yes
43.	Cleaning operations - conducted to minimize contamination.	1-3	No

NEW SECTION

WAC 16-165-150 Food establishment inspection rating system—Inspection score. (1) A food establishment is

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rated as follows at the completion of an inspection conducted by the department:

(a) A food establishment will be debited the point value assigned to the inspection item listed in WAC 16-165-140 for each violation found during an inspection.

(b) The sum of the points debited for an inspection are subtracted from the maximum point value of one hundred. The remaining sum is the establishment's score for that inspection.

(c) When the department on a food establishment inspection identifies a critical violation, no score will be listed unless the critical violation is satisfactorily corrected during the inspection.

(2) An establishment is considered in substantial compliance with the inspection criteria if:

- No critical violations are found, or if critical violations are found and corrected prior to completion of the inspection; and
- The establishment's inspection score is ninety points or above.

NEW SECTION

WAC 16-165-160 Food establishments—Basis for enforcement action. (1) The department may issue a notice of correction for:

(a) Food establishments that score less than ninety points on an inspection; or

(b) Critical violations found during an inspection of a food establishment.

(2) The department may review and consider initiating enforcement action, such as license suspension, civil penalties, and/or other penalties provided in chapters 16.49, 69.04, 69.07, or 69.10 RCW when:

(a) Food establishments score less than ninety points on two separate inspections within a consecutive three-year period; or

(b) Food establishments fail to correct critical violations during an inspection.

(3) Nothing herein shall prevent the department from:

(a) Choosing not to pursue a case administratively.

(b) Issuing a notice of correction in lieu of pursuing administrative action.

(c) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate.

WSR 99-13-002

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 3, 1999, 11:56 a.m.]

Date of Adoption: June 2, 1999.

Purpose: To implement SSB 6420, codified as RCW 50.20.230 and 50.20.240, and clarify the work registration and job search requirements of unemployment insurance claimants.

Citation of Existing Rules Affected by this Order: Repealing WAC 192-24-030.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040.

Adopted under notice filed as WSR 99-09-097 on April 21, 1999.

Changes Other than Editing from Proposed to Adopted Version: A subsection is added to WAC 192-180-010 exempting members of full referral unions from the described work search requirements. They are exempted by statute, and were inadvertently omitted from the proposed version of the 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 6, 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 6, 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 6, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

June 2, 1999

Carver Gayton

Commissioner

Chapter 192-180 WAC

Job Search Requirements

NEW SECTION

WAC 192-180-005 Registration for work—RCW 50.20.010(1) and RCW 50.20.230. (1) **Am I required to register for work?** You must register for work unless you are:

(a) Attached to an employer, meaning you are partially unemployed or on standby as defined by WAC 192-110-015, or participating in the shared work program under Title 50.60 RCW;

(b) A member of a full referral union;

(c) Participating in a training program approved by the commissioner; or

(d) The subject of an antiharassment order. This includes any court-issued order providing for your protection, such as restraining orders, no contact orders, domestic violence protective orders, and similar documents.

(2) **How soon do I have to register?** (a) If you live within the state of Washington, the department will register you automatically based on information contained in your application for benefits. In unusual circumstances where you are not automatically registered, you must register within one week of the date on which you are notified by the department of the requirement to register for work.

(b) If you live in another state, you must register for work within one week of the date your first payment is issued on your new or reopened claim.

(3) **Where do I register for work?** You will be registered for work with your local employment center. However, if you live in another state, you must register for work with the equivalent public employment agency in that state.

(4) **What is the penalty if I do not register for work?** You will not be eligible for benefits for any week in which you are not registered for work as required by this section.

NEW SECTION

WAC 192-180-010 Job search requirements—Directives—RCW 50.20.010(3) and RCW 50.20.240. (1) **Do I have to look for work?** You must be actively seeking work unless you are:

- (a) Attached to an employer; or
- (b) Participating in a training program approved by the commissioner.

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1).

(3) **What are my weekly job search requirements?** (a) At a minimum, you must:

- (i) Make job search contacts with at least three employers each week; or
- (ii) Participate in a documented in-person job search activity at the local employment center.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts a week.

(c) This subsection does not apply if you are a member of a full referral union.

(4) **What is a "job search contact"?** Usually a job search contact is contact with an employer in person or by telephone. You may use other job search methods that are customary for your occupation and labor market area. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department determines the contact is designed in whole or in part to avoid meeting the job search requirements.

(5) **What is an "in-person job search activity"?** This is an activity provided through the local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, resume development, job search workshops, training classes, and computer tutorials.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements.

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;

(b) Change your method of seeking work (such as from resumes to in-person contacts);

(c) Expand the geographic area in which your job search is conducted; or

(d) Seek work in a secondary occupation.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

NEW SECTION

WAC 192-180-015 Tracking job search activities—RCW 50.20.240. (1) **Do I need to keep track of my job search activities?** You must keep a record or log of your job search contacts and the services you receive through the local employment center unless you are:

- (a) A member of a full referral union; or
- (b) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

(a) For job search contacts, record the date contact was made; the employer's name, address and telephone number; the type of contact (in-person, telephone, etc.); the name of the person you contacted; the type of work you applied for; and the results of your contact;

(b) For in-person job search activities at the local reemployment center, record the date contact was made; a description of the services you received or the activities in which you participated; and the results of your contact.

(3) **Is there a specific form I must use?** The department will supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or tracking method as long as all information required by this subsection is recorded.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year.

NEW SECTION

WAC 192-180-020 Monitoring job search activities—RCW 50.20.240. (1) **Will my job search activities be monitored?** Every week that you file a claim for benefits, you must certify that you meet the job search requirements. The department may review your job search activities at any time. If you have been paid benefits for five or more weeks in any benefit year, you must provide the department with a copy of your job search log upon request. You must bring a copy of your job search log to any eligibility review interview (see WAC 192-180-025) for which you have been scheduled.

(2) **Will the department verify the information on my job search log?** Employer contacts and other job search activities on your log will be verified whenever the department has a question about the information reported. In addition, when you are scheduled for an eligibility review interview, your log will be verified on a random basis.

NEW SECTION

WAC 192-180-025 Eligibility review interviews. (1) **What is an eligibility review interview (ERI)?** The ERI is an interview between you and a representative of the local employment center. Its purpose is to identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job search efforts.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

NEW SECTION

WAC 192-180-030 Penalties. (1) **Is there a penalty if I don't look for work?** Benefits will be denied if you fail to:

- (a) Meet the minimum job search requirements;
- (b) Provide information about your job search activities and, once you have been paid five weeks of benefits, provide a copy of your job search log upon request;
- (c) Comply with any job search directive issued by the department; or
- (d) Report to a scheduled eligibility review interview.

(2) **How long will my benefits be denied?** Benefits will be denied for the specific week or week(s) in which you fail to act as described in subsection (1).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-24-030 Claimant directive.

WSR 99-13-010
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 4, 1999, 11:26 a.m.]

Date of Adoption: June 4, 1999.

Purpose: To update chapters 296-150C, 296-150F, 296-150M, 296-150P, and 296-150R WAC by incorporating policies and procedures into rule; updating and clarifying language and intent of some rule sections; and housekeeping changes, where needed.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150C-0140 Do you allow the use of alternate materials, alternate design, and method of construction? WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department? WAC 296-150C-0805 Are there any special requirements for portable school classrooms? WAC 296-150C-0810 Construction definitions. WAC 296-150C-0960

What requirements apply to commercial coach roof trusses? WAC 296-150C-1080 What design and construction requirements apply to a commercial coach chassis? WAC 296-150C-1345 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment? WAC 296-150C-1545 Does the department require a water system expansion tank be installed? WAC 296-150F-0050 Can you prohibit the installation of factory-built housing and commercial structures? WAC 296-150F-0140 Do you allow the use of alternate materials, alternate design and method of construction? WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department? WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building? WAC 296-150F-0610 Do you require the exit doors to be one-half the diagonal distance apart if each area served has its own exit door? WAC 296-150F-0615 May the electrical disconnect required for mechanical equipment be inside or mounted on the equipment? WAC 296-150F-0620 Does the department require a water system expansion tank be installed? WAC 296-150F-0625 Are there any special requirements for portable school classrooms? WAC 296-150M-0020 What definitions apply to this chapter? WAC 296-150M-0120 Where can I obtain technical assistance regarding manufactured (mobile) homes? WAC 296-150M-0140 Do you allow the use of alternate materials, alternate design and method of construction? WAC 296-150M-0306 What codes are used when altering a manufactured (mobile) home? WAC 296-150M-0309 How do I apply for alteration approval and obtain an alteration insignia? WAC 296-150M-0600 Who establishes standards for installation of manufactured homes? WAC 296-150M-0610 What instructions are used for a manufactured home installation? WAC 296-150M-0614 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes and Installation? WAC 296-150M-0615 What are the requirements for temporary placement of manufactured (mobile) homes? WAC 296-150M-0640 Does a person who installs a manufactured home need an installation permit? WAC 296-150M-0655 How does the local enforcement agency gain access to the manufacturer's installation instructions? WAC 296-150P-0020 What definitions apply to this chapter? WAC 296-150P-0050 Can you prohibit the sale or lease of my recreational park trailer? WAC 296-150P-0140 Do you allow the use of alternate materials, alternate design and method of construction? WAC 296-150R-0020 What definitions apply to this chapter? WAC 296-150R-0050 Can you prohibit the sale or lease of my recreational vehicle? WAC 296-150R-0140 Do you allow the use of alternate materials, alternate design and method of construction?

Repealing WAC 296-150M-0400 How do I apply for alteration approval and obtain an alteration insignia?

Statutory Authority for Adoption: RCW 43.22.340 and 43.22.480.

Adopted under notice filed as WSR 99-08-129 on April 7, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-150M-0020 and 296-150M-0120 were modified for further clarification. WAC 296-150C-1580 per-

taining to vendor units is withdrawn pending future rule-making activity specifically related to vendor units.

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 34, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 34, 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.

June 1, 1999

Gary Moore

Director

NEW SECTION

WAC 296-150C-0140 Do you allow the use of alternate materials, alternate design and method of construction? An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

- (a) The applicant's name, address and phone number;
- (b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;
- (c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;
- (d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

- (a) The applicant's request as described in subsection (1) of this section;
- (b) Research into the request;
- (c) Expert advise.

(3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150C-0100.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150C-0320 What must I provide with my request for commercial coach design-plan approval by the department? All requests for design-plan approval must include:

- (1) A completed design-plan approval request form;
- (2) Two sets of design plans plus elevation drawings, specifications, engineering analysis, and test results and procedures necessary for a complete evaluation of the design; (See WAC 296-150C-0340 and 296-150C-0350.)
- (3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) Receipt of a one-time initial design plan filing fee and the initial design plan fee (see WAC 296-150C-3000);

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules;

(6) The occupancy class of the commercial coach according to the occupancy classifications in The Uniform Building Code;

(7) All plans required by WAC 296-46-140 (Plan review for educational, institutional or health care facilities and other buildings) must be reviewed by the department. The department's fee for this plan review is listed in the fee table in WAC 296-150C-3000, Commercial coach fees.

NEW SECTION

WAC 296-150C-0805 Are there any special requirements for portable school classrooms? In addition to the requirements in this chapter, the department of health has rules regulating primary and secondary schools in chapter 246-366 WAC. One of those requirements in WAC 246-366-

050(2) is that "Instructional areas shall have a minimum average ceiling height of 8 feet."

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150C-0810 Construction definitions. The following definitions and the definitions in each of the state codes adopted in WAC 296-150C-0800 apply to commercial coach construction.

"Anchoring system" is the means used to secure a commercial coach to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, or other components.

"Ceiling height" is the clear vertical distance from the finished floor to the finished ceiling.

"Chassis" means that portion of the transportation system comprised of the following: Drawbar coupling mechanism and frame.

EXCEPTION: The running gear assembly shall not be considered as part of the chassis.

"Dead load" is the vertical load resulting from the weight of all permanent structural and nonstructural parts of a commercial coach including walls, floors, roof, partitions, and fixed service equipment.

"Diagonal tie" is a tie intended primarily to resist horizontal or shear forces and secondarily may resist vertical, uplift, and overturning forces.

"Dormitory" is a room designed to be occupied by more than two persons.

"Exit" is a continuous and unobstructed means of egress to a public way.

"Frame" means the fabricated rigid substructure, which provides support to the affixed commercial coach structure both during transport and onsite. It is considered a part of the commercial coach.

"Glazed opening" is a glazed skylight or an exterior window or glazing of a door of a commercial coach.

"Gross floor area" is the net floor area within the enclosing walls of a room where the ceiling is at least five feet high.

"Habitable room" is a room or enclosed floor space arranged for living, eating, food preparation, or dormitory sleeping purposes. It does not include bathrooms, toilet compartments, foyers, hallways, or other accessory floor spaces. Any reference to "habitable dwelling" in this chapter means a temporary structure not used as a single family dwelling.

"Interior finish" is the surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the commercial coach structure, including paint and wallpaper. Decorations or furnishings attached to the commercial coach structure are considered part of the interior finish.

"Live load" is the weight superimposed by the use and occupancy of the commercial coach, including wind load and snow load, but not including dead load.

"Perimeter blocking" is support placed under exterior walls.

"Shear wall" is a wall designed and constructed to transfer lateral loads.

"Tiedown" is a device designed to anchor a commercial coach to ground anchors.

"Use" or "occupancy classification" is the designed purpose of a commercial coach according to The Uniform Building Code.

"Wind load" is the lateral or vertical pressure or uplift created by wind blowing in any direction.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150C-0960 What requirements apply to commercial coach roof trusses? (1) The construction of roof trusses must be approved by a professional engineer. Roof trusses may be produced by one of the following methods:

(a) Use of graded materials when an approved testing agency certifies truss construction and load requirements are met; the testing agency must prepare an approved quality control program which allows them to test the trusses with appropriate testing procedures.

(b) Use of nongraded materials, if each truss is tested in an approved testing jig at the manufacturer's site with a load equivalent to full design load (1.75 times the full design load sustained for ~~((twelve))~~ 12 hours). See WAC 296-150C-0930.

(2)(a) Representative trusses must be tested from the production line, when we request. The approved testing agency or engineer must submit the testing report to us.

(b) All test reports are to be stamped, signed, and dated by the approved testing agency or engineer who performs the test.

(c) These tests must not occur more than two times a year per design unless there are problems with the roof trusses.

(d) The manufacturer is required to maintain an acceptable quality level not exceeding ~~((1%))~~ one percent using acceptable sampling procedures.

Note: The acceptable quality level is defined as the maximum allowable percentage of defective units.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150C-1080 What design and construction requirements apply to a commercial coach chassis? Each commercial coach chassis must be designed and constructed to be capable of:

(1) Effectively sustaining the design loads consisting of the dead load plus five PSF load on the floor and the superimposed dynamic load resulting from highway movement, in no case shall the dynamic load be required to exceed twice the dead load; and

(2) Accepting the shock and vibration from the roadway and towing vehicle through the use of adequate running gear assemblies. ~~((Running gear assemblies consist of axles, springs, spring hangers, hubs, bearings, tires, rims and their related hardware. Running gear assemblies must be capable of sustaining the loads in subsection (1) of this section.))~~

PERMANENT

(3) In the set up mode, the commercial coach must be designed to accommodate a fifty PSF floor load.

NEW SECTION

WAC 296-150C-1345 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment? The electrical disconnect shall not be inside of or mounted on the equipment.

NEW SECTION

WAC 296-150C-1545 Does the department require a water system expansion tank be installed? The department will only require that a tee be installed in an accessible location for the future addition of an expansion tank where one may be installed if required.

NEW SECTION

WAC 296-150F-0050 Can you prohibit the installation of factory-built housing and commercial structures?

(1) We may prohibit the installation of factory-built housing and commercial structures if they do not conform to the requirements of this chapter. (See RCW 43.22.465.)

(2) If an inspection reveals that a factory-built home or commercial structure violates this chapter, we may obtain a temporary injunction enjoining the installation of any non-conforming structure. The injunction may be made permanent at the discretion of the court.

NEW SECTION

WAC 296-150F-0140 Do you allow the use of alternate materials, alternate design and method of construction? An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

(a) The applicant's name, address and phone number;

(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response

will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the request;

(c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the departments decision by following the procedure in WAC 296-150F-0100.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

WAC 296-150F-0320 What must I provide with my request for design-plan approval by the department? All requests for design-plan approval must include:

(1) A completed design-plan approval request form;

(2) One complete set of design plans, specifications, engineering analysis, test procedures and results plus one additional set for each manufacturing location where the design plan will be used (see WAC 296-150F-0340 and 296-150F-0350);

(3) At least one set of design plans must have an original wet stamp from a professional engineer or architect licensed in Washington state. All new, renewed, and resubmitted plans, specifications, reports and structural calculations prepared by or prepared under his or her direct supervision shall be signed, dated and stamped with their seal. Specifications, reports, and structural calculations may be stamped only on the first sheet, provided this first sheet identifies all of the sheets that follow are included and identified in the same manner. Plans that have not been prepared by or under the engineer's or architect's supervision shall be reviewed by them and they shall prepare a report concerning the plans reviewed. This report shall:

(a) Identify which drawings have been reviewed by drawing number and date;

(b) Include a statement that the plans are in compliance with current Washington state regulations; and

(c) The report shall be stamped and signed by the reviewer.

Any deficiencies shall be corrected on the drawings before submitting to the department or be included in the report and identify as to how they are to be corrected. This report shall be attached to the plan(s) that were reviewed. We will retain the set with the original wet stamp;

(4) A one-time initial filing fee and the design-plan fee (see WAC 296-150F-3000); and

(5) A "key drawing" to show the arrangement of modules if the plan covers three or more modules.

NEW SECTION

WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building? Under the following conditions, the department will allow the required toilet facilities to be located in adjacent building(s):

(1) The manufacturer shall note in the plan submittal that the requirements of UBC Chapter 29, Section 2902 and Table

29-A, as amended by the state building code must be verified by the building official; and

(2) A Notification to Local Enforcement Agency (NLEA) must accompany each unit so that the requirements of UBC Chapter 29, Section 2902 and Table 29-A as amended by the state building code can be verified by the building official.

NEW SECTION

WAC 296-150F-0610 Do you require the exit doors to be one-half the diagonal distance apart if each area served has its own exit door? If the area served has an occupant load requiring only one exit and a building contains more than one area where each area is served by individual exits, and a personnel door is added between adjoining rooms, a personnel door in the partition wall will not be construed to create a larger area served. The exits will not be required to be one-half of the diagonal apart.

NEW SECTION

WAC 296-150F-0615 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment? The electrical disconnect shall not be inside of or mounted on the equipment.

NEW SECTION

WAC 296-150F-0620 Does the department require a water system expansion tank be installed? The department will only require that a tee be installed in an accessible location for the future addition of an expansion tank where one may be installed if required.

NEW SECTION

WAC 296-150F-0625 Are there any special requirements for portable school classrooms? In addition to the requirements in the state building code, the department of health has rules regulating primary and secondary schools in chapter 246-366 WAC. One of those requirements is that "Instructional areas shall have a minimum average ceiling height of 8 feet."

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150M-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, planning considerations, fire safety, or the plumbing, mechanical, and electrical systems of a manufactured home. The installation of whole-house water treatment equipment that requires cutting into the existing plumbing is considered an alteration and requires a permit, an inspection and an alteration insignia.

The following are not considered alterations:

- Repairs to equipment with approved parts; or

- Modification of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia issued by the department of labor and industries to verify that an alteration to a manufactured home meets the requirements of federal law 24 CFR 3280 and this chapter.

"Anchoring system" is the means used to secure a mobile home to ground anchors or to other approved fastening devices. It may include straps, cables, turnbuckles, bolts, fasteners, and other components.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to manufactured homes, ANSI A225.1 Manufactured Homes Installation, 1994 edition, except section 3.5.2 - Ground Cover and section 4.1.3.3 - Clearance.

"Authority having jurisdiction" means that either the department of labor and industries or the local jurisdiction is responsible for establishing specific manufactured home standards. The authority for specific manufactured home standards is divided as follows:

- The department of labor and industries establishes standards for manufactured home installation and alterations and performs alteration inspections;
- The local jurisdiction establishes standards for manufactured homes governing the building site and performs installation inspections.

"Building site" is a tract, parcel, or subdivision of land on which a manufactured home is installed.

"DAPIA" is a Design Approval Primary Inspection Agency as approved by the United States Department of Housing and Urban Development.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a design submitted to the department for approval of a manufactured home structural alteration.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the alteration or installation of a manufactured home.

"Equivalent air conditioning/heat pump components" is equipment that performs the same function and is compatible with the equipment of another manufacturer, sometimes referred to as mix and match.

"Footing" is the portion of a support system that transmits loads from the manufactured home to the ground.

"Foundation skirting" or "skirting" is the material that surrounds and encloses the space under the manufactured home.

"Homeowner" is an individual who owns a manufactured home ((for the purposes of this chapter)). **Dealers, distributors, and developers are not regarded as homeowners.**

"HUD" is the United States Department of Housing and Urban Development with headquarters located in Washington, D.C.

"Installation" is the activity needed to prepare a building site and to set a manufactured home within that site. Site

means a tract, parcel, or subdivision of land including a mobile home park.

"IPIA" is a manufactured home production Inspection Primary Inspection Agency approved by the United States Department of Housing and Urban Development. The department of labor and industries is the IPIA for Washington state.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the building site and installation of a manufactured home.

"Manufactured home" is a single-family dwelling built according to the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, which is a national, preemptive building code. A manufactured home also:

- Includes plumbing, heating, air conditioning, and electrical systems;
- Is built on a permanent chassis; and
- Can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported; or when installed on the site is three hundred twenty square feet or greater (see RCW 46.04.302).

Note: Total square feet is based on exterior dimensions measured after installation using the longest horizontal projections. Dimensions may not include bay windows but may include projections containing interior space such as cabinets and expandable rooms.

Exception: A structure that meets the requirements of a manufactured home as set out in 24 CFR 3282.7(u), except the size requirements is considered a manufactured home, if the manufacturer files with the secretary of HUD a certificate noted in CFR 3282.13.

"Mobile home" is a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD Code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the HUD Manufactured Home Construction and Safety Standards Act. For the purposes of this chapter references to manufactured homes include mobile homes.

"Park site" is the installation location of a manufactured home within a residential area for manufactured homes.

"Structural alteration-custom design" is a design that can only be used once.

"Structural alteration-master design" is a design plan that can be used more than once. The master plan expires when there is a code change applicable to the design.

"System" is part of a manufactured home designed to serve a particular function such as structural, plumbing, mechanical, or electrical functions.

NEW SECTION

WAC 296-150M-0120 Where can I obtain technical assistance regarding manufactured (mobile) homes? We provide field technical service on manufactured (mobile) homes for an hourly fee. Field technical service may include an evaluation, consultation, plan examination, interpretation,

and clarification of technical data relating to the application of our rules.

NEW SECTION

WAC 296-150M-0140 Do you allow the use of alternate materials, alternate design and method of construction? An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

- (a) The applicant's name, address and phone number;
- (b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the request;

(c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150M-0100.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150M-0306 What codes are used when altering a manufactured (mobile) home? Alterations to a manufactured (mobile) home must be in compliance with the Manufactured Home Construction and Safety Standards, Part 24, CFR 3280, as adopted by the Secretary for the Department of Housing and Urban Development (HUD) and the amendments to that federal standard adopted in this WAC chapter.

(1) The department will accept (~~mix and match~~) equiv-
alent air conditioning/heat pump components that have been tested and listed for use with a particular furnace by a nationally recognized testing laboratory.

(2) The department will accept pellet stoves for installation that have been listed by a department approved testing

laboratory. For a current list of approved laboratories, contact any department field office or the department at the address shown in WAC 296-150M-0020.

NEW SECTION

WAC 296-150M-0309 How do I apply for alteration approval and obtain an alteration insignia? (1) To apply for alteration approval and the alteration insignia, you must:

(a) Complete an alteration permit form and an application for alteration insignia. We will provide the forms upon request.

(b) Submit the completed forms to us, with the first hour of inspection fee and alteration insignia fee. Alterations requiring more than one inspection shall have the first hour inspection fee paid to the department prior to any inspection. (See WAC 296-150M-3000.)

(2) Request inspection of your alteration at least five days before the date you want the inspection.

(3) Once we approve your alteration, we will attach the alteration insignia to your manufactured home.

Note: Specifications, engineering data, and test results should be available for our inspector. If applicable, your approved design plan must also be available during the inspection.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150M-0600 Who establishes standards for installation of manufactured homes? (1) The director of labor and industries is responsible for establishing uniform installation standards where possible and practical for persons or entities engaged in performing the installation of manufactured homes within the state.

(2) Local jurisdictions may adopt additional installation requirements only for those installation situations not covered by federal standards. For example, local jurisdictions may impose noise control construction ordinances, prescribe the frost depth and soil bearing capacity at the installation site, and adopt requirements to protect manufactured homes in hazardous areas, ((i.e., in flood and earthquake areas)) (see WAC 296-150M-0620).

Also, local jurisdictions may impose their requirements for snow and wind loads as long as all structures within their jurisdiction are required to comply with the same standard and provided those installing the manufactured home are given options in satisfying that standard. Such an option might include, but not be limited to, allowing an installer to erect an additional structure, which meets local standards, and protects the manufactured home. For example, an installer could erect a free standing ramada over a manufactured home to protect it from local snow loads.

Local jurisdictions **may not**:

(a) Dictate foundation design and construction which is built according to either the manufacturer's installation instructions or a design created by an engineer or architect licensed in Washington state.

(b) Impose regulations on smoke detectors because they are regulated by federal standards.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150M-0610 What instructions are used for a manufactured home installation? ((The following instructions must be used for an initial or relocated manufactured home installation (note: The specific instructions in this chapter take precedence over manufacturer's instructions and ANSI standards.)) To the extent that the installation of a manufactured home is not covered by a manufacturer's, engineer's or architect's instructions, the manufactured home shall comply with the installation requirements of this section.

(1) Installation of a new manufactured home.

(a) The initial manufactured home installation must be conducted according to the manufacturer's instructions.

(b) If the manufacturer's instructions do not address an aspect of the installation, you may request:

(i) Specific instructions from the manufacturer; or

(ii) Specific instructions from a professional engineer or architect licensed in Washington state.

For example:

(A) A manufactured home is installed over a basement and the manufacturer's instructions do not address this application;

(B) A manufactured home is installed on a site where the specific soil bearing capacity is not addressed in the manufacturer's instructions.

(c) All manufactured homes installed in Washington state must be permanently anchored except for those installed on dealer lots. On dealer lots, temporary sets are permitted without anchoring being installed. A manufactured home must be anchored according to the manufacturer's installation instructions or according to the design of a professional engineer or architect licensed in Washington state. Local jurisdictions **may not** prescribe anchoring methods.

(d) A manufactured home must have a skirting around its entire perimeter. It must be installed per the manufacturer's installation instructions or if the manufacturer is not specific, to the standards in this section. It must be vented and allow access to the under floor area per the manufacturer's installation instructions or per the standards below if the manufacturer's instructions are not available.

If the manufacturer's skirting and access instructions are not specific, skirting, ventilation and access shall be installed as follows:

(i) Skirting:

- Skirting must be made of materials suitable for ground contact.
- Metal fasteners must be made of galvanized, stainless steel or other corrosion resistant material.
- Ferrous metal members in contact with the earth, except those made of galvanized or stainless steel, must be coated with an asphaltic emulsion.
- Skirting must not trap water between the skirting and siding or trim.
- All skirting must be recessed behind the siding or trim.

(ii) Ventilation:

For homes sited in a flood plain, contact the local jurisdiction regarding proper skirting ventilation. Except for those

manufactured homes sited in a flood plain, all skirting must be vented as follows:

- Vent openings must be covered with corrosion-resistant wire mesh to prevent the entrance of rodents. The size of the mesh opening cannot exceed 1/4 inch.
- Vent openings must have a net area of not less than one square foot for each one hundred fifty square feet of under floor area.
- Vent openings must be located as close to corners and high as practical and they must provide cross ventilation on at least two opposite sides.

(iii) Access:

- Access to the under floor area of a manufactured home must have a finished opening at least eighteen inches by twenty-four inches in size.
- The access opening must be located so that all areas under a manufactured home are available for inspection.
- The access opening must be covered and that cover must be made of metal, pressure treated wood or vinyl.

(e) A manufactured home site must be prepared per the manufacturer's installation manual or per ANSI A225.1, 1994 edition, section 3.

(f) Heat duct crossovers must be installed per the manufacturer's installation instruction manual or per ANSI A225.1 or the following instructions if the manufacturer's instructions are not available:

Heat duct crossovers must be supported at least one inch above the ground by strapping or blocking. They must be installed to avoid standing water. Also, they must be installed to prevent compression, sharp bends and to minimize stress at the connections.

(g) Dryer vents must exhaust to the exterior side of the wall or skirting. Dryer ducts outside the manufactured home shall comply with the dryer manufacturer's specifications or shall be made of metal with smooth interior surfaces.

(h) Hot water tank pressure relief lines must exhaust to the exterior side of the exterior wall or skirting and must exhaust downward. The end of the pipe must be at least six inches but not more than two feet above the ground.

(i) Water piping must be protected against freezing as per the manufacturer's installation instructions or by use of a heat tape listed for use with manufactured homes and installed per the heat tape manufacturer's installation instructions.

(j) The testing of water lines, waste lines, gas lines and electrical systems must be as per the manufacturer's installation instructions. If the manufacturer's installation instructions require testing of any of these systems, the local jurisdiction is responsible for verifying that the tests have been performed and passed. Electrical connections and testing are the responsibility of the electrical section of labor and industries except where a city has assumed the electrical inspection responsibilities for their jurisdiction. In that case, the city's electrical inspectors are responsible for the electrical connections and testing.

(k) During the installation process, a ground cover must be installed under all manufactured homes. The ground cover

must be a minimum of six-mil *black* polyethylene sheeting or its equivalent (exception to ANSI A225.1 (3.5.2)). The ground cover may be omitted if the under floor area of the home has a concrete slab floor with a minimum thickness of three and one-half inches.

(l) Clearances underneath manufactured homes must be maintained at a minimum of eighteen inches beneath at least seventy-five percent of the lowest member of the main frame (I-beam or channel beam) and the ground or footing. No more than twenty-five percent of the lowest member of the main frame of the home shall be less than eighteen inches above the ground or footing. **In no case** shall clearance be less than twelve inches **anywhere** under the home (exception to ANSI A225.1 (4.1.3.3)).

(m) Heat pump and air conditioning condensation lines must be extended to the exterior of the manufactured home.

(2) Installation of a relocated manufactured (mobile) home.

(a) A relocated manufactured home installation should be conducted according to the manufacturer's installation instructions.

(b) If the manufacturer's instructions are unavailable, you may use either:

(i) The American National Standard Institute (ANSI) standard ANSI A225.1-Manufactured Homes Installation, 1994 edition instructions; or

(ii) The instructions of a professional engineer or architect licensed in Washington state.

(c) If either (b)(i) or (ii) is used, all of the requirements of WAC 296-150M-0610 (1)(c) through (m) must also be followed.

NEW SECTION

WAC 296-150M-0614 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes Installation? Copies of the standard are available from:

Publications/Communications

National Conference of States on Building Codes and Standards, Inc.

505 Huntmar Park Drive, Suite 210

Herndon, Virginia 22070

NEW SECTION

WAC 296-150M-0615 What are the requirements for temporary placement of manufactured (mobile) homes? Manufactured (mobile) homes placed on temporary display or in storage by a manufacturer, dealer or distributor in excess of thirty days shall be:

(1) Supported under each main frame beam by supports located within two feet of each end and within four feet of the front and rear axle and other supports so that no span shall exceed sixteen feet; and

(2) Made weathertight at any marriage line joint at the roof and wall lines.

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150M-0640 Does a person who installs a manufactured home need an installation permit? (1) ~~((Any person who installs a manufactured home must obtain an installation permit from the local enforcement agency prior to installation.~~

~~(2) Any permit fees set by the local enforcement agency must be paid in full and included with the permit application.~~

~~(3) A dealer, owner or agent must not deliver a manufactured home to its site without verifying that an installation permit has been obtained.)~~ A dealer, owner or agent must not deliver a manufactured home to its site without verifying that an installation permit has been obtained; and

(2) Any permit fees set by the local enforcement agency must be paid in full and included with the permit application.

NEW SECTION

WAC 296-150M-0655 How does the local enforcement agency gain access to the manufacturer's installation instructions? A manufacturer's installation manual shall be provided for the inspecting jurisdiction whenever any portions of the manufacturer's installation instructions have been used for any portion of the installation.

(1) The installation instructions shall be located between the I-beam and the bottom board within five feet of the main electrical feeder when the skirting has not been installed.

(2) When the skirting has been installed, the installation instructions shall be located between the I-beam and the bottom board within five feet of the access opening.

(3) Instructions shall be returned to such location when the inspection is completed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-150M-0400 How do I apply for alteration approval and obtain an alteration insignia?

AMENDATORY SECTION (Amending WSR 97-16-043, filed 7/31/97, effective 12/1/97)

WAC 296-150P-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, ~~((1997))~~ 1998 edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.

- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.

- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" ~~((1996 edition is the electrical code required for ANSI A119.5 compliance.))~~ See Appendix 'C' of ANSI A119.2 for reference to the appropriate edition to use for compliance.

"Recreational park trailer" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and
- Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

NEW SECTION

WAC 296-150P-0050 Can you prohibit the sale or lease of my recreational park trailer? (1) We may prohibit the sale or lease of your recreational park trailer because it is unlawful for any person to sell, lease, or offer for sale a recreational park trailer within this state if it violates any of the requirements of this chapter (see RCW 43.22.345).

(2) If an inspection reveals that a recreational park trailer violates this chapter, we may post a notice prohibiting the sale or lease of a recreational park trailer.

NEW SECTION

WAC 296-150P-0140 Do you allow the use of alternate materials, alternate design and method of construction? An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

- (a) The applicant's name, address and phone number;
- (b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;
- (c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;
- (d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

- (a) The applicant's request as described in subsection (1) of this section;
 - (b) Research into the request;
 - (c) Expert advice.
- (3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150P-0100.

AMENDATORY SECTION (Amending WSR 97-16-043, filed 7/31/97, effective 12/1/97)

WAC 296-150R-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel systems and equipment or electrical systems of a recreational vehicle.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a vehicle alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational vehicles. For the purposes of this chapter, references to ANSI mean ANSI A119.2 Recreational Vehicles, 1996 edition. Effective September 1, 1999, the 1999 edition shall become effective.

"Approved" is approved by the department of labor and industries.

"Audit" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.
- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.
- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"Consumer" is a person or organization who buys or leases recreational vehicles.

"Dealer" is a person or organization whose business is offering recreational vehicles for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle manufacturer.

"National Electrical Code" (~~(1996 edition is the electrical code required for ANSI A119.2 compliance.)~~) See Chapter 5 of ANSI A119.2 for reference to the appropriate edition to use for compliance.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"Recreational vehicle" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

"Self-certification insignia" is an insignia which is obtained under the self-certification approval process.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational vehicle that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"Vehicle" for the purposes of this chapter, is a recreational vehicle.

NEW SECTION

WAC 296-150R-0050 Can you prohibit the sale or lease of my recreational vehicle? (1) We may prohibit the sale or lease of your recreational vehicle because it is unlawful for any person to sell, lease, or offer for sale a recreational vehicle within this state if it violates any of the requirements of this chapter (see RCW 43.22.345).

(2) If an inspection reveals that a recreational vehicle violates this chapter, we may post a notice prohibiting the sale or lease of the recreational vehicle.

NEW SECTION

WAC 296-150R-0140 Do you allow the use of alternate materials, alternate design and method of construction. An applicant may apply for the use of alternate materials, alternate design and methods of construction different from the requirements of this chapter by filing a written request with the department.

(1) Responsibilities of applicant. The applicant must submit in writing the following information and sign and date the request.

(a) The applicant's name, address and phone number;
(b) The specific requirement or requirements from which the alternate material, alternate design or method of construction is requested;

(c) Adequate justification that the requirements of this chapter cannot be met without using alternate materials, alternate design or method of construction;

(d) How the use of alternate materials, alternate design or method of construction will achieve the same result as the requirement and any specific alternative measures to be taken to show the alternate provides the same level of protection to life, safety and health as the requirements.

The department has a form that you may use for your request. Contact the department at the address shown in the definition section.

(2) Responsibilities of the department. The department will provide a written response to the applicant within thirty days of receipt of the written request. The written response will state the acceptance or denial of the request, including the reasons for the department's decision. At a minimum the department will base its decision based on:

(a) The applicant's request as described in subsection (1) of this section;

(b) Research into the request;

(c) Expert advice.

(3) Applicant's response to denials. The applicant may appeal the department's decision by following the procedure in WAC 296-150R-0100.

WSR 99-13-013

PERMANENT RULES

STATE BOARD FOR

COMMUNITY AND TECHNICAL COLLEGES

[Filed June 4, 1999, 4:09 p.m.]

Date of Adoption: May 20, 1999.

Purpose: Exceptional faculty awards program, clarifies how many grant awards are allowed per college in each biennium.

Citation of Existing Rules Affected by this Order: Amending WAC 131-16-450 [(1)](c).

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 99-08-013 on March 26, 1999.

Changes Other than Editing from Proposed to Adopted Version: No changes from previous version (emergency rules) that were filed under the above notice (WSR 99-08-013).

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: Thirty-one days after filing.

June 3, 1999

Claire C. Krueger
Executive Assistant and
Agency Rules Coordinator

PERMANENT

AMENDATORY SECTION (Amending WSR 98-15-007, filed 7/2/98, effective 8/2/98)

WAC 131-16-450 Exceptional faculty awards trust fund. (1) Pursuant to chapter 29, Laws of 1990, the community and technical college exceptional faculty award program shall be subject to the following limitations:

(a) All funds generated by and through this program shall be credited to the college district's exceptional faculty local endowment trust fund, from which only the earnings of such funds may be expended for the purpose of this program.

(b) Authorization to transfer funds from the exceptional faculty award trust fund in the state treasury to a college district endowment fund shall be contingent upon certification by the college district that no less than twenty-five thousand dollars of matching cash donations from private sources has been deposited in the district endowment fund.

(c) Grants to individual colleges shall not exceed: ~~((Two))~~ **Four** grants to each college, ~~((each year, beginning July 1, 1998))~~ **in any single biennium.**

(d) Award of requested grants to colleges shall be contingent upon determination by the state board for community and technical college that the request is consistent with and meets the requirements of these guidelines. Further, if grant requests exceed available funds, the state board for community and technical college shall select the recipients.

(e) Funds granted for the purposes of the faculty awards program shall be held in trust by the district for the college to which such funds were specifically awarded.

(f) Each college district shall establish procedures by which awards may be named in honor of a donor, benefactor, or honoree; may designate the use of funds; and may renew or redesignate the award annually.

(g) By September 1 of each year beginning in 1991, each district shall report to the state board for community and technical college the amount of contributed endowment funds, their earnings, type of investments, and uses made during the previous fiscal year.

(h) The process for determining awards shall be subject to collective bargaining, except that the amount of individual awards and the recipient(s) shall be determined by the district board of trustees.

(i) Only persons holding faculty assignments as defined by RCW 28B.52.020(2) shall be eligible to receive awards under this section.

(2) The award of exceptional faculty grants from the district endowment fund shall be subject to the following limitations:

(a) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to make a one time supplement to the salary of the holder or holders of a faculty award, for the duration of the award; or to pay expenses associated with the holder's program area.

(b) Funds from this program shall not be used to supplant existing faculty development funds.

WSR 99-13-018
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed June 4, 1999, 4:32 p.m.]

Date of Adoption: June 4, 1999.

Purpose: To update WAC 458-16-320 so that it accurately reflects the current contents of RCW 84.36.043 that authorizes a property tax exemption for emergency or transitional housing for low-income persons or homeless victims of domestic violence.

Citation of Existing Rules Affected by this Order: Amending WAC 458-16-320 Emergency or transitional housing.

Statutory Authority for Adoption: RCW 84.36.865.

Other Authority: RCW 84.36.043.

Adopted under notice filed as WSR 99-07-090 on March 19, 1999.

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 1, 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.

June 4, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-07-008, filed 3/3/94, effective 4/3/94)

WAC 458-16-320 Emergency or transitional housing. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.043 to real and personal property used by a nonprofit organization, association, or corporation to provide emergency or transitional housing to low income persons or victims of domestic violence who are homeless for personal safety reasons.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Emergency housing" means a facility whose primary purpose is to provide temporary or transitional shelter and supportive services to the homeless in general or to a specific population of the homeless for no more than sixty days.

(b) "Homeless" means a person, persons, family, or families who do not have fixed, regular, adequate, or safe shelter nor sufficient funds to pay for such shelter.

(c) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the city or town is located.

(d) "Supportive services" means resume writing, training, vocational and psychological counselling, or other similar programs designed to assist the homeless into independent living.

(e) "Transitional housing" means a facility that provides housing and supportive services to homeless individuals or families for up to two years and whose primary purpose is to enable homeless individuals or families to move into independent living and permanent housing.

(f) "Victim(s) of domestic violence" means either an adult(s) or a child(ren) who have been physically or mentally abused and who fled his or her home out of fear for his or her safety.

(g) "Property" means real or personal property used by a nonprofit organization, association, or corporation in providing emergency or transitional housing and supportive services for low-income homeless persons or victims of domestic violence.

(h) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.** The real and personal property exclusively used, or to the extent that it is exclusively used, by a nonprofit organization, association or corporation to provide emergency or transitional housing to low-income homeless persons or victims of domestic violence shall be exempt from taxation if the following conditions are met:

(a) The amount of the charge or fee for the housing does not exceed maintenance and operation expenses;

(b) The property is either:

(i) Owned by a nonprofit organization, association, or corporation; or

(ii) ~~((For taxes payable in 1992 through 2000,))~~ Rented or leased by a nonprofit organization, association, or corporation and the benefit of the exemption inures to a nonprofit organization, association, or corporation; and

(c) If any portion of the organization's, association's or corporation's property is used for a commercial purpose rather than for an exempt purpose, that portion of the property must be segregated and taxed.

(4) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.043.

WSR 99-13-019
PERMANENT RULES
STATE BOARD OF HEALTH
[Filed June 7, 1999, 10:02 a.m.]

Date of Adoption: May 12 [17], 1999.

Purpose: The purpose of amending the food workers permit chapter is to incorporate recent legislative changes, complete development of rules as directed by the legislature,

incorporate advisory committee recommendations, standardize the process to improve food worker training, and reduce ambiguity regarding the process.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-217-001, 246-217-002, 246-217-011, 246-217-020, 246-217-030, 246-217-040, and 246-217-050; and amending WAC 246-217-010, 246-217-060, and 246-217-070.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 99-08-097 on April 6, 1999.

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 5, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 3, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 6.

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.

June 7, 1999

Jim Robertson

Interim Executive Director

Chapter 246-217 WAC

FOOD WORKER (~~PERMITS~~) CARDS

NEW SECTION

WAC 246-217-005 Purpose and authority. The purpose of chapter 246-217 WAC is to establish state board of health standards for the issuance of food worker cards (food worker permits) under chapter 69.06 RCW and RCW 43.20.050. To promote and protect the health, safety and well-being of the public and prevent the spread of disease by food, all food service workers in the state shall demonstrate through the process of examination that they possess an adequate knowledge of the principles and practices involved in the safe preparation, storage, and service of foods.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-217-010 Definitions. As used in this chapter of the rules and regulations, the following definitions (~~shall~~) apply:

(1) ~~((A "food service worker" shall mean a person engaged in a food and/or beverage establishment and who may contribute to the transmission of infectious diseases through the nature of his contact with food products and/or equipment and facilities. This shall not include persons~~

engaged in food handling operations where the products are sterilized after packaging or in the processing of frozen fruits or vegetables, nor nonsupervisory personnel assisting with food services functions of churches, lodges, granges and similar organizations when such are exempted from collected retail sales tax by rule 169 of the tax commission of the state of Washington as effective May 1, 1935.

(2) The term "food establishment" shall include, but is not limited to, all food handling operations associated with school lunches, carnivals, circuses, intrastate ferries, state institutions, bakeries, shellfish processing plants, caterers, hospitals, nursing homes, maternity homes, boarding homes, child care agencies, churches, lodges, granges, clubs, and food demonstrations.) "Additional food safety training" means completion of a comprehensive training program on food safety of at least four hours in length. Training may include topics such as: Proper cooking, hot-holding, cold-holding and cooling of potentially hazardous foods; cross-contamination prevention; HACCP and/or proper hand washing techniques. Approval of training programs shall be obtained from jurisdictional health departments or the department by the training provider. Approval of training programs must be obtained in advance.

(2) "Applicant" means an individual applying to obtain an initial or renewal food worker card.

(3) "Department" means the Washington state department of health.

(4) "Food service establishment" means:

(a) A place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs, including but not limited to:

(i) Restaurants, snack bars, cafeterias, taverns, bars;

(ii) Retail food stores, supermarkets, retail meat markets, retail fish markets, retail bakeries, delicatessens;

(iii) Institutional operations licensed by the department, the state department of social and health services or local health officer, such as schools, hospitals, jails, prisons, nursing homes, boarding homes, adult family homes and child care facilities;

(iv) Central preparation sites, including caterers;

(v) Satellite servicing locations;

(vi) Temporary food service establishments or mobile food units;

(vii) Bed and breakfast operations;

(viii) Remote feeding sites; and

(ix) Vending machines dispensing potentially hazardous foods.

(b) This term does not include:

(i) Private homes where food is prepared or served for consumption by household members and/or their guests;

(ii) Establishments offering only commercially prepackaged nonpotentially hazardous foods;

(iii) Commercial food processing establishments, licensed and regulated by the USDA, FDA, or WSDA; and

(iv) Farmers exempt from licensure under RCW 36.71.090.

(5) "Food service worker" means an individual who works (or intends to work) with or without pay in a food ser-

vice establishment and handles unwrapped or unpackaged food or who may contribute to the transmission of infectious diseases through the nature of his/her contact with food products and/or equipment and facilities. This does not include persons who simply assist residents or patients in institutional facilities with meals, or students in K-12 schools who periodically assist with school meal service.

(6) "Food worker card" means a food and beverage service workers' permit as required under chapter 69.06 RCW.

(7) "Health officer" means the county, city-county, or district health officer of a jurisdictional health department, or his/her authorized representative, or the representative of the department.

(8) "Jurisdictional health department" refers to one of the following:

(a) Local health district as defined in chapter 70.46 RCW.

(b) City-county health department as defined in chapter 70.08 RCW.

(c) County health department as defined in chapter 70.05 RCW.

(9) "Person" means any individual, partnership, corporation, association, or other legal entity or agency of state, county, or municipal government, or agency of the federal government which is subject to the jurisdiction of the state.

(10) "Secretary" means the secretary of the state department of health.

NEW SECTION

WAC 246-217-015 Applicability. (1) All food service workers must obtain a food worker card within fourteen calendar days from the beginning of employment at a food service establishment.

(2) In the case of temporary food service establishments, at a minimum the operator or person in charge each shift or during hours of operation shall have a valid food worker card obtained prior to the event.

(3) Employers at any food service establishment (permanent or temporary) must provide information or training regarding pertinent safe food handling practices to food service workers prior to beginning food handling duties if the worker does not hold a valid food worker card. Documentation that the information or training has been provided to the individual must be kept on file by the employer and be available for inspection by the health officer at all times.

NEW SECTION

WAC 246-217-025 Issuance of food worker cards—Fees. (1) In order to qualify for issuance of an initial or renewal food worker card, an applicant must demonstrate his/her knowledge of safe food handling practices by satisfactorily completing an examination conducted by the local health officer or designee.

(2) Each applicant for a food worker card must pay a fee in the amount of eight dollars. The fee shall be used by the jurisdictional health department or designee to defray the costs of food worker training and education, administration

of the program, and testing of applicants. Photographic identification may be required at the time of application.

(3) The local health officer or designee shall furnish to the applicant a copy of the latest edition of the *"Food and Beverage Service Workers' Manual"* or similar publication, as prepared or approved by the department.

(4) Effective January 1, 2000, prior to conducting the examination of the applicant(s), the health officer (or designee) shall provide at least thirty minutes of instruction, including both audio and visual presentations. Instruction content shall include topics related to safe food preparation, storage and service. At a minimum, topics shall include: Food borne illness overview; basic bacteriology as it relates to food borne illness; proper cooking, hot holding, cold holding and cooling of potentially hazardous foods; cross-contamination prevention; and proper hand washing techniques.

(5) The food worker card examination will be uniform state-wide and will be prepared by and/or approved by the department; except that jurisdictional health departments may include additional questions to address local health concerns. The examination will cover topics identified in subsection (4) of this section, as required instruction topics. An exam must be approved by the department prior to its use. To pass the examination the applicant must answer at least eighty percent of the questions correctly.

(6) Upon payment of the required fee and the applicant's satisfactory completion of the examination, the applicant will receive the food worker card.

(7) A copy of the card or the applicable information shall be kept on file at the jurisdictional health department.

(8) Copies of food worker cards for all employed food service workers shall be kept on file by the employer or kept by the employee on his or her person and open for inspection at all times by authorized public health officials.

(9) All food worker cards shall be issued and signed by the local health officer. The local health officer may contract with persons to provide the required training or testing within his/her jurisdiction. The contracts shall include test security provisions so that test questions, scoring keys, and other examination data are exempt from public disclosure to the same extent as records maintained by state or local government agencies.

(10) The health officer or designee shall make test accommodations in accordance with the Americans with Disabilities Act for those requesting such accommodations.

NEW SECTION

WAC 246-217-035 Validity and form of food worker cards. (1) All initial cards are valid for two years from the date of issuance.

(2) Effective July 1, 1999, renewal cards are valid for three years from the date of issuance; except: An applicant may be granted a renewal card valid for five years from the date of issuance if the applicant documents that he/she has attended "additional food safety training" within the past two years.

(3) Any legally issued food worker card shall be valid throughout Washington state.

(4) Food service workers may apply for a renewal of a food worker card up to sixty days before the expiration date on their current valid card. Proof of a valid card must be shown at the time of renewal application.

(5) The card shall be approximately three inches by five inches in size and contain the following information:

(a) The identification of the card as a Washington state food worker card or "limited duty card," as applicable;

(b) The identity of the jurisdictional health department issuing the card;

(c) Printed (or typed written) name and signature of the food service worker;

(d) Card expiration date;

(e) Signature of the health officer; and

(f) Any other identifier or other information deemed necessary by the health officer.

NEW SECTION

WAC 246-217-045 Limited duty food worker cards.

The local health officer may issue a limited duty card when necessary to reasonably accommodate a person with a disability.

(1) A person applying to obtain a limited duty card shall communicate to the local health officer which low public health risk activity(ies) (e.g., dishwashing, bussing tables, filling condiment containers, etc.) he or she will be performing.

(2) The health officer may require the applicant to attend the food safety training associated with the issuance of food worker cards. No written examination is required for the issuance of limited duty cards.

(3) The local health officer shall list the approved activity(ies) on the food worker card.

(4) The fee and length of validity of limited duty cards is the same as all other food worker cards.

(5) The employer should ensure that the individual is provided with information to safely perform the activity(ies) listed on the card.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-217-060 Revocation of ((~~permit~~)) food worker card. The food ((~~and beverage service~~)) worker((~~s'~~ ~~permit~~)) card may be revoked by the local health officer, or by the ((~~director~~)) secretary, upon evidence indicating repeated or continuing violations of accepted procedures and practices in the preparation, service, or storage of food ((~~or beverage~~)) offered for public consumption, or upon demonstration of the presence of a communicable disease in the infectious state, or an infectious condition of potential hazard to the public or to the persons' co-workers, or for falsification of information required for issuance of the ((~~permit~~)) card. Any food service worker who has had his/her card revoked shall be ineligible for issuance of another card by any local health officer in the state until the conditions for revocation are appropriately resolved.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-217-070 Right of appeal. Any food ~~((or beverage))~~ service worker whose ~~((permit))~~ food worker card has been revoked by a local health officer, or the ~~((director))~~ secretary, may appeal to the local board of health, or the ~~((state board of health))~~ department's office of professional standards consistent with chapter 246-10 WAC in the event such revocation is by the ~~((director))~~ secretary, for review of the findings. ~~((Such))~~ The appeal must be in writing and must be filed with the appropriate board ~~((of health))~~ or office within ten days of revocation of the ~~((worker's permit))~~ card. While ~~((such))~~ the appeal is pending, the revocation of the ~~((worker's permit))~~ card shall be stayed until such time as the appropriate board ~~((of health))~~ or office has reviewed the findings and entered its decision.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-217-001	Objective.
WAC 246-217-002	Legal authority of the state board of health.
WAC 246-217-011	Definitions.
WAC 246-217-020	Communicable disease.
WAC 246-217-030	Form of permits—Fees.
WAC 246-217-040	Requirements for permits.
WAC 246-217-050	Examination may be required.

**WSR 99-13-042
PERMANENT RULES
LIQUOR CONTROL BOARD**

[Filed June 8, 1999, 9:50 a.m.]

Date of Adoption: April 28, 1999.

Purpose: The purpose of the following rules is to provide a framework under which the board, in partnership with local government subdivisions, can take action to mitigate any negative impacts on a community's livability that result from the presence of chronic public inebriation or illegal activity associated with alcohol sales and consumption:

- WAC 314-12-210 Chronic public inebriation (CPI) and alcohol impact areas—Definitions—Purpose.
- WAC 314-12-215 Alcohol impact areas—Definitions—Guidelines.
- WAC 314-12-220 General Review.
- WAC 314-12-225 Severability.

Statutory Authority for Adoption: RCW 66.08.030, 66.24.010.

Adopted under notice filed as WSR 99-06-097 on March 3, 1999.

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 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.

Effective Date of Rule: Thirty-one days after filing.

June 7, 1999
Eugene Prince
Chairman

NEW SECTION

WAC 314-12-210 Chronic public inebriation (CPI) and alcohol impact areas (AIA)—Definitions—Purpose. (1) What is the purpose of these rules concerning chronic public inebriation and alcohol impact areas?

(a) The enabling statutes for the liquor control board are contained in chapter 66.08 RCW. These statutes authorize the board to exercise the police power of the state for the protection of the welfare, health, peace, and safety of the people of Washington.

(b) The board's mandate to protect the welfare, health, peace, and safety of the people is to ensure that liquor licensees conduct their business in a lawful manner and that the presence of a licensee's alcohol sales does not unreasonably disturb the welfare, health, peace, or safety of the surrounding community.

(c) The purpose of these rules concerning chronic public inebriation and alcohol impact areas is to establish a framework under which the board, in partnership with local government and community organizations, can act to mitigate negative impacts on a community's welfare, health, peace, or safety that result from the presence of chronic public inebriation.

(d) For the purpose of these rules, chronic public inebriation exists when the effects of the public consumption of alcohol and/or public intoxication occur in concentrations that endanger the welfare, health, peace, or safety of a neighborhood or community.

(2) What do these rules concerning chronic public inebriation and alcohol impact areas seek to do? WAC 314-12-210 and 314-12-215 seek to:

(a) Establish an expanded local review process for liquor license applications, assumptions*, and renewals inside a recognized alcohol impact area (AIA);

(b) Create standards under which the board may refuse to issue a liquor license; may refuse to permit the assumption or renewal of a liquor license; may place conditions or restric-

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tions upon the issuance, assumption, or renewal of a license; or may place conditions or restrictions on an existing license inside a recognized AIA;

(c) Allow the board, in specific circumstances, to restrict the off-premises sale of certain alcohol products or alcohol product containers inside a recognized AIA.

*Note: A liquor license assumption refers to an application by a prospective new owner/operator for an existing licensed business. Under certain conditions, such applicants may apply for a temporary license to continue operations during the new license application review period.

NEW SECTION

WAC 314-12-215 Alcohol impact areas—Definition—Guidelines. (1) **What is an alcohol impact area (AIA)?** An alcohol impact area is a geographic area within a city, town, or county that is adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption. The area must be designated by ordinance by the government subdivision and recognized by resolution of the board before any enhanced processes described by these rules are applied.

(2) **What guidelines will the board use to recognize an alcohol impact area (AIA)?** The board, by resolution, may recognize an AIA adopted by a city, town, or county and subsequently referred to the board by that government subdivision. To achieve recognition, the AIA must meet all of the following conditions:

(a) The AIA comprises a geographic area that does not include the entire territory of the local jurisdiction;

(b) The government subdivision has given a rationale, expressed in the ordinance, for the establishment of the proposed boundaries of the AIA;

(c) The government subdivision has described the boundaries of the AIA in the ordinance in such a way that:

(i) The board can determine which liquor licensees are in the proposed area; and

(ii) The boundaries are understandable to the public at large.

(d) The AIA ordinance includes findings of fact which establish:

(i) Chronic public inebriation or illegal activity associated with alcohol sales and/or consumption within the proposed AIA is contributing to the deterioration of the general quality of life within the area or threatens the welfare, health, peace, or safety of the area's visitors and occupants;

(ii) There is a pervasive pattern of public intoxication and/or public consumption of alcohol as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, or similar records; and

(iii) A good faith effort has been made by the government subdivision to control the problem through voluntary efforts that may include cooperation with neighborhood citizen and/or business organizations, and must include the notification of licensees within the proposed AIA of public intoxication problems and of voluntary remedies available to them to resolve the problem.

(e) The AIA will take effect on the date of the board's resolution extending recognition to the AIA.

(3) **Once an AIA is recognized by the board, what processes, conditions, or restrictions may the board apply?**

(a) The board will apply a unique local license review process for liquor license applications, assumptions, and renewals within the AIA.

(b) The board may place conditions or restrictions on the off-premises sale privilege of liquor licenses within the AIA. These restrictions must be reasonably related to reducing chronic public inebriation or illegal activity associated with off-premises alcohol sales and/or consumption. These restrictions may include, but are not limited to:

(i) Restrictions on the hours of operation for off-premises alcohol sale within the AIA;

(ii) Restrictions on the off-premises sale of certain alcohol products within the AIA; and

(iii) Restrictions on alcohol container sizes available for off-premises sale within the AIA.

(4) **What are the circumstances required for the board to restrict the off-premises sale of alcohol within an AIA?** The board may restrict the off-premises sale of alcohol within an AIA, subject to all of the following conditions:

(a) Product restrictions must be requested by the government subdivision's law enforcement agency or public health authority;

(b) The board must find that the off-premises sale of such alcohol products is reasonably linked to the problems associated with chronic public inebriation; and

(c) The government subdivision must have shown that voluntary efforts have failed to significantly reduce the impact of chronic public inebriation, or that voluntary efforts need augmentation by license restrictions described in subsection (3) of this section.

(5) **What type of voluntary efforts must the government subdivision attempt before the board will implement mandatory product restrictions?** Before the board will implement mandatory product restrictions, the government subdivision's voluntary efforts must include:

(a) Notification of all off-premises sales licensees in the proposed AIA that behavior associated with alcohol sales is having an impact on chronic public inebriation.

(b) Documentation that the government subdivision has made reasonable efforts to implement voluntary agreements to promote business practices that reduce chronic public inebriation and promote public welfare, health, peace, and safety with licensees within the AIA who sell alcohol for off-premises consumption.

(c) Implementation of these voluntary agreements must have been attempted for at least six months before information is presented to the board that voluntary efforts have failed or need augmentation.

(6) **If restrictions are approved for an AIA, the board will:**

(a) Notify the appropriate beer and wine distributors of the product restrictions placed on off-premises licensees within the AIA.

(b) When product restrictions on the off-premises sale of alcohol products are placed on licensees within an AIA, no state liquor store or agency within the AIA may sell these restricted products.

(7) What is the process for liquor license applications and renewals for licensees inside a recognized AIA? Subject to the provisions of RCW 66.24.010(8):

(a) When the board receives an application for a liquor license that includes an off-premises sale privilege, the board will establish an extended time period of sixty days for the government subdivision to comment on the liquor license application or assumption.

(i) The government subdivision may and is encouraged to submit comment before the end of this sixty-day period, but may request an extension of this period when unusual circumstances, explained in the request, require additional time for comment.

(ii) The requesting government subdivision will notify the licensee or applicant when an extension of the sixty-day comment period is requested.

(b) For renewals, notice will be mailed to the government subdivision not less than ninety days before the current license expires.

(8) How long will an AIA be in effect? An AIA will remain in effect until:

(a) The sponsoring government subdivision repeals the specific enabling ordinance that originally defined the specific AIA recognized by the board; or

(b) The board repeals its recognition of an AIA as the result of a public hearing, called by the board acting on its own initiative or at the request of a community organization within the AIA, made after the AIA has been in effect for at least two years.

NEW SECTION

WAC 314-12-220 General review. The board will initiate a study of the effectiveness of WAC 314-12-210 and 314-12-215 one year following recognition of the first AIA under these rules. The study, which shall take no more than ninety days, will recommend the continuation, modification, or repeal of these rules.

NEW SECTION

WAC 314-12-225 Severability. If any provision of WAC 314-12-210 through 314-12-220 or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or the application of these rules which can be given effect without the invalid provision or application, and, to this end, the provisions of these rules are declared to be severable.

WSR 99-13-048

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed June 9, 1999, 8:44 a.m.]

Date of Adoption: June 9, 1999.

Purpose: To review, update references and rewrite chapter 16-142 WAC, Perishable packaged foods—Pull dating, in the clear rule format.

Citation of Existing Rules Affected by this Order: Chapter 16-142 WAC, Perishable package foods—Pull dating, repealing WAC 16-142-001, 16-142-010, 16-142-020, 16-142-030, 16-142-040, 16-142-050, and 16-142-060.

Statutory Authority for Adoption: RCW 69.04.915.

Adopted under notice filed as WSR 99-09-095 on April 21, 1999.

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 8, Amended 0, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 8, Amended 0, Repealed 7.

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.

June 9, 1999

Jim Jesernig

Director

Chapter 16-142 WAC

PERISHABLE PACKAGED FOOD GOODS—PULL DATING

NEW SECTION

WAC 16-142-100 What is the purpose for this rule? The purpose for this rule is to establish uniform standards for pull date labeling and safe storage conditions for perishable packaged food goods as described in RCW 69.04.900 through 69.04.920.

NEW SECTION

WAC 16-142-110 What is the purpose for pull dates? The purpose for pull dates is to inform the consumer of the expected length of shelf life for perishable packaged foods in order to allow them a reasonable amount of time to use the product under proper care and storage conditions.

NEW SECTION

WAC 16-142-120 What does the pull date indicate?

The pull date indicates the last day that the product can be sold and still allow the purchaser a reasonable amount of time to use the product under normal usage and storage conditions.

NEW SECTION

WAC 16-142-130 Can products be sold after the pull date?

Yes, products can be sold after the pull date has expired if they are still wholesome, not a danger to health and clearly labeled indicating that the pull date has expired. They must be separated from products that are still within pull date.

NEW SECTION

WAC 16-142-140 How must the pull date be shown?

The pull date must first show the month then the day of the month. The month can either be identified with three letters indicating the month such as DEC for December or by numbers indicating the month from one for January through twelve for December. The day of the month must be shown using two numbers such as 06 for the sixth day or 19 for the nineteenth day. When both the month and day of the month are shown by numbers they must be separated by a space or dash. The pull date must be separated from other numbers or letters on the label so as to prevent confusion.

NEW SECTION

WAC 16-142-150 Can pull dates be changed?

No, pull dates on perishable packaged foods subject to pull dating may not be changed, crossed-out or concealed.

NEW SECTION

WAC 16-142-160 Where must the pull date be placed?

The pull date must be placed on the label in a conspicuous location, that is clearly discernible. The pull date must be legible and of a type size consistent with the size of other required labeling.

NEW SECTION

WAC 16-142-170 What are the storage conditions and temperature requirements for perishable packaged foods?

Storage conditions and temperature requirements for perishable packaged foods are the same as required under chapter 246-215 WAC rules and regulations of the state board of health for food service and chapter 69.10 RCW Food Storage Warehouses.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-142-001 Promulgation.
- WAC 16-142-010 Application.

- WAC 16-142-020 Date.
- WAC 16-142-030 Package dating.
- WAC 16-142-040 Placement of "pull date."
- WAC 16-142-050 Storage.
- WAC 16-142-060 Effective date.

WSR 99-13-049
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed June 9, 1999, 3:56 p.m.]

Date of Adoption: June 9, 1999.

Purpose: This chapter replaces WAC 388-86-097 and 388-87-080, which are being repealed with this adoption. Chapter 388-552 WAC is the new chapter containing rules about oxygen and respiratory therapy. The new chapter adopts the payment methodology MAA uses to reimburse providers for oxygen and respiratory therapy services, equipment, and supplies. It also contains information about the items and services that are covered, and requirements for reimbursement.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-097 and 388-87-080.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, 74.09.520, 74.09.530.

Adopted under notice filed as WSR 99-08-122 on April 7, 1999.

Changes Other than Editing from Proposed to Adopted Version: Removed language about reducing or eliminating the program in response to legislative appropriations (WAC 388-552-300(1)). Added language about requesting additional medically necessary oxygen and respiratory therapy equipment.

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 21, Amended 0, Repealed 2.

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 21, Amended 0, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

June 9, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

PERMANENT

Chapter 388-552 WAC

CLIENT ELIGIBILITY

OXYGEN AND RESPIRATORY THERAPY

NEW SECTION

WAC 388-552-001 Scope. (1) This chapter applies to:

(a) Medical assistance administration (MAA) clients who require medically necessary **oxygen** and/or respiratory therapy equipment, supplies, and services in their homes and nursing facilities; and

(b) Providers who furnish **oxygen** and respiratory therapy equipment, supplies and services to eligible MAA clients.

(2) Instructions for clients covered by Medicare are located in Medicare's Durable Medical Equipment Regional Carrier (DMERC) Manual.

NEW SECTION

WAC 388-552-005 Definitions. The following definitions and those in WAC 388-500-0005 apply to this chapter. If a definition in WAC 388-500-0005 differs with the definition in this section, the definition in this section applies. Defined words and phrases are bolded in the text.

"Authorized prescriber" means a health care practitioner authorized by law or rule in the state of Washington to prescribe oxygen and respiratory therapy equipment, supplies, and services.

"Base year," as used in this chapter, means the year in which the oxygen and respiratory therapy billing instructions' current fee schedule is adopted.

"Maximum allowable" means the maximum dollar amount MAA reimburses a provider for a specific service, supply, or piece of equipment.

"Oxygen" means United States Pure (USP) medical grade liquid or gaseous oxygen.

"Oxygen and respiratory therapy billing instructions" means a booklet containing procedures for billing, which is available by writing to Medical Assistance Administration, Division of Program Support, PO Box 45562, Olympia, WA, 98504-5562.

"Oxygen system" means all equipment necessary to provide oxygen to a person.

"Portable system" means a small system which allows the client to be independent of the stationary system for several hours, thereby providing mobility outside of the residence.

"Provider" means a person or company with a signed core provider agreement with MAA to furnish **oxygen** and respiratory therapy equipment, supplies, and services to eligible MAA clients.

"Respiratory care practitioner" means a person certified by the department of health according to chapter 18.89 RCW and chapter 246-928 RCW.

"Stationary system" means equipment designed to be used in one location, generally for the purpose of continuous use or frequent intermittent use.

NEW SECTION

WAC 388-552-100 Client eligibility. (1) All MAA fee-for-service clients are eligible for **oxygen** and respiratory therapy equipment, supplies, and services when medically necessary, with the following limitations:

(a) Clients on the medically indigent program are not eligible under this chapter; and

(b) Clients on the categorically needy/qualified Medicare beneficiaries and medically needy/qualified Medicare beneficiaries programs are covered by Medicare and Medicaid as follows:

(i) If Medicare covers the service, MAA will pay the lesser of:

(A) The full co-insurance and deductible amounts due, based upon Medicaid's allowed amount; or

(B) MAA's **maximum allowable** for that service minus the amount paid by Medicare.

(ii) If Medicare does not cover or denies equipment, supplies, or services that MAA covers according to this chapter, MAA reimburses at MAA's **maximum allowable**; except, MAA does not reimburse for clients on the qualified Medicare beneficiaries (QMB) only program.

(2) Services for clients enrolled in a healthy options managed care plan receive all **oxygen** and respiratory therapy equipment, supplies, and services through their designated plan, subject to the plan's coverages and limitations.

PROVIDERS

NEW SECTION

WAC 388-552-200 Providers—General responsibilities. (1) The provider must verify that the client's original prescription is signed and dated by the **authorized prescriber** no more than ninety days prior to the initial date of service. The prescription must include, at a minimum:

(a) The client's medical diagnosis, prognosis, and documentation of the medical necessity for **oxygen** and/or respiratory therapy equipment, supplies, and/or services, and any modifications;

(b) If **oxygen** is prescribed:

(i) Flow rate of **oxygen**;

(ii) Estimated duration of need;

(iii) Frequency and duration of **oxygen** use; and

(iv) Lab values or **oxygen** saturation measurements upon the client's discharge from the hospital.

(2) The provider must provide instructions to the client and/or caregiver on the safe and proper use of equipment provided.

NEW SECTION

WAC 388-552-210 Required records. (1) A provider must maintain legible, accurate, and complete charts and records for each client. These records must support and justify claims that the provider submits to MAA for reimbursement. Records must include, at a minimum the:

- (a) Date(s) of service;
 - (b) Client's name and date of birth;
 - (c) Name and title of person performing the service, when it is someone other than the billing practitioner;
 - (d) Chief complaint or reason for each visit;
 - (e) Pertinent medical history;
 - (f) Pertinent findings on examination;
 - (g) **Oxygen**, equipment, supplies, and/or services prescribed or provided;
 - (h) The original and subsequent prescriptions according to the requirements in WAC 388-552-200 and 388-552-220;
 - (i) Description of treatment (when applicable);
 - (j) Recommendations for additional treatments, procedures, or consultations;
 - (k) X-rays, tests, and results;
 - (l) Plan of treatment/care/outcome;
 - (m) Logs of oxygen saturations and lab values taken to substantiate the medical necessity of continuous **oxygen**, as required by WAC 388-552-220;
 - (n) Logs of oximetry readings if required by WAC 388-552-380 for a client seventeen years of age or younger; and
 - (o) Recommendations and evaluations if required by WAC 388-552-230 for the infant apnea monitor program.
- (2) The provider must make required charts and records available to DSHS or its contractor(s) upon request.
 - (3) MAA may require additional information in order to process a submitted claim.

NEW SECTION

WAC 388-552-220 Requirements for oxygen providers. Oxygen providers must:

- (1) Obtain a renewed prescription every six months if the client's condition warrants continued service;
- (2) Verify, at least every six months, that **oxygen** saturations or lab values substantiate the need for continued **oxygen** use for each client. The provider may perform the **oxygen** saturation measurements. MAA does not accept lifetime certificates of medical need (CMNs).

NEW SECTION

WAC 388-552-230 Requirements for infant apnea monitors. (1) MAA does not reimburse for apnea monitors unless the provider has a respiratory care practitioner or registered nurse with expertise in pediatric respiratory care who is responsible for their apnea monitor program.

(2) MAA does not require a confirming second opinion for the initial rental period for diagnoses of apnea of prematurity, primary apnea, obstructed airway, or congenital conditions associated with apnea. For other diagnoses, a neonatologist's confirming assessment and recommendation must be maintained as a second opinion in the client's file. The initial rental period must not exceed six months.

(3) Regardless of diagnosis, the provider must maintain in the client's file, a neonatologist's clinical evaluation justifying each subsequent rental period.

NEW SECTION

WAC 388-552-240 Requirements for respiratory care practitioners. (1) A respiratory care practitioner must comply with chapter 18.89 RCW and chapter 246-928 WAC to qualify for reimbursement.

(2) A respiratory care practitioner must complete at least the following in each client visit:

- (a) Check equipment and ensure equipment settings continue to meet the client's needs; and
- (b) Communicate with the client's physician if there are any concerns or recommendations.

COVERAGE

NEW SECTION

WAC 388-552-300 Coverage. (1) MAA covers medically necessary oxygen and respiratory therapy equipment, supplies, and services subject to the limitations in this chapter. MAA approves additional oxygen and respiratory therapy equipment, supplies, and services on a case-by-case basis if medically necessary.

(2) MAA does not reimburse for a service or product if any of the following apply:

- (a) The service or product is not covered by MAA;
- (b) The service or product is not medically necessary;
- (c) The client has third party coverage and the third party pays as much as, or more than, MAA allows for the service or product; or
- (d) The client and provider do not meet the requirements in this chapter.

NEW SECTION

WAC 388-552-310 Coverage—Oxygen and oxygen equipment. (1) MAA reimburses for **oxygen** provided to:

- (a) Clients eighteen years of age or older with:
 - (i) $PO_2 \leq$ fifty-five mm on room air; or
 - (ii) $SaO_2 \leq$ eighty-eight percent on room air; or
 - (iii) $PaO_2 \leq$ fifty-five mm on room air.
- (b) Clients seventeen years of age or younger to maintain SaO_2 at:
 - (i) Ninety-two percent; or
 - (ii) Ninety-four percent in a child with cor pulmonale or pulmonary hypertension.

(2) MAA may cover spare tanks of **oxygen** and other equipment if the provider and attending physician document that travel distance or potential weather conditions could reasonably be expected to interfere with routine delivery of such equipment and supplies.

NEW SECTION

WAC 388-552-320 Coverage—Continuous positive airway pressure (CPAP) and supplies. (1) MAA covers the rental and/or purchase of medically necessary CPAP equipment and related accessories when all of the following apply:

- (a) The results of a prior sleep study indicate the client has sleep apnea;

(b) The client's attending physician determines that the client's sleep apnea is chronic;

(c) CPAP is the least costly, most effective treatment modality;

(d) The item is to be used exclusively by the client for whom it is requested;

(e) The item is FDA-approved; and

(f) The item requested is not included in any other reimbursement methodology such as, but not limited to, diagnosis-related group (DRG).

(2) MAA covers the rental of CPAP equipment for a maximum of two months. Thereafter, if the client's primary physician determines the equipment is tolerated and beneficial to the client, MAA reimburses for its purchase.

(3) Refer to **oxygen and respiratory therapy billing instructions** to determine which CPAP accessories are covered.

NEW SECTION

WAC 388-552-330 Coverage—Ventilator therapy, equipment, and supplies. (1) MAA covers medically necessary ventilator equipment rental and related disposable supplies when all of the following apply:

(a) The ventilator is to be used exclusively by the client for whom it is requested;

(b) The ventilator is FDA-approved; and

(c) The item requested is not included in any other reimbursement methodology such as, but not limited to, diagnosis-related group (DRG).

(2) MAA's monthly rental payment includes medically necessary accessories, including, but not limited to: humidifiers, nebulizers, alarms, temperature probes, adapters, connectors, fittings, and tubing.

(3) MAA covers a secondary (back-up) ventilator at fifty percent of the monthly rental if medically necessary.

(4) MAA covers the purchase of durable accessories for client-owned ventilator systems according to the fee schedule in the current **oxygen and respiratory therapy billing instructions**.

NEW SECTION

WAC 388-552-340 Coverage—Infant apnea monitor program. (1) A provider must comply with WAC 388-552-230 to qualify for reimbursement for the infant apnea monitor program.

(2) MAA covers infant apnea monitors on a rental basis.

(3) MAA includes all home visits, follow-up calls, and training in the rental allowance.

NEW SECTION

WAC 388-552-350 Coverage—Respiratory and ventilator therapy. (1) MAA covers prescribed medically necessary respiratory and ventilator therapy services in the home.

(2) Therapy services must be provided by a certified respiratory care practitioner;

(3) MAA does not reimburse separately for respiratory and ventilator therapy services provided to clients residing in nursing facilities. This service is included in the nursing facility's per diem.

NEW SECTION

WAC 388-552-360 Coverage—Suction pumps and supplies. (1) MAA covers suction pumps and supplies when medically necessary for deep oral or tracheostomy suctioning.

(2) MAA may cover one stationary and one portable suction pump for the same client if warranted by the client's condition. The provider and attending physician must document that either:

(a) Travel distance or potential weather conditions could reasonably be expected to interfere with the delivery of medically necessary replacement equipment; or

(b) The client requires suctioning while away from the client's place of residence.

NEW SECTION

WAC 388-552-370 Coverage—Inhalation drugs and solutions. Inhalation drugs and solutions are included in the prescription drug program. Refer to chapter 388-530 WAC.

NEW SECTION

WAC 388-552-380 Coverage—Oximeters. (1) MAA covers oximeters for clients seventeen years of age or younger when the client has one of the following conditions:

(a) Chronic lung disease, is on supplemental oxygen, and is at risk for desaturation with sleep, stress, or feeding;

(b) A compromised or artificial airway, and is at risk for major obstructive events or aspiration events; or

(c) Chronic lung disease, requires ventilator or BIPAP support, and may be at risk for atelectasis or pneumonia as well as hypoventilation.

(2) The provider must review oximetry needs and fluctuations in oxygen levels monthly, and log results in the client's records.

NEW SECTION

WAC 388-552-390 Coverage—Nursing facilities. (1) MAA reimburses according to this chapter for the chronic use of medically necessary oxygen, and oxygen and respiratory equipment and supplies to eligible clients who reside in nursing facilities.

(2) Nursing facilities are reimbursed in their per diem rate for:

(a) Oxygen and oxygen equipment and supplies used in emergency situations; and

(b) Respiratory and ventilator therapy services.

(3) Nursing facilities with a "piped" oxygen system may submit a written request to MAA for permission to bill MAA for oxygen. See **oxygen and respiratory therapy billing instructions**.

REIMBURSEMENT**NEW SECTION**

WAC 388-552-400 Reimbursement for covered services. (1) A provider must bill MAA according to the procedures and codes in the current **oxygen and respiratory therapy billing instructions**.

(2) MAA does not reimburse separately for telephone calls, mileage, or travel time. These services are included in the reimbursement for other equipment and/or services.

NEW SECTION

WAC 388-552-410 Reimbursement methods. MAA bases the decision to rent or purchase medical equipment for a client, or pay for repairs to client-owned equipment, on the least costly and/or equally effective alternative.

(1) Rental.

(a) Types of rental equipment:

(i) Equipment that normally requires frequent maintenance (such as ventilators and concentrators) is reimbursed on a rental basis for as long as medically necessary; and

(ii) Equipment with lower maintenance requirements (such as suction pumps and humidifiers) is reimbursed on a rental basis for a specified rental period, after which the equipment is considered purchased and owned by the client. Refer to the **oxygen and respiratory therapy billing instructions** for detailed information.

(b) The monthly rental rate includes, but is not limited to:

(i) A full service warranty covering the rental period;

(ii) Any adjustments, modifications, repairs or replacements required to keep the equipment in good working condition on a continuous basis throughout the total rental period;

(iii) All medically necessary accessories and disposable supplies, unless separately billable according to current **oxygen and respiratory therapy billing instructions**;

(iv) Instructions to the client and/or caregiver for safe and proper use of the equipment; and

(v) Cost of pick-up and delivery to the client's residence or nursing facility and, when appropriate, to the room in which the equipment will be used.

(2) Purchase.

(a) Purchased equipment becomes the property of the client;

(b) MAA reimburses for:

(i) Equipment that is new at the time of purchase, unless otherwise specified in current **oxygen and respiratory therapy billing instructions**; and

(ii) One maintenance and service visit every six months for purchased equipment.

(c) MAA does not reimburse for:

(i) Defective equipment;

(ii) The cost of materials covered under the manufacturer's warranty; or

(iii) Repair or replacement of equipment if evidence indicates malicious damage, culpable neglect, or wrongful disposition.

(d) The reimbursement rate for purchased equipment includes, but is not limited to:

(i) A manufacturer's warranty for a minimum warranty period of one year for medical equipment, not including disposable/ non-reusable supplies;

(ii) Instructions to the client and/or caregiver for safe and proper use of the equipment; and

(iii) The cost of delivery to the client's residence or nursing facility and, when appropriate, to the room in which the equipment will be used.

(e) The provider must make warranty information, including date of purchase and warranty period, available to MAA upon request.

NEW SECTION

WAC 388-552-420 Reimbursement methodology. MAA, at its discretion, uses the following methods to determine the **maximum allowable** amount for each purchased and rented item and service:

(1) Monthly rental reimbursement methodology.

(a) Medicare's fee as of October 31 of the year prior to the base year; or

(b) A **maximum allowable** equal to:

(i) One-tenth of the purchase **maximum allowable** for that product; or

(ii) If MAA does not reimburse for the purchase of that product, one-tenth of the amount calculated using the methodology in subsection (1) of this section.

(2) Purchase reimbursement methodology.

(a) Medicare's fee as of October 31 of the year prior to the **base year**; or

(b) A **maximum allowable** equal to the seventieth percentile price of an array of input prices.

(i) The number of input prices included in each array may be limited by MAA based on consideration of product quality, cost, available alternatives, and client needs.

(ii) An input price used in the **maximum allowable** calculation is the lesser of:

(A) Eighty percent of the manufacturer's list or suggested retail price as of October 31 of the **base year**; or

(B) One hundred thirty-five percent of the wholesale acquisition cost as of October 31 of the **base year**.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-097 Respiratory therapy services.

WAC 388-87-080 Payment—Oxygen.

WSR 99-13-052

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed June 9, 1999, 4:19 p.m.]

Date of Adoption: June 9, 1999.

Purpose: To explain the application of the B&O, retail sales, and use taxes to laundries, dry cleaners, and laundry pickup and delivery services. This rule is being revised to incorporate statutory changes reflected in chapter 275, Laws of 1998 and chapter 315, Laws of 1998.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-165 Laundries, dry cleaners, self-service laundries and dry cleaners.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-08-032 on March 31, 1999.

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 1, 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.

June 9, 1999

Russell W. Brubaker
Assistant Director

AMENDATORY SECTION (Amending WSR 94-09-016, filed 4/13/94, effective 5/14/94)

WAC 458-20-165 Laundries, dry cleaners, self-service laundries and dry cleaners. (1) **Introduction.** This ~~((section))~~ rule discusses the application of the business and occupation (B&O) ((tax and)), retail sales ((tax liability of)), and use taxes to laundries, dry cleaners, pickup and delivery services, and self-service laundries and dry cleaners. ((RCW 82.04.050 includes within the definition of "retail sale" repairing, cleaning, and altering tangible personal property for consumers, except sales of laundry services by nonprofit hospital associations to their members.)) Persons selling laundry and/or dry cleaning services are generally making retail sales, except when making sales to nonprofit health care facilities or providing coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks. RCW 82.04.050.

(2) ~~((Terms.))~~ **Definitions.** The following definitions apply to this rule.

(a) A "laundry or dry cleaning business" includes operating a plant or establishment, or contracting with others, for laundering, cleaning, dyeing, pressing, and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, and rugs. Laundry or dry cleaning businesses include self-service businesses which provide coin-operated and noncoin-operated laundry or dry cleaning facilities ~~((and)).~~ This term also includes pickup and delivery

laundry services performed by persons operating in their own ~~((name))~~ respective names and not as commissioned agent for another laundry business.

(b) A "laundry or linen supply service" is the ~~((business))~~ activity of providing customers with a supply of items such as clean linen, uniforms, and towels, ((etc.)) whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. The term includes supply services ~~((which operate))~~ operating their own cleaning establishments as well as those ~~((which contract))~~ contracting with other laundry or dry cleaning businesses.

(c) "Nonprofit health care facilities" means facilities operated by nonprofit organizations providing diagnostic, therapeutic, convalescent, or preventive inpatient or outpatient health care services. The term includes, but is not limited to, nonprofit hospitals, nursing homes, and hospices.

(3) **Business and Occupation Tax.** Business and occupation tax applies as follows.

(a) **Retailing.** Persons operating laundry or dry cleaning businesses ~~((, including self-service or coin-operated businesses.))~~ are generally taxable under the retailing classification upon the gross proceeds of sales, without any deduction on account of commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service rendered.

~~((i))~~ The gross proceeds of sales includes charges for cleaning and for sales of starch, soap, blueing or any other article sold to customers.

~~((ii))~~ Laundries in Washington which provide linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (uniforms, linen, etc.) to nonresidents.)) The gross proceeds of sales include charges for cleaning and for sales of soap, bleach, fabric softener, laundry bags, hangers, and other tangible personal property to consumers. Charges for alterations are also subject to the retailing classification. See "retail sales tax" below for a more detailed explanation of the charges included in the retailing classification.

(b) **Wholesaling.** Tax is due under the wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning businesses. The laundry or dry cleaning business purchasing these services should provide a resale certificate to the seller. See WAC 458-20-102 (Resale certificates).

(c) **Service and other activities.** ~~((Nonprofit associations composed exclusively of nonprofit hospitals are taxable under the service and other activities classification on gross income received for providing laundry services to their members.))~~ Effective June 11, 1998, any person making sales of laundry services to a nonprofit health care facility is taxable under the service and other activities B&O classification on the gross income received for such services. For the period of July 1, 1993-June 10, 1998, the service and other activities B&O tax applied only to sales of laundry services to members by nonprofit associations composed exclusively of nonprofit hospitals.

(i) Effective July 1, 1998, the service and other activities BO tax applies to charges for the use of coin-operated laundry facilities in apartment houses, rooming houses, or mobile home parks which are provided for the exclusive use of tenants. Chapter 275, Laws of 1998. Prior to this date these charges were considered a retail sale.

(ii) Persons who collect and distribute laundry or dry cleaning as a commissioned agent for one or more laundry or dry cleaning businesses, and who act as an independent contractor rather than as an employee, are liable for service B&O tax on their gross commissions. See WAC 458-20-159 for the recordkeeping requirements for showing agency status.

(4) Retail Sales Tax. ((a)) Laundry and dry cleaning businesses, including self-service or coin-operated laundries or dry cleaners, and laundry or linen supply services are required to collect the retail sales tax upon the total charge made to the ((customer)) consumer for laundry and dry cleaning service or laundry or linen supply service. ((RCW 82.04.050 was amended by chapter 25, Laws of 1993 sp.s. to include as a retail sale the income from coin operated laundry facilities situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. This change became effective July 1, 1993. Previously such charges were taxed under the service and other business activities classification.

(b)) (a) Persons in Washington who provide laundry or linen supply services are making retail sales in this state even though their customers may be located outside this state. Gross income from such services is subject to tax because the charge is for laundering which takes place in this state, rather than being a true rental of property (e.g., uniforms, linen, and towels) to nonresidents. Conversely, persons located outside the state of Washington who provide laundry or linen supply services to consumers in this state are not making retail sales in this state. The laundering service is performed outside Washington state and is exempt from Washington's BO and retail sales taxes.

(b) Prior to July 1, 1998, charges made for the use of coin-operated laundry facilities provided for the exclusive use of tenants in apartment houses, rooming houses, or mobile home parks were retail sales. This income is subject to the service and other activities B&O tax effective July 1, 1998. (Chapter 275, Laws of 1998.) Charges for the use of coin-operated laundry facilities in hotels, motels, trailer camps, and other locations providing lodging or camping facilities to transients remain subject to the retail sales tax.

(c) Laundry and dry cleaning businesses ((which provide their)) providing services through commissioned agents should collect and remit the retail sales tax to the department.

(i) If the agent is a hotel or an apartment ((which bills)) house billing guests or tenants for laundry or dry cleaning services, the hotel or apartment house should collect the retail sales tax on the total charge for the laundry or dry cleaning and remit the payment to the laundry or dry cleaning business. The laundry or dry cleaning business is responsible for remitting the tax to the department.

(ii) If the agent is a commissioned driver, the laundry or dry cleaning business can bill the customer directly for the services or the driver can collect the payment from the customer and remit the payment to the laundry or dry cleaning

business. In either case, the retail sales tax must be collected on the total charge made to the customer and the laundry or dry cleaning business is responsible for remitting the tax to the department.

~~((e) Sales by supply houses to laundries, dry cleaners and persons operating laundry or linen supply services of soaps, cleaning solvents and other articles or substances which are used in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Sales to such persons of dyes, fabric softeners, starches and similar articles or substances, which become ingredients of the articles cleaned, are sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap and similar property rented or supplied to customers as a part of the service rendered are wholesale sales. Sales by supply houses to laundries, dry cleaners and operators of laundry or linen supply services of equipment and supplies such as machinery, hand tools, sewing notions, scissors, spotting brushes, stationery, etc., are retail sales and the retail sales tax must be collected thereon.~~

~~(d) Sales by supply houses to self-service or coin operated laundries of any items which the laundries give to their customers are retail sales. Sales of soap, bleach, fabric softener or other supplies to self service or coin operated laundries for resale to their customers are wholesale sales. The laundry or dry cleaning business should provide a resale certificate to the supply house as provided in WAC 458-20-102. A sale is for resale if the self-service business sells the supplies to customers separate from the charge for the use of the laundry appliances.~~

~~(e) Sales to all operators of laundry or dry cleaning establishments of equipment such as washing machines, ironers, furniture, etc., are retail sales subject to the sales tax.~~

~~((f)) (d) In most cases the retail sales tax must be stated separately from the selling price or collected separately from the buyer. (See RCW 82.08.050.) An exception is made for coin-operated sales. The seller may deduct the tax from the total amount received in coin-operated machines to arrive at the net amount which becomes the measure of the tax.~~

~~((g)) (e) In general, the place of sale for purposes of local sales tax is the place the laundry or dry cleaning services are performed. See WAC 458-20-103 and 458-20-145.~~

~~(i) If a laundry or dry cleaning business contracts with another laundry or dry cleaning business to do the cleaning, the place of sale is the location of the laundry or dry cleaning business used by the customer to drop off and pickup the laundry.~~

~~(ii) If a laundry or dry cleaning business uses a commissioned agent such as a hotel, an apartment house, or a commissioned driver for pickup and delivery of the articles to be cleaned, the place of sale is the location of the laundry or dry cleaning business which does the cleaning.~~

(f) Sales to laundries or dry cleaning businesses and laundry or linen supply services of soaps, cleaning solvents, and other articles or substances consumed in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Retail sales tax also applies to sales of equipment such as washing machines,

irons, and furniture, and supplies such as hand tools, sewing notions, scissors, spotting brushes, and stationery.

(g) Sales to laundry and dry cleaning businesses of dyes, fabric softeners, starches, sizing, and similar articles or substances, which become ingredients of the articles cleaned, are generally sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap, and similar property rented or supplied to customers as a part of the service rendered are generally wholesale sales.

Persons selling laundry services to nonprofit health care facilities are considered consumers of all items used in providing such services. RCW 82.04.190 (2)(a). As a result, sales of items such as dyes, fabric softeners, linens, and uniforms to these persons are retail sales and subject to the retail sales tax.

(h) Sales to self-service or coin-operated laundries of any items the laundries give to their customers are retail sales. Sales of soap, bleach, fabric softener or other supplies to self-service or coin-operated laundries for resale to their customers are wholesale sales. A sale is for resale if the self-service business sells the supplies to customers separate from the charge for the use of the laundry appliances. The laundry or dry cleaning business should provide a resale certificate to the seller as provided in WAC 458-20-102.

(5) **Deferred Sales or Use Tax.** With respect to purchases by laundries or dry cleaning businesses and laundry or linen supply services, if the seller fails to collect the appropriate retail sales tax, the buyers are required to pay the retail sales tax (commonly referred to as the "deferred sales tax") or use tax to the department.

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.

June 9, 1999

Russell W. Brubaker
Assistant Director

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-195 Taxes, deductibility. ~~((A))~~ **(1) Introduction.** This rule explains the circumstances under which taxes may be deducted from the gross amount reported as the measure of tax under the business and occupation tax, retail sales tax, and public utility tax. It also lists deductible and nondeductible taxes.

(2) Deductibility ~~((generally))~~ **of taxes.** In computing tax liability, the amount of certain taxes may be excluded or deducted from the gross amount reported as the measure of tax under the business and occupation **(BO)** tax, the retail sales tax, and the public utility tax. ~~((Such))~~ These taxes may be deducted provided they ~~((+))~~ have been included in the gross amount reported under the classification with respect to which the deduction is sought, and ~~((2))~~ have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, ~~((+e-))~~ e.g., interstate commerce~~((-ete))~~.

The amount of taxes which are not allowable as deductions or exclusions must in every case be included in the gross amount reported. License and regulatory fees are not deductible. Questions regarding the deductibility or exclusion of a tax that is not specifically identified in this rule should be submitted to the department of revenue for determination.

~~((B))~~ **(3) Motor vehicle fuel taxes.** ~~((So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state of Washington or the United States government upon the sale thereof may be deducted by every seller thereof from the gross proceeds of sales reported under the business and occupation tax.~~

~~((C) Other taxes)~~ RCW 82.04.4285 provides a B&O tax deduction for certain state and federal motor vehicle fuel taxes when the taxes are included in the sales price. These taxes include:

- State motor vehicle fuel tax chapter 82.36 RCW;
- State special fuel tax chapter 82.38 RCW;
- Federal tax on diesel and special motor fuels 26 U.S.C.A. Sec. 4041;

PERMANENT

WSR 99-13-053
PERMANENT RULES
DEPARTMENT OF REVENUE
(Filed June 9, 1999, 4:19 p.m.)

Date of Adoption: June 9, 1999.

Purpose: To explain the circumstances under which taxes may be deducted or excluded from the measure of tax under the business and occupation (B&O) tax, retail sales tax, and public utility tax. The rule also provides nonexclusive lists of specific taxes that are deductible, and those which are not deductible. The rule is being revised to incorporate the amendment of RCW 82.04.4285 by chapter 176, Laws of 1998, and to remove repealed state and federal taxes that were cited in the rule.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-195 Taxes, deductibility.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-08-022 on March 29, 1999.

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 1, Repealed 0.

Federal tax on inland waterway commercial fuel 26 U.S.C.A. Sec. 4042;
Federal tax on gasoline and diesel fuel 26 U.S.C.A. Sec. 4081.

(4) Taxes collected as an agent of the state or the federal government. The amount of taxes collected by a taxpayer, as agent for the state of Washington or its political subdivisions, or for the federal government, may be deducted from the gross amount reported. ~~((Such))~~ These taxes are deductible under each tax classification of the Revenue Act under which the gross amount from such sales or services must be reported.

This deduction applies only where the amount of such taxes is received by the taxpayer as collecting agent and is paid by the agent directly to the state, its political subdivisions, or to the federal government. When the taxpayer is the person upon whom a tax is primarily imposed, no deduction or exclusion is allowed, since in such case the tax is a part of the cost of doing business. The mere fact that the amount of tax is added by the taxpayer as a separate item to the price of goods ~~((he sells))~~ sold, or to the charge for services ~~((he renders))~~ rendered, does not in itself, make such taxpayer a collecting agent for the purpose of this deduction. Examples of deductible taxes include:

FEDERAL—

Tax on telegraph, telephone, radio and cable messages 26 U.S.C.A. Sec. 4251;
Tax on transportation of persons 26 U.S.C.A. Sec. 4261;
Tax on transportation of property 26 U.S.C.A. Sec. 4271;

STATE—

Leasehold excise tax collected from lessees chapter 82.29A RCW;
Retail sales tax collected from buyers chapter 82.08 RCW;
Use tax collected from buyers chapter 82.12 RCW.

(5) Specific taxes~~((;))~~ which are not deductible. ~~((The deductions under paragraphs B and C above apply to the following excise taxes among others))~~ Examples of specific taxes which may be neither deducted nor excluded from the measure of the tax include the following:

~~((FEDERAL—~~

~~—Tax on gasoline~~ 26 U.S.C.A. Sec. 4081;
~~—Tax on telegraph, telephone, radio and cable messages~~ 26 U.S.C.A. Sec. 4251;
~~—Tax on transportation of persons~~ 26 U.S.C.A. Sec. 4261;
~~—Tax on transportation of property~~ 26 U.S.C.A. Sec. 4271;

~~STATE—~~

~~—Leasehold excise tax collected from lessees, chapter 82.29A RCW;~~
~~—Motor vehicle fuel tax, chapter 82.36 RCW;~~
~~—Retail sales tax collected from buyers, chapter 82.08 RCW;~~

~~—Use tax collected from buyers, chapter 82.12 RCW;~~
MUNICIPAL—
~~—City admission tax (imposed by city ordinance pursuant to RCW 35.21.280);~~
~~—County admissions and recreations tax (imposed by county ordinance pursuant to chapter 36.38 RCW).~~

Specific taxes—Nondeductible. No deduction is allowed with respect to the following licenses and taxes, among others:

FEDERAL—

~~—A. A. A. compensating tax~~ 7 U.S.C.A. Sec. 615(e);
~~—A. A. A. processing tax~~ 7 U.S.C.A. Sec. 609;
~~—Employment taxes~~ 26 U.S.C.A. chapter 21-25;
~~—Estate taxes~~ 26 U.S.C.A. chapter 11;
~~—Gift taxes~~ 26 U.S.C.A. chapter 12;
~~—Income taxes~~ 26 U.S.C.A. Subtitle A;
~~—Liquor taxes~~ 26 U.S.C.A. chapter 51;
~~—Manufacturers' and importers of sugar tax~~ 26 U.S.C.A. Sec. 4501;
~~—Manufacturers excise and import taxes~~ 26 U.S.C.A. chapter 32;
 Automobiles, etc. 26 U.S.C.A. Sec. 4061;
 Firearms, shells and cartridges 26 U.S.C.A. Sec. 4181;
~~—Taxes imposed by Revenue Act of 1954~~ 26 U.S.C.A. chapter 32;
 Sporting goods 26 U.S.C.A. Sec. 4161;
~~—Lubricating oils~~ 26 U.S.C.A. Sec. 4091;
~~—Tires and inner tubes~~ 26 U.S.C.A. Sec. 4071;
~~—Narcotics tax~~ 26 U.S.C.A. chapter 39;
~~—Occupation taxes:~~
 Importers, manufacturers and dealers
 — in firearms 26 U.S.C.A. Sec. 5801;
 Insurance policies issued by
 — foreign insurers 26 U.S.C.A. Sec. 4371;
~~—Sale and transfer of firearms tax~~ 26 U.S.C.A. Sec. 5811;
~~—Tobacco excise taxes~~ 26 U.S.C.A. chapter 52;
~~—Wagering taxes~~ 26 U.S.C.A. chapter 35;

STATE AND MUNICIPAL—

~~—Ad valorem property taxes~~ Title 84 RCW;
~~—Alcoholic beverages licenses and stamp taxes~~ chapter 66.24 RCW;
 (Breweries, distillers, distributors and wineries)
~~—Boxing and wrestling licenses and tax~~ chapter 67.08 RCW;
~~—Business and occupation tax~~ chapter 82.04 RCW;
~~—Cigarette tax~~ chapter 82.24 RCW;
~~—Conveyance tax~~ chapter 82.20 RCW;
~~—Gift and inheritance taxes~~ Title 83 RCW;
~~—Local license fees~~
~~—Parimutuel tax~~ RCW 67.16.100;
~~—Public utility tax~~ chapter 82.16 RCW;
~~—Real estate excise tax~~ chapter 28A.45 RCW;
~~—Regulatory fees~~
~~—State license fees~~
~~—Tobacco products tax~~ chapter 82.26 RCW;
~~—Use tax when not collected as agent for state~~ chapter 82.12 RCW.

PERMANENT

The question of the right to exclude or deduct the amount of any tax other than those authorized herein should be submitted to the department of revenue for determination.)

FEDERAL—

A.A.A. compensating tax 7 U.S.C.A. Sec. 615(e);

A.A.A. processing tax 7 U.S.C.A. Sec. 609;

Aviation fuel 26 U.S.C.A. Sec. 4161;

Employment taxes 26 U.S.C.A. chapter 21-25;

Estate taxes 6 U.S.C.A. chapter 11;

Firearms, shells and cartridges 26 U.S.C.A. Sec. 4181;

Gift taxes 26 U.S.C.A. chapter 12;

Importers, manufacturers and dealers in firearms 6 U.S.C.A. Sec. 5801;

Income taxes 26 U.S.C.A. Subtitle A;

Insurance policies issued by foreign insurers 26 U.S.C.A. Sec. 4371;

Liquor taxes 6 U.S.C.A. chapter 51;

Sale and transfer of firearms tax 26 U.S.C.A. Sec. 5811;

Sporting goods 26 U.S.C.A. Sec. 4161;

Superfund tax 26 U.S.C.A. Sec. 4611;

Tires 26 U.S.C.A. Sec. 4071;

Tobacco excise taxes 26 U.S.C.A. chapter 52;

Wagering taxes 26 U.S.C.A. chapter 35;

STATE AND MUNICIPAL—

Ad valorem property taxes Title 84 RCW;

Alcoholic beverages licenses and stamp taxes (Breweries, distillers, distributors and wineries) chapter 66.24 RCW;

Boxing, sparring and wrestling tax chapter 67.08 RCW;

Business and occupation tax chapter 82.04 RCW;

Cigarette tax chapter 82.24 RCW;

Gift and inheritance taxes Title 83 RCW;

Insurance premiums tax chapter 48.14 RCW;

Municipal utility taxes chapter 54.18 RCW;

Parimutuel tax RCW 67.16.100;

Public utility tax chapter 82.16 RCW;

Real estate excise tax chapter 82.45 RCW;

Tobacco products tax chapter 82.26 RCW;

Use tax when not collected as agent for state chapter 82.12 RCW.

WSR 99-13-083
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed June 14, 1999, 9:12 a.m.]

Date of Adoption: June 10, 1999.

Purpose: The proposed changes adjust the fee that medical providers may charge for searching and duplicating medical records. The adjustment is based on the change in the consumer price index based on all consumers for the Seattle/Tacoma area.

Citation of Existing Rules Affected by this Order: Amending WAC 246-08-400.

Statutory Authority for Adoption: RCW 70.02.010.

Other Authority: RCW 43.70.040.

Adopted under notice filed as WSR 99-10-078 on May 4, 1999.

Changes Other than Editing from Proposed to Adopted Version: Effective date was corrected.

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.
June 11, 1999
M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 97-12-087, filed 6/4/97, effective 7/5/97)

WAC 246-08-400 How much can a medical provider charge for searching and duplicating medical records?

PERMANENT

RCW 70.02.010(12) allows medical providers to charge fees for searching and duplicating medical records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than ~~((seventy-four))~~ seventy-nine cents per page for the first thirty pages;

(b) No more than ~~((fifty-seven))~~ sixty cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge ~~((a-seventeen))~~ an eighteen dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, ~~((1997))~~ 1999, through June 30, ~~((1999))~~ 2001.

WSR 99-13-084

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed June 14, 1999, 9:17 a.m.]

Date of Adoption: July [June] 1, 1999.

Purpose: To implement the 1998 legislation for chemical dependency professionals.

Statutory Authority for Adoption: RCW 18.205.060(1).

Adopted under notice filed as WSR 99-09-100 on April 21, 1999.

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 11, 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 11, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 11, 1999

M. C. Selecky

Secretary

Chapter 246-811 WAC

CHEMICAL DEPENDENCY PROFESSIONALS

Definitions

NEW SECTION

WAC 246-811-010 What definitions should I know?

(1) **Approved supervisor** is an individual who meets the education and experience requirements described in WAC 246-811-030 and 246-811-045 through 246-811-049 and who is available to the person being supervised.

(2) **Approved school** means any college or university accredited by a national or regional accrediting body recognized by the commission on recognition of postsecondary accreditation, at the time the applicant completed the required education.

(3) **Official transcript** is defined as the transcript from an approved college or university, in an envelope readily identified as having been sealed by the school.

(4) **Individual formal meetings** is defined as a meeting with an approved supervisor, involving one approved supervisor and no more than four supervisees.

(5) **Addiction counseling competencies** means the knowledge, skills, and attitudes of chemical dependency counselor professional practice as described in Technical Assistance publication No. 21, Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA), U.S. Department of Health and Human Services 1998.

(6) **Related field** is defined as health education, behavioral science, sociology, psychology, marriage and family therapy, mental health counseling, social work, psychiatry, nursing, divinity, criminal justice, and counseling education.

Education

NEW SECTION

WAC 246-811-030 What are the minimum education requirements for chemical dependency professional certification? (1) The minimum education requirements are:

(a) An associate's degree in human services or related field from an approved school; or

(b) Successful completion of ninety quarter or sixty semester college credits in courses from an approved school.

(2) At least forty-five quarter or thirty semester credits must be in courses relating to the chemical dependency profession and shall include the following topics:

(a) Understanding addiction;

(b) Pharmacological actions of alcohol and other drugs;

(c) Substance abuse and addiction treatment methods;

(d) Understanding addiction placement, continuing care, and discharge criteria, including American Society of Addiction Medicine (ASAM) criteria;

(e) Cultural diversity including people with disabilities and its implication for treatment;

(f) Chemical dependency clinical evaluation (screening and referral to include comorbidity);

- (g) HIV/AIDS brief risk intervention for the chemically dependent;
 - (h) Chemical dependency treatment planning;
 - (i) Referral and use of community resources;
 - (j) Service coordination (implementing the treatment plan, consulting, continuing assessment and treatment planning);
 - (k) Individual counseling;
 - (l) Group counseling;
 - (m) Chemical dependency counseling for families, couples and significant others;
 - (n) Client, family and community education;
 - (o) Developmental psychology;
 - (p) Psychopathology/abnormal psychology;
 - (q) Documentation, to include, screening, intake, assessment, treatment plan, clinical reports, clinical progress notes, discharge summaries, and other client related data;
 - (r) Chemical dependency confidentiality;
 - (s) Professional and ethical responsibilities;
 - (t) Relapse prevention;
 - (u) Adolescent chemical dependency assessment and treatment;
 - (v) Chemical dependency case management; and
 - (w) Chemical dependency rules and regulations.
- (3) All applicants, including individuals who are licensed under chapter 18.83 RCW, Psychologists; and chapter 18.79 RCW, Advance nurse practitioner, must also meet the requirements in subsection (2) of this section.

Experience Requirements

NEW SECTION

WAC 246-811-045 How will my experience be counted? (1) The department of health will consider experience up to seven years prior to the date of application.

(2) Accumulation of the experience hours is not required to be consecutive. Experience that will count toward certification must meet the requirements outlined in WAC 246-811-046 through 246-811-049.

(3) Supervised experience is the practice as referred to in RCW 18.205.090 (1)(c) and is the experience received under an approved supervisor. A practicum or internship taken while acquiring the degree or semester/quarter hours is applicable.

NEW SECTION

WAC 246-811-046 How many hours of experience will I need for certification? You will be required to complete two thousand five hundred, two thousand or one thousand five hundred hours of supervised experience depending upon your formal education level.

(1) Two thousand five hundred hours of chemical dependency counseling as defined in RCW 18.205.020(3), for individuals who possess an associate degree; or

(2) Two thousand hours of chemical dependency counseling for individuals who possess a baccalaureate degree in human services or a related field from an approved school; or

(3) One thousand five hundred hours of chemical dependency counseling for individuals who possess a master or doctoral degree in human services or a related field from an approved school; or

(4) One thousand five hundred hours of chemical dependency counseling for individuals who are licensed as advanced registered nurse practitioners under chapter 18.79 RCW; or

(5) One thousand five hundred hours of chemical dependency counseling for individuals who are licensed as a psychologist under chapter 18.83 RCW.

NEW SECTION

WAC 246-811-047 What competencies must I become proficient at during my experience? (1) It is the intent that individuals become competent in addiction counseling competencies, as defined in WAC 246-811-010(5), through the experience requirement.

(2) Individuals must experience the addiction counseling competencies listed in (a) through (i) of this subsection.

(a) Two hundred hours of clinical evaluation. One hundred hours of the two hundred must be face-to-face patient contact hours.

(b) Six hundred hours of face-to-face counseling to include:

Individual counseling;

Group counseling;

Counseling family, couples, and significant others.

(c) Fifty hours of discussion of professional and ethical responsibilities.

(d) Transdisciplinary foundations:

Understanding addiction;

Treatment knowledge;

Application to practice;

Professional readiness.

(e) Treatment planning.

(f) Referral.

(g) Service coordination.

(h) Client, family, and community education.

(i) Documentation, to include, screening, intake, assessment, treatment plan, clinical reports, clinical progress notes, discharge summaries, and other client related data.

(3) Eight hundred fifty hours of experience are designated to subsection (2)(a) through (c) of this subsection, the remaining experience hours must be divided among subsection (2)(d) through (i) of this subsection as determined by the supervisor.

NEW SECTION

WAC 246-811-048 How much of the experience requirement needs to be under supervision? (1) All of the experience must be under an approved supervisor as defined in WAC 246-811-010(1). The first fifty hours of any face-to-face client contact must be under direct observation of an approved supervisor or a chemical dependency professional. Supervision shall be based on assisting the person being supervised in acquiring proficiency in the addiction counseling competencies as defined in WAC 246-811-010(5).

(2) Approved supervisors shall attest to the department of the supervised person's satisfactory progress in becoming proficient in the addiction counseling competencies as listed in WAC 246-811-047 (2)(a) through (i) on forms provided by the department.

NEW SECTION

WAC 246-811-049 Who may act as an approved supervisor? (1) An approved supervisor is a certified chemical dependency professional or a person who meets or exceeds the requirements of a certified chemical dependency professional in the state of Washington, and who would be eligible to take the examination required for certification; and

(2) An approved supervisor has at least four thousand hours of experience in a state approved chemical dependency treatment agency.

(a) The four thousand hours are in addition to the supervised experience hours required to be eligible to become a chemical dependency professional.

(b) Twenty-eight clock hours of recognized supervisory training may be substituted for one thousand hours of experience; and

(3) An approved supervisor is not a blood or legal relative, significant other, cohabitant of the supervisee, or someone who has acted as the person supervised's primary counselor.

National Certifications

NEW SECTION

WAC 246-811-070 To what extent will my national certification be recognized by the department? (1) A person who is certified through the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) or the International Certification and Reciprocity Consortium (ICRC), is considered to have met the experience requirements of WAC 246-811-046.

(2) A person who is certified through NAADAC or ICRC is considered to have met the requirements of WAC 246-811-030 pertaining to the forty-five quarter or thirty semester credits in courses covering the subject content described in WAC 246-811-030(2). Verification of the additional forty-five quarter or thirty semester credits will be required upon application to the department.

(3) Verification of certification must be sent directly to the department from NAADAC or ICRC.

AIDS Requirement

NEW SECTION

WAC 246-811-075 How many hours of AIDS prevention and information education do I need? Applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

Expired Credential

NEW SECTION

WAC 246-811-080 What happens if my certification expires? (1) If the certification has expired for five years or less the individual must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If a certification has lapsed for more than five years, the applicant will be required to demonstrate continued competency and shall be required to take an examination if an examination was not taken and passed for the initial certification. In addition, the requirements of chapter 246-12 WAC, Part 2, must be met.

Fees

NEW SECTION

WAC 246-811-990 How often do I need to renew and what are the costs for certification? (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged for certified chemical dependency professional:

Title of Fee	Fee
Application	\$100.00
Initial certification	125.00
Renewal	125.00
Late renewal penalty	62.50
Expired certification reissuance	62.50
Duplicate certification	10.00
Certification of certificate	10.00
Wall certificate	10.00

**WSR 99-13-085
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed June 14, 1999, 9:20 a.m.]

Date of Adoption: June 1, 1999.

Purpose: This rule is a revision of the fee schedule for x-ray machine facility registration. The purpose of the fee increase is to ensure that revenue will meet program costs. There is also a change in the format from a text-style to a chart-style, for ease of understanding. The fee increase will maintain current levels of service and public health protection.

Citation of Existing Rules Affected by this Order: Amending WAC 246-254-053.

Statutory Authority for Adoption: RCW 43.70.110.

Adopted under notice filed as WSR 99-09-099 on April 21, 1999.

PERMANENT

Changes Other than Editing from Proposed to Adopted Version: An addition of references to WAC 246-225-030 and 246-227-150, so that it is clear that fees and penalties for shielding calculations apply only to cases where those calculations are required.

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.

June 11, 1999

M. C. Selecky

AMENDATORY SECTION (Amending WSR 98-11-066, filed 5/19/98, effective 7/1/98)

WAC 246-254-053 Radiation machine facility registration fees. ~~((1) Persons owning and/or leasing and using radiation producing machines shall submit a forty five dollar registration fee to the department at the time of application and every year thereafter. In addition, the annual tube fees are:~~

~~(a) Group A—For dental, veterinary, and podiatric uses:
(i) Forty five dollars for the first tube in Group A; and
(ii) Twenty two dollars and fifty cents for each additional tube.~~

~~(b) Group B—For hospitals and medical or chiropractic uses:~~

~~(i) One hundred twenty five dollars for the first tube in Group B; and~~

~~(ii) Sixty four dollars and fifty cents for each additional tube.~~

~~(c) Group C—For industrial, research, and other uses:~~

~~(i) Seventy dollars for the first tube in Group C; and~~

~~(ii) Twenty two dollars and fifty cents for each additional tube.~~

~~(d) Group D—No tube fee shall be charged for electron microscopes, mammographic X-ray machines, bone densitometers or airport baggage cabinet X-ray systems.~~

~~(2) The department shall charge a maximum annual total fee of two thousand eight hundred twenty five 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 forty five dollars shall be charged for late registration or late reregistration. See WAC 246-224-020 and 246-224-050.~~

~~(4) A fee of ninety dollars per X-ray room shall be charged for review of X-ray shielding calculations and floor plans submitted under WAC 246-225-030.~~

~~(5) A penalty fee of forty five dollars shall be charged to a facility where submittal of X-ray shielding calculations and floor plans required by WAC 246-225-030 was not made before the X-ray machine installation.~~

~~(6) Facilities electing to consolidate X-ray machine registrations into a single registration shall document in writing to DOH that their facilities are under one business license.~~

~~(7) Any X-ray facility found unregistered will be billed registration fees for the period of time since X-ray machine installation and/or operation.)~~ **(1) Radiation machine facility fees apply to each person or facility owning, leasing and using radiation-producing machines.**

FEE TYPE	FEE
(a) Annual Base Registration Fee	\$46
(b) Late registration or re-registration	\$46
(c) Penalty for operating without registration	\$46 for each year of unregistered operation
(d) Tube Fees	See Table 1

Group	First Tube	Each Additional Tube
(i) Group A: Dental, Podiatric, Veterinary uses	\$46	\$23
(ii) Group B: Hospital, Medical, Chiropractic uses	\$127	\$66
(iii) Group C: Industrial, research, and other uses	\$70	\$23
(iv) Group D: Electron Microscopes, Mammographic X-ray Machines, Bone Densitometers, and Airport Baggage Cabinet X-ray Systems	NA	NA

(2) X-ray shielding fees and penalties.

(a) Facilities regulated under the shielding plan requirements of WAC 246-225-030 or 246-227-150 are subject to a \$90 X-ray shielding review fee for each X-ray room.

(b) If a facility regulated under WAC 246-225-030 or 246-227-150 operates without X-ray shielding calculations or a floor plan review it will be subject to a \$45 penalty.

(3) Radiation safety fee. If a facility or group of facilities under one administrative control employs two or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility shall pay a flat, annual fee of \$2,900.

(4) Consolidation of registration. Facilities may consolidate X-ray machine registrations into a single registration after notifying the department in writing and documenting that a single business license applies.

PERMANENT

WSR 99-13-086**PERMANENT RULES****DEPARTMENT OF HEALTH**

(Nursing Care Quality Assurance Commission)

[Filed June 14, 1999, 9:23 a.m.]

Date of Adoption: May 21, 1999.

Purpose: Amend WAC 246-840-050 Licensing examination, 246-840-070 Failures—Repeat examination, and 246-840-090 Licensure by interstate endorsement.

Citation of Existing Rules Affected by this Order: Amending WAC 246-840-050, 246-840-070, and 246-840-090.

Statutory Authority for Adoption: RCW 18.79.110.

Adopted under notice filed as WSR 99-08-099 on April 6, 1999.

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 3, 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 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

May 21, 1999

Joanna Boatman, RN, Chair
Nursing Care Quality
Assurance Commission

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-050 Licensing examination. (1) The current series of the National Council of the State Boards of Nursing Registered Nurse or Practical Nurse Licensing Examination (NCLEX-RN or NCLEX-PN) Computerized Adaptive Test (NCLEX CAT) shall be the official examinations for nurse licensure. In order to be licensed in this state, all nurse applicants shall take and pass the National Council Licensure Examination (NCLEX-RN or NCLEX-PN) within four attempts and within two years of completion of the nursing program.

(2) The NCLEX will consist of a Computerized Adaptive Test that will be individualized with the score for the examination reported as either pass or fail. Specific parameters of the exam will be as prescribed by contract with National Council of State Boards of Nursing, Inc. (NCSBN).

(3) Examinations shall be conducted throughout the year.

(4) The executive director of the commission shall negotiate with NCSBN for the use of the NCLEX CAT.

(5) The examination shall be administered in accord with the NCSBN security measures and contract. All appeals of examination results shall be managed in accord with policies in the NCSBN contract.

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-070 Failures—Repeat examination.

(1) The retest may be scheduled no sooner than ninety days following the date of the last exam taken.

(2) Request to retake the exam must be submitted to the commission no less than forty-five days prior to the anticipated test date.

(3) Candidates who fail the examination will be permitted to retake the examination three times within the two-year period from the month of (~~first examination taken~~) completion of the nursing program.

(4) Candidates who fail to pass the examination within the time period specified in subsection (3) of this section shall be required to complete a program of study approved by the commission. Upon successful completion of the approved program, the candidate shall be required to take the examination.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-090 Licensure by interstate endorsement. A license to practice as a nurse in Washington may be issued without examination provided the applicant meets all of the following requirements:

FOR PRACTICAL NURSE PROGRAMS:

(1) The applicant has graduated and holds a credential from:

(a) A commission or state board approved program preparing candidates for licensure as a practical nurse; or

(b) Its equivalent as determined by the commission, which program must fulfill the minimum requirement for commission or state board approved practical nursing programs in Washington at the time of graduation.

(2) Applicants shall have passed a state board constructed test, the SBTPE (state board test pool examination), or NCLEX in their original state of licensure within four attempts and within two years of completion of the nursing program.

(3) The applicant held or currently holds a license to practice as a practical nurse in another state or territory. If the license is lapsed or inactive for three years or more, the applicant must successfully complete a commission approved refresher course before an active Washington license is issued.

(4) That grounds do not exist for denial under chapter 18.130 RCW.

(5) The applicant shall:

(a) Submit a completed application with the required fee.

(b) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

FOR REGISTERED NURSE PROGRAMS:

(6) The applicant has graduated and holds a degree/diploma from a commission or state board approved school of nursing preparing candidates for licensure as a registered nurse provided such nursing program is equivalent to the minimum nursing educational standards prevailing for commission or state board approved schools of nursing in Washington at the time of the applicant's graduation.

(a) Applicants who were licensed prior to January 1, 1953, must have scored at least seventy-five percent on the commission or state board examination in the state of original licensure.

(i) Applicants licensed after January 1, 1953, but before June 1, 1982, must have passed the state board test pool examination for registered nurse licensure with a minimum standard score of 350 in each test.

(ii) Applicants licensed after July 1, 1982, must have passed with a minimum standard score as established by contract with the National Council of State Boards of Nursing.

(b) The applicant holds a valid current license to practice as a registered nurse in another state or territory.

(c) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(d) The application must be completed and notarized, the fee must be filed with the application. A notarized copy of a valid current license shall be filed with the application.

(e) Verification of licensure by examination must be obtained from the state or territory of original licensure. Any fee for verification required by the state or territory of original license must be paid by the applicant.

(7) Applicants from countries outside the United States who were granted a license in another United States jurisdiction or territory prior to December 31, 1971, and who were not required to pass the state board test pool examination must meet the following requirements:

(a) The nursing education program must meet the minimum approved standards prevailing for schools of nursing in Washington at the time of the applicant's graduation.

(b) The applicant holds a valid current license to practice as a registered nurse in another United States jurisdiction or territory.

(c) The applicant must submit to the commission:

(i) A complete notarized application. The fee must be filed with the application.

(ii) Verification of original licensure obtained in the United States jurisdiction or territory.

(iii) Notarized copies of educational preparation and licensure by examination submitted directly from the country of original licensure or from the state commission or territory of original United States licensure.

(iv) Verification of current nursing practice for three years prior to application for Washington licensure.

(v) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(d) The applicant shall meet all requirements of chapter 18.79 RCW and regulations of the commission.

WSR 99-13-087
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed June 14, 1999, 9:25 a.m.]

Date of Adoption: April 16, 1999.

Purpose: During the 1998 legislative session, the legislature determined physician assistants are to pay the substance abuse monitoring surcharge of \$25.00 for each license application and each license renewal. This rule amends the fee structure to include the surcharge.

Citation of Existing Rules Affected by this Order: Amending WAC 246-918-990.

Statutory Authority for Adoption: RCW 18.71.017.

Other Authority: RCW 18.71A.020(3).

Adopted under notice filed as WSR 99-06-093 on March 3, 1999.

Changes Other than Editing from Proposed to Adopted Version: There are no changes between the proposed and adopted version.

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 1, 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 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 11, 1999

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-918-990 Fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Physician's assistants, certified physician assistants, physician assistant-surgical assistants, acupuncture physician assistants:	
Application	\$50.00
Renewal	35.00
<u>Substance abuse monitoring surcharge</u>	<u>25.00</u>
Expired license reissuance	35.00

PERMANENT

Title of Fee	Fee
Duplicate license	15.00

WSR 99-13-092
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed June 14, 1999, 1:56 p.m.]

Date of Adoption: June 14, 1999.

Purpose: WAC 458-20-207 has an overall purpose to explain the taxability of amounts received for legal, arbitration, and mediation services. This rule is amended to reflect the repeal of the B&O tax classification statute for "selected business services" (chapter 7, Laws of 1997). Legal, arbitration, and mediation services previously subject to this tax classification are now subject to the service and other activities B&O tax.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-207.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-08-023 on March 29, 1999.

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.

June 14, 1999

Russell W. Brubaker

Assistant Director

L&P Division

AMENDATORY SECTION (Amending WSR 95-15-013, filed 7/7/95, effective 8/7/95)

WAC 458-20-207 Legal, arbitration, and mediation services. (1) **Introduction.** This ~~((section))~~ rule explains the taxability of amounts received for legal, arbitration, and mediation services.

(2) Definitions.

(a) "Arbitration" means the process by which the parties to a dispute submit to the hearing and judgment of an impartial person or group appointed by mutual consent or statute.

(b) "Arbitration services" means services relating to the resolution of a dispute submitted to arbitration.

(c) "Attorney" means an active member of a state Bar Association engaged in the practice of law. The term also includes a professional service corporation incorporated under chapter 18.100 RCW, a professional limited liability company formed under chapter 18.190 RCW, or a partnership, provided the ownership of these business entities are properly restricted to attorneys and organized primarily for engaging in the practice of law.

(d) ("~~Collective investment fund~~" means:

(i) ~~A mutual fund or other regulated investment company as defined in Internal Revenue Code section 851(a);~~

(ii) ~~An "investment company" as that term is used in section 3(a) of the Investment Company Act of 1940 as well as an entity that would be an investment company under section 3(a) of the Investment Company Act of 1940 except for the section 3(e)(1) or (11) exemptions, or except that it is a foreign country;~~

(iii) ~~An "employee benefit plan," which includes any plan, trust, commingled employee benefit trusts, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in Internal Revenue Code sections 125, 401, 403, 408, 457, or 501 (e)(9) and (17) through (23), or similar plan maintained by state or local governments, or plans, trusts, or custodial arrangements established to self-insure benefits required by federal, state, or local law;~~

(iv) ~~A fund maintained by a tax exempt organization as defined in Internal Revenue Code sections 501 (e)(3) or 509(a) for operating, quasi-endowment, or endowment purposes; or~~

(v) ~~Funds that are established for the benefit of such tax exempt organization such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts.~~

(e)) "Legal services" means services relating to or concerned with the law. Such services include, but are not limited to, representation by an attorney (or other person, when permitted) in an administrative or legal proceeding, legal drafting, paralegal services, legal research services, arbitration, mediation, and court reporting services.

((~~(f)~~)) (e) "Mediation" means the process by which the parties to a dispute or negotiations agree to have an intermediary hear their differences and/or positions and facilitate and/or make suggestions concerning an agreement and/or the resolution of their dispute.

(3) **Business and occupation tax.** (~~Every person whose business is providing legal, arbitration or mediation services, is taxable under the selected business services classification upon the gross income of the business, unless such services are provided to a collective investment fund or related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when done to determine if a release of hazardous substances has occurred or is likely to occur.~~) Beginning July 1, 1998, gross income from legal arbitration or mediation services is subject to the service and other activities classification. (See section 2, chapter 7, Laws of 1997.) Previously, legal, arbitration, and mediation services were taxable under the selected business service tax classification.

(a) Gross income. The gross income of the business generally includes the amount of compensation paid for legal, arbitration, or mediation services and amounts attributable to providing those services (i.e., charges for tangible personal property directly used or consumed in supplying legal, arbitration, or mediation services). Reimbursed general overhead costs are generally (~~includable~~) included in the gross income of the business even though indirectly related to litigation. Any reimbursed costs (not directly related to litigation) for which the attorney assumes personal liability for payment are also (~~includable~~) included in gross income.

(b) Overhead costs. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for overhead costs are fully subject to tax. Such overhead costs are taxable even though they may be separately stated on the billings or expressly denominated as costs of the client. Examples of such overhead costs include, but are not limited to:

(i) Photocopy or other reproduction charges, except charges paid to the provider, or the agent of the provider, for the official or original copy of a record, or other document, provided for litigation;

(ii) Long distance telephone tolls;

(iii) Secretarial expenses;

(iv) Office rent;

(v) Office supplies;

(vi) Travel, meals and lodging;

(vii) Utilities, including facsimile telephone charges; and

(viii) Postage, unless paid for service of legal papers as a direct cost of litigation.

(c) Excluded amounts. The following amounts are excluded from gross income if complete and accurate records are maintained of these amounts:

(i) Client trust accounts. The gross income of the business does not include amounts held in trust for the client.

(ii) Litigation expenses. Attorneys are bound by the rules of professional conduct. RPC 1.8(e) prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for these expenses. This means that an attorney normally acts solely as the agent for the client when financing litigation. Accordingly, amounts received from a client for the direct expenses of litigation do not constitute gross income to the attorney. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for the following direct litigation expenses are not included in gross income:

(A) Filing fees and court costs;

(B) Process server and messenger fees;

(C) Court reporter fees;

(D) Expert witness fees; and

(E) Costs of associate counsel.

A cash basis taxpayer cannot exclude or deduct amounts of unreimbursed litigation expenses. For example, an attorney advances all the litigation expenses for a contingency fee case. The case is ultimately resolved against the attorney's client and the expenses are not repaid because of the client's bankruptcy. The attorney cannot then deduct these expenses as a bad debt or otherwise exclude them against other income earned by the attorney.

(iii) Expense advances and reimbursements. Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third-party providers or other costs incurred in connection with a legal matter other than litigation. Such amounts are excluded from the business and occupation tax only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment (see WAC 458-20-111, Advances and reimbursements). Generally, such amounts will be for third-party service providers (for example, accountants, appraisers, architects, artists, drafters, economists, engineers, investigators, physicians, etc.). However, these costs could also include client expenses for registration, licensing or maintenance fees, title and other insurance premiums, and escrow fees paid to third-party escrow agents. These costs are excludable only when the attorney does not have any personal liability to the third-party provider for their payment.

(iv) Records requirement. In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that:

(A) Payment is made, or will be made on behalf of a named client; and

(B) The attorney assumes no liability for payment, other than as agent for the named client.

~~(d) ((Excluded services. The following legal services are excluded from the selected business services tax classification:~~

~~(i) Hazardous waste. Legal, arbitration, or mediation services related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when the services are performed to determine if a release of hazardous substances has occurred or is likely to occur are not taxable as selected business services. Income from these excluded services are taxable under the service and other business activities classification (see WAC 458-20-224). For example, a legal opinion specifically determining whether and to what extent a client is subject to federal and state law as it concerns hazardous waste identification, investigation, and cleanup would not be taxable as a selected business service.~~

~~Also, arbitration or mediation services provided to resolve or negotiate settlement in a case determining the liability for or the release of hazardous substances are examples of excluded services which would not be taxable as selected business services.~~

~~(ii) Collective investment funds. Income derived from legal, arbitration, or mediation services provided to, performed for, on behalf of, or for the benefit of a collective investment fund is excluded from gross income under the selected business services classification. Income received~~

from these clients is taxable under the service and other business activities classification (see WAC 458-20-224).

(e)) Multiple business activities. Attorneys and other persons engaged in providing legal, arbitration, and mediation services sometimes engage in other business activities which are classified under a different tax classification (i.e., escrow services (~~acting as the trustee for a trust, acting as the personal representative of an estate, etc.~~)). In some circumstances, income from these other business activities will be subject to tax under a different tax classification (~~other than selected business services~~)).

(i) Independent business activities. If the other activities engaged in by the person are independent from the legal, arbitration, or mediation services provided to the client, these activities are taxed based on the tax classification that applies to each of those other activities, provided these other activities are separately accounted for and/or itemized as a separate amount in billings or invoices to the client. Failure to separately account and/or itemize for such activities will result in classification of all activities under the (~~selected business services~~) service and other activities classification. (~~Legal activities specifically excluded from the selected business services tax classification will be treated as an independent business activity taxable under the other services and business activities tax classification, provided the excluded service is separately accounted for and/or itemized as a separate amount in billings or invoices to the client.~~)

(ii) Combined business activities. If the other activities are related to the legal, arbitration, or mediation services provided to the client, the primary activity provided the client in each taxable period will determine the tax classification. Generally, the activity will be considered as related when there is some interaction between the two activities to reach an ultimate goal (i.e., a law firm which provides legal advice and brokers the financing of a business arrangement). There are a number of elements which may be examined to determine whether a sufficient relationship between the multiple activities exist. Some elements considered are the timing for the selection and provision of services, the relationship between the contracting parties, the procedure used in the selection process, the dependence of the relationship between the two or more activities, the relationship of the prices between the two activities, and the means of payment selected for the activities.

(iii) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(A) A law firm has an escrow department. This escrow department is run by employees who are not attorneys (but the supervising employee is a limited practice officer who has experience as a certified escrow agent), has a separate phone number, separate bank account, separate trust account, separate computer system, and maintains its own accounting system. Contracts for the escrow services state that the law firm is being retained as an independent escrow agent and not to represent any person involved in the transaction. Further, the contract states that the law firm shall not offer legal advice upon the transaction. The escrow department of this

law firm would be considered an independent business activity and be taxed separately under the retailing classification for escrow businesses (see WAC 458-20-156).

(B) A law firm limits its practice to real estate. It primarily provides escrow services and real estate closings. Even though this firm has chosen to limit its practice, it is the nature and the character of its activities which will determine the primary activity for each closing. When a closing includes the preparation, selection, or drafting of the deed between the purchaser and seller, drafting legal documents to obtain clear title, and/or the preparation, selection or drafting of the promissory notes, deeds of trust, mortgages, and agreements modifying these documents, it will be presumed that the primary activity performed for the client is providing these legal services.

(I) The law firm closed a real estate transaction performing all the escrow services. Except for the escrow services provided, the firm represented the buyer in the closing. Although an attorney from the firm reviewed and approved the legal documents provided by the seller, the attorney did not prepare any legal documents for the transaction. Since the firm was representing a specific client in this real estate closing, the escrow services are considered incidental to the legal services provided. Accordingly, the firm will report the income from this transaction under the (~~selected business services~~) service and other activities classification.

(II) The firm was engaged by both parties in a real estate transaction to handle a real estate closing. An attorney for the firm selected and prepared the earnest money escrow agreement, the purchase and sales agreement, the closing agreement, and the deeds for the transfer. Title was clear and did not require any additional drafting. The firm also entered into an escrow agreement with both parties and held in escrow the buyer's deposit and the seller's deed. Since an attorney for the law firm was required to select, analyze, and review the legal documents in this transaction, the escrow activity will be considered incidental. This closing is reported under the (~~selected business services~~) service and other activities classification for legal services.

(III) A certified escrow agency, owned by a principal qualified under APR 12 (the limited practice rule for limited practice officers), provides both escrow and the limited legal services allowed under APR 12 to its clients. The escrow company itemizes the services provided. APR 12(d) allows a limited practice officer to select, prepare and complete documents in a form previously approved by the board for use in closing a loan, extension of credit, sale or other transfer of real or personal property. The nature of this limited license prevents an escrow company using limited practice officers from ever engaging in legal services as a primary activity in a real estate closing. Accordingly, the escrow company will report the income from escrow and closings under the retail sales classification (see WAC 458-20-156).

(IV) The same facts as above, but the escrow company hires employees who are attorneys to provide the allowable limited legal services. The result is the same. Under RPC 5.4, an attorney is prohibited from sharing legal fees with a non-lawyer and, under RPC 5.5, cannot assist a person who is not a member of the Bar Association in the performance of an activity that constitutes the unauthorized practice of law, and

under RPC 7.1 a lawyer cannot make false or misleading communications about the lawyer or the lawyer's services. Accordingly, an attorney hired by an escrow company would not be providing legal services to the escrow companies' clients except to the extent authorized for a limited practice officer. Since only limited legal services can be offered, the escrow company would continue to report all fees from both the escrow and closing services under the retail sales tax classification.

~~((V) An attorney acts as the trustee for a testamentary trust which the attorney drafted. The attorney maintains the trust records, invests the assets of the trust, reviews distributions, accounts for trust assets, earnings, and distributions to the trust beneficiaries, and files all required returns and forms for the trust. The trust pays an annual fee for these services. On occasion, the attorney provides general legal advice to the trust which is billed to the trust at an hourly rate. After the death of the settlor, the primary activity engaged in by the attorney for this client is that of trustee. Accordingly, the gross income from the trust administration activities after the death of the settlor are taxed separately under the other service and business activities classification. The separately accounted for legal services are taxed under the selected business services rate.~~

~~((VI) An attorney acts as the trustee for an inter vivos trust which the attorney drafted. After being appointed trustee, the attorney continues to represent the settlor of the trust (who is also the primary beneficiary) and provides legal advice to the trust. The attorney is paid an annual fee for duties as a trustee and an hourly rate for legal services. The initial relationship between the parties was that of attorney and client. The attorney continues to actively maintain this relationship and provides legal services to the settlor and the trust. Accordingly, the primary activity engaged in by the attorney for this client is that of attorney. The gross income from this activity would be taxed under the selected business services classification. However, if the inter vivos trust was an excluded services trust (i.e., a charitable lead trust) any legal services provided the trust would be reported under the other service and business activities classification.))~~

(4) **Retail sales tax.** Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

(5) **Use tax.**

(a) The use tax applies upon the use of articles purchased or manufactured for use upon which retail sales tax has not been paid or collected. This includes, but is not limited to, the following:

(i) Materials used and consumed while rendering legal, arbitration, or mediation services; and

(ii) Office supplies and office equipment purchased by the firm for its own use.

(b) The use tax also applies to all purchases of tangible personal property acquired without payment of retail sales tax and resold to clients but not separately stated from legal services rendered on the agency's billing.

WSR 99-13-093

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 9823—Filed June 14, 1999, 4:39 p.m.]

Date of Adoption: June 10, 1999.

Purpose: To prioritize change applications over new applications when change applications meet certain criteria.

Citation of Existing Rules Affected by this Order: Amending chapter 173-532 WAC, Water resources management, Walla Walla basin.

Statutory Authority for Adoption: Chapters 43.21A, 43.27A, 90.03, 90.44, 90.54 RCW.

Adopted under notice filed as WSR 99-08-125 on April 7, 1999.

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 1, 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.

June 10, 1999

Tom Fitzsimmons

Director

NEW SECTION

WAC 173-532-085 Prioritizing change and transfer applications. (1) The department recognizes that the many water resource planning documents and water supply studies which have been prepared for the Walla Walla River basin contain a significant amount of useful water management information. The department's general interpretation of these studies is that there is little water available within the basin for new appropriations. Consequently, the department has concluded that processing applications for changes or transfers of existing water rights is a more efficient and effective approach to managing water within the Walla Walla basin than processing applications for new appropriations.

(2) Therefore, an application for a change or transfer of an existing water right may be processed before applications for new water rights with senior filing dates proposing to use water from the same source or hydraulically connected sources of ground water, provided one or more of the following criteria are satisfied:

(a) The proposed transfer or change would result in the construction or expansion of a municipal water supply system consistent with its approved water system plan and that system will be managed according to specific water conser-

vation principles negotiated with and agreed to by the department prior to approval of the proposed change or transfer.

(b) The proposed transfer or change would incorporate a watershed restoration component that would be specifically designed to protect or restore watershed health. Project proposals will be categorized and evaluated on the basis of either being riparian or nonriparian in nature. Consistent with the critical pathways methodology outlined in chapter 75.46 RCW, the department will use the criteria established by the Southeast regional salmon committee to evaluate and prioritize individual riparian project proposals within the basin. These criteria are:

- (i) Listed ESA species affected, together with life-stage and use;
- (ii) Priority limiting factors for the stream reach;
- (iii) Cost-effectiveness;
- (iv) Size of area affected;
- (v) Relationship to other projects; and
- (vi) Other considerations (e.g., protection versus restoration, innovative techniques, etc.).

(c) Nonriparian project proposals will be evaluated and prioritized using natural resource conservation service environmental enhancement criteria for nonriparian areas. The criteria to be used are:

- (i) Erosion control/sediment reduction;
- (ii) Upland habitat improvement; and
- (iii) Wetland enhancement or development.

Based on these ranking criteria, project submittals scoring fifty percent or higher of the total points available will be considered to have significant environmental benefit and the associated application(s) will be evaluated out of processing priority sequence and ahead of other applications. Priority will first be given to applications with qualifying riparian project proposals. Where several competing applications within a category have met the fifty percent threshold, priority will be given to the proposals with the highest score.

Approval of any change application evaluated out of sequence through this process will be provisioned such that no final superseding certificate will issue unless and until the watershed project is installed and/or implemented to the satisfaction of the department. Failure to complete the watershed project may lead to enforcement against use of the changed water right for lack of compliance with conditions of the change approval.

Should evaluation criteria for riparian project proposals be developed and adopted by the Walla Walla and Columbia County habitat restoration committees, this rule will be amended to require use of those criteria instead of those of the Southeast regional salmon committee.

(3) It shall be the responsibility of the applicant to present any project proposal to the department, together with all supporting documentation, in order for the proposal to be considered for review under subsection (2)(a) or (b) of this section.

(4) Although subsection (2) of this section allows transfer or change applications to be processed before new applications for water from the same source or hydraulically connected ground water source that were filed earlier than the applications for transfer or change, the department is required by law to assure that the earlier applicants' opportunity to

receive a permit would not be impaired if the transfer or change application is approved.

(5) The criteria in subsection (2) of this section are meant to supplement WAC 173-152-050 (3)(a), (criteria for priority processing of competing applications). Nothing in this chapter shall serve to supersede the requirements set forth through chapter 173-152 WAC (water right administration).

WSR 99-13-097

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UT-980083, General Order No. R-464—Filed June 15, 1999, 9:40 a.m.]

In the matter of amending WAC 480-121-010, 480-121-020, 480-121-030, 480-121-040, and 480-121-050 and adopting WAC 480-121-015, 480-121-023, 480-121-026, 480-121-060 and 480-121-070, relating to applications for registration, petitions for competitive classification, classification, and filing of price lists for telecommunications companies.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 99-07-106, filed with the code reviser on November 4, 1998 [March 23, 1999]. The commission brings this proceeding pursuant to RCW 80.01.040.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C [43.21C] RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopts this rule on June 11, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposed rules will implement the requirements of Executive Order 97-02, requiring agencies to review rules for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost, and fairness. The proposed rules also make several changes to existing rules. This proposed rule making accomplishes placing into rule a streamlined process for telecommunications company applications for registration, petitions for competitive classification, and price list filings; minimizing the burden of entry; and establishing criteria for cancellations of registration.

New section WAC 480-121-023 When a supplemental application is required. This rule lists the requirements for a telecommunications company that proposes to expand the services it offers.

New section WAC 480-121-026 Rejection of registration application, competitive classification petition, and price list. This rule establishes the basis for rejecting an application and returning it to the applicant.

New section WAC 480-121-050 Cancellations. This rule identifies what a telecommunication company must submit to the commission before it ceases business in this state.

New section WAC 480-121-060 Revocation. This rule identifies reasons for revocation of a registration.

WAC 480-121-070 Petition for competitive classification. This rule establishes the requirements for filing petitions for competitive classification.

REFERENCE TO AFFECTED RULES: These rules amend the following sections of the Washington Administrative Code: WAC 480-121-010 Filing of registration applications, competitive classification, and price list, 480-121-020 Requirements for registration applications, competitive classification petitions, and price lists, 480-121-030 Additional information, 480-121-040 Grant or denial of registration, and 480-121-050 Form.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on June 17, 1998, at WSR 98-13-117, and an amended CR-101 on August 5, 1998, at WSR 98-16-101.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering undertaking a rule making on rules relating to regulation of registration, competitive classification, and price lists of telecommunications companies. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), and by sending notice to regulated telecommunications companies. Pursuant to the notice, the commission held a stakeholder meeting on December 16, 1998.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on March 23, 1999, at WSR 99-07-106. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 99-07-106 at 9:30 a.m., Wednesday, April 28, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments from U S WEST Communications, Inc., Telecommunications Resellers Association, and from GST Telecom Washington, Inc.

RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to notice, at the commission's April 28, 1999, open public meeting, before Chairwoman Marilyn Showalter and Commissioner Richard Hemstad. At the meeting, Sondra Walsh commented on behalf of commission staff. No other persons made oral comments at the meeting.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopts the proposed rules, with the changes described below.

CHANGES FROM PROPOSAL: The commission adopts the proposal with the following changes from the text noticed at WSR 99-07-106 (underlined text added).

The commission has determined that good cause exists to change the language initially proposed as WAC 480-121-010(2), relating to commission waivers of its own rules, and to place the subsection entirely within WAC 480-121-015. The changed language does not alter the commission's existing standards or procedures. The change does, however, make it more clear how the commission will act and what are its standards for acting, and makes it clear how and when the commission will make its decision whether to grant a rule exemption.

Consistent with U S WEST's recommendation, the commission changes WAC 480-121-020 (1)(d) removing the following language: "must be accompanied by declaration of positive regulatory performance on the form prescribed by the commission." The commission substitutes WAC 480-121-020 (4)(a). The language, adopted at U S WEST's suggestion, provides a clear basis for determining whether a potential applicant has met a minimal financial standard for approval of its registration application.

The commission moves to safeguard the public by adding subsection (7) to WAC 480-121-020 to delineate the requirements that must be met if an applicant proposes to collect advance customer deposits.

Consistent with GST Telecom Washington's recommendation, the commission changes WAC 480-121-023 to identify which additional services require an applicant to submit a supplemental application. This change clarifies that a supplemental application is needed only if a company intends to collect deposits from customers and to expand its proffered service to include alternate operator service, local exchange service, or prepaid calling services.

Consistent with U S WEST's recommendation, the commission changes the language in WAC 480-121-060 (1)(f) and (g) for clarity from "Comply with all federal law" to "Comply with applicable federal law."

The commission also adopts minor typographical changes.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: U S WEST proposes adding to WAC 480-121-060 the following: "Supply at the end of the first year of service, and again each subsequent year of service, maps showing where the provider has deployed service, points of interconnection with other providers and any known future plans for deployment within the next calendar year. Applicant must also include in this annual filing, a description of the class or classes of customer (e.g., business or residential) it serves and plans to serve and the number of lines and customers served in each exchange." The commission does not agree with U S WEST that the maps should be required. If the commission determines that this type of information is required in order for the commission to monitor the status of competition, then the commission should require all telecommunications companies to provide information about the services they provide in their annual reports to the commission. The commission does not believe that collecting this information only from applicants and new registrants would pro-

vide the commission with adequate and sufficient information to the ends for which it is recommended.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopts the proposed rules, with changes specified below from the text noticed at WSR 98-22-110.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-121-010, 480-121-020, 480-121-030, 480-121-040, and 480-121-050 should be amended, and that WAC 480-121-015, 480-121-023, 480-121-026, 480-121-060, and 480-121-070 should be adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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 5, Amended 5, 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.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-121-010, 480-121-020, 480-121-030, 480-121-040, 480-121-050 are amended, and 480-121-015, 480-121-023, 480-121-026, 480-121-060, and 480-121-070 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser, pursuant to RCW 34.05.380(2).

2. This order and the rules set out in Appendix A, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff open public meeting memoranda, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption and for rejection of proposed changes as required by RCW 34.05.025.

DATED at Olympia, Washington, and effective this 11th day of June 1999.

Washington Utilities and Transportation Commission
Richard Hemstad, Commissioner
William R. Gillis, Commissioner

Chapter 480-121 WAC

REGISTRATION, COMPETITIVE CLASSIFICATION AND PRICE LISTS OF TELECOMMUNICATIONS COMPANIES

AMENDATORY SECTION (Amending Order R-237, Cause No. U-85-43, filed 9/19/85)

WAC 480-121-010 Filing of registration application, competitive classification petition, and price list. Applications (~~shall~~), petitions, and price lists must be filed at the office of the commission in Olympia, Washington, by mail or in person (~~and shall be signed by the applicant or its attorney, dated, and verified~~). Applicants must submit a declaration signed and dated by applicant or its attorney certifying the accuracy of the application, petition, and price list. Applications, petitions, and price lists will be assigned a docket number (~~and~~). All additional exhibits and data thereafter filed, and correspondence in connection with the (~~application~~) filing, should bear that docket number. Applications (~~shall~~) for registration, petitions for competitive classification, and price lists must be (~~in the form prescribed by WAC 480-121-050, and shall in all respects adhere to the rules set out herein. Applications not in substantial compliance with these rules may be rejected by the commission and returned to the applicant~~) submitted at the same time. The applicant must file with the commission an original application, petition, and price list and any additional copies as the commission may require.

NEW SECTION

WAC 480-121-015 Exemptions from rules. (1) The commission may grant an exemption of any rule in this chapter, when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-09 WAC.

AMENDATORY SECTION (Amending Order R-237, Cause No. U-85-43, filed 9/19/85)

WAC 480-121-020 (~~(Number of copies.)~~) **Requirements for registration applications, competitive classification petitions, and price lists.** (~~(Applicant shall file with the commission an original application and such additional copies as the commission may require.)~~) (1) Applications for registration must:

(a) Be in the form prescribed by the commission;

(b) Comply with the rules set forth in chapter 480-120 WAC; and

(c) Be accompanied by the applicant's current balance sheet, latest annual report, if any, and a description of the telecommunications service it intends to offer.

(2) Petitions for competitive classification must meet the requirements of WAC 480-120-023.

(3) Price lists must meet the requirements of WAC 480-120-027.

(4) As a condition to registration, with or without hearing, the commission may require an applicant clearly show that:

(a) The applicant possesses adequate financial resources to provide the proposed service;

(b) The applicant possesses adequate technical competence to provide the proposed service;

(c) The applicant is in compliance with all applicable federal, state and local telecommunications technical and business regulations.

(5) The commission may request an applicant to provide information regarding the applicant's regulatory performance in other states in which it operates.

(6) Applicants intending to collect customer prepayment must meet the requirements of WAC 480-120-058.

(7) Applicants collecting customer deposits pursuant to WAC 480-120-056 may be required to procure a bond or establish a federally insured interest-bearing trust account.

NEW SECTION

WAC 480-121-023 **When a supplemental application is required.** Supplemental registration applications, competitive classification petitions, and price lists are required if a telecommunications company intends to amend its registration to include collecting deposits or providing alternate operator services, local exchange services, or prepaid calling services.

NEW SECTION

WAC 480-121-026 **Rejection of registration application, competitive classification petition, and price list.** Registration applications, competitive classification petitions, and price lists not in substantial compliance with these rules and chapter 480-120 WAC will be rejected by the commission and returned to the applicant.

AMENDATORY SECTION (Amending Order R-237, Cause No. U-85-43, filed 9/19/85)

WAC 480-121-030 **Additional information.** The commission may (~~(at its discretion)~~) require (~~(the production of data and)~~) additional information to supplement (~~(that contained in)~~) the registration application, competitive classification petition, and price list. Unless a different time is specified, such information shall be provided within ten days of the written request.

AMENDATORY SECTION (Amending Order R-332, Docket No. UT-900733, filed 12/5/90, effective 1/5/91)

WAC 480-121-040 **Grant or denial of registration.** (~~(As a condition to registration, with or without hearing, an applicant must clearly show that:~~

(1) ~~Applicant possesses adequate financial resources to provide the proposed service;~~

(2) ~~Applicant possesses adequate technical competence to provide the proposed service; and~~

(3) ~~Applicant has procured and will maintain:~~

(2) ~~A performance bond satisfactory to the commission sufficient to cover any customer advances or deposits; or~~

(b) ~~Provision has been made for deposit of customer advances or deposits in a federally insured interest bearing trust account maintained by applicant solely for customer advances or deposits, in a bank, savings and loan association, mutual savings bank, or licensed escrow agent located in Washington, with access to such funds only for the purpose of applying an amount to a delinquent bill in accordance with commission deposit rules, or for the purpose of refunding advances or deposits to customers. In any order granting certification, the commission may require either bond or trust account or escrow as a condition.~~

Such) An application may be granted without hearing upon a determination by the commission that the application is consistent with the public interest, (and) that the applicant meets (financial and technical requirements;) the requirements of this section and RCW 80.36.350 and that the applicant has provided adequately for the protection of customer (advances or) deposits (or) or prepayments. The application may be set for hearing in accordance with notice issued by the commission. If, (~~(upon)~~) after hearing, the commission finds that registration is not consistent with the public interest, or that the applicant (~~(is not financially or [technically] [technical] able to provide the contemplated service)~~) does not meet the requirements of RCW 80.36.350, or that customer (~~(advances or) deposits or prepayments cannot be adequately protected, it will deny the application.~~

The commission (~~(may)~~) will deny an application for registration submitted by (a company providing) an alternate operator services provider if, after hearing, the commission finds that the (alternate) operator services offered by the company or the charges for those services are not (for) consistent with the public convenience and advantage.

AMENDATORY SECTION (Amending Order R-237, Cause No. U-85-43, filed 9/19/85)

WAC 480-121-050 ((Form)) Cancellations. ((Applications for registration as a telecommunications company pursuant to the provisions of chapter 450, Laws of 1985, shall be submitted in the following form:

**APPLICATION FOR REGISTRATION
OF TELECOMMUNICATIONS COMPANY
FILED WITH THE
WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

HIGHWAYS LICENSES BUILDING, OLYMPIA, WA 98504

IN THE MATTER OF THE APPLICATION OF (here insert name of applicant) FOR AN ORDER authorizing the registration of applicant as a telecommunications company

NO.....
(Number to be inserted by secretary of the Commission)

Application is hereby made to the Washington utilities and transportation commission for an order authorizing (here insert name of applicant) to register as a telecommunications company pursuant to the provisions of chapter 450, Laws of 1985. The following general information and specific exhibits are furnished in support thereof:

GENERAL INFORMATION

- 1. Name of applicant.
- 2. Address of principal office of applicant.
- 3. Name and address of registered agent of applicant if any.
- 4. State or states under which applicant is organized and form of organization (corporation, partnership, association, firm, individual, etc.). Date of organization and term or duration thereof.
- 5. A general description of the property owned by applicant and the field of its operations.
- 6. If a corporation, the names and addresses of the ten common stockholders of applicant owning the greatest number of shares of common stock and the number of such shares owned by each, as follows:

Name and Address	Shares Owned	Percentage of all Shares Issued & Outstanding	Percentage of Voting Control
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- 7. Names and addresses of the officers and directors of applicant.
- 8. Name and address of any corporation, association, or similar organization holding a 5% or greater ownership or a management interest in the applicant. As to ownership, the amount and character of the interest must be indicated. A copy of any management agreement must be attached.
- 9. Names and addresses of subsidiaries owned or controlled by applicant.

EXHIBIT A

Detailed description of the telecommunications services applicant intends to offer, designating geographic areas of operation, and the location of other areas in which applicant is providing or has provided service, either independently or in conjunction with any other telecommunications company.

EXHIBIT B

Current detailed balance sheet.

EXHIBIT C

Detailed income and profit and loss statement of applicant reflecting current and prior year balances for the twelve months ended as of the date of the balance sheet submitted as Exhibit B, or, if more readily available, for the period since the close of the preceding calendar year. If balance sheet and income statement are not available, applicant must submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed service.

EXHIBIT D

Latest annual report, if any.

EXHIBIT E

Detail of the type and quantity of equipment to be used in the operation, capacity and expected use of such equipment, the method of transmission (i.e., copper cable, microwave, fiber optic, etc.), and a map depicting the physical route of transmission.

EXHIBIT F

A commitment for issuance of a performance bond by a company authorized to do business in Washington to cover any advances or deposits, or a detailed description of the account to be maintained for customer deposits including the name of the depository and a copy of the deposit arrangement.

EXHIBIT G

~~Proposed initial tariff setting forth rates, rules and regulations applicable to the contemplated service.~~

EXHIBIT H

Such other facts, not set forth in preceding exhibits, as in the opinion of the applicant may be pertinent in support of the application.

WHEREFORE, the undersigned applicant requests that the Washington utilities and transportation commission, enter an order granting the application, in accordance with the provisions of chapter 450, Laws of 1985.

DATED at this day of, 19...

.....
(Applicant)
By

PERMANENT

WSR 99-13-098
PERMANENT RULES
BOARD OF TAX APPEALS
[Filed June 15, 1999, 11:09 a.m.]

Title _____
STATE OF WASHINGTON
County of _____ ss.

_____, being first duly sworn, deposes and says that _____ is (Title) of (name of applicant), the applicant in the proceeding entitled above, that _____ has read the foregoing application and knows the contents thereof; that the same are true of _____ knowledge, except as to matters which are therein stated on information or belief, and as to those matters _____ believes them to be true.

Subscribed and sworn to before this _____ day of _____, 19____.

Notary Public in and for the state of Washington, residing at _____))

(1) A request to cancel registration as a telecommunications company must be submitted in writing to the commission.

(2) Registered telecommunications companies collecting prepayments that cease operations must comply with WAC 480-120-058(10).

NEW SECTION

WAC 480-121-060 Revocation of registration. The commission may revoke a registration, after hearing, for good cause. Good cause includes, but is not limited to, failure to:

- (1) File an annual report;
- (2) Pay regulatory fees;
- (3) Comply with the requirements of WAC 480-120-058;
- (4) Provide adequate service;
- (5) Maintain correct contact information, including current address and telephone number;
- (6) Comply with applicable federal, state and local telecommunications and business regulations; or
- (7) Comply with applicable federal, state, and local technical regulations imposed on the carrier.

NEW SECTION

WAC 480-121-070 Petition for competitive classification. (1) In addition to meeting the requirements of WAC 480-120-023, a petition for competitive classification must state an effective date no sooner than thirty days from the filing date.

(2) The petitioner must provide notice in the same manner as provided in WAC 480-80-120 for tariff changes.

Date of Adoption: June 10, 1999.

Purpose: The purpose of this chapter is to provide the Board of Tax Appeals (board) with rules that comply with chapter 42.17 RCW regarding public records.

Citation of Existing Rules Affected by this Order: Repealing WAC 456-12-010, 456-12-020, 456-12-030, 456-12-040, 456-12-050, 456-12-060, 456-12-070, 456-12-080, 456-12-090, 456-12-100, 456-12-110, 456-12-120, 456-12-130, and 456-12-140.

Statutory Authority for Adoption: [RCW 82.03.170.]

Adopted under notice filed as WSR 99-08-091 on April 6, 1999.

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 11, Amended 0, Repealed 14.

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 11, Amended 0, Repealed 14.

Effective Date of Rule: Thirty-one days after filing.

June 11, 1999
Richard A. Virant
Executive Director

NEW SECTION

WAC 456-12-015 Purpose of this chapter. The purpose of this chapter is to provide the board of tax appeals with rules that comply with chapter 42.17 RCW regarding public records.

NEW SECTION

WAC 456-12-025 Definitions. The definitions contained in chapter 42.17 RCW apply to this chapter.

"Appellant name" means the name of the person who files an appeal with the board of tax appeals.

"Board" means the board of tax appeals.

"Docket number" means the identifying number assigned to each appeal filed with the board of tax appeals.

NEW SECTION

WAC 456-12-035 Description of the board. (1) As an independent state agency, the board reviews, holds hearings on, and decides state tax appeals filed by taxpayers and taxing authorities. The board consists of three members, an

PERMANENT

executive director, tax referees, and staff hired by the board. The three members of the board are appointed by the governor, with the consent of the senate, for a term of six years.

(2) The executive director is the board's chief executive officer and is responsible for implementing board directions and for directing the board's staff.

(3) The board holds regular meetings at 10:00 a.m. on the second Thursday of each March, June, September, and December. The meetings are held at the board's office at 910 5th Avenue S.E., Olympia, WA 98504-0915.

NEW SECTION

WAC 456-12-045 Public records available. Unless exempt under chapter 42.17 RCW or other law, all public records and indexes of the board are available for public inspection and copying at the board's office from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. The board's office is located at 910 5th Avenue S.E., Olympia, WA 98504-0915.

NEW SECTION

WAC 456-12-055 Public records officer. The board's executive director is identified as the board's public records officer and is responsible for reviewing requests for public records.

NEW SECTION

WAC 456-12-065 Communications with the board. The board's office is located at 910 5th Avenue S.E., Olympia, WA 98504-0915. The board's mailing address is Post Office Box 40915, Olympia, WA 98504-0915. The board's telephone number is (360) 753-5446. The board's FAX number is (360) 586-9020. The board's e-mail address is bta@bta.state.wa.us.

NEW SECTION

WAC 456-12-075 Records indexes. (1) The board maintains current indexes which provide identifying information for the following:

- (a) Final decisions and orders of the board, including concurring and dissenting opinions;
- (b) Proposed decisions and orders of the board;
- (c) Policy statements adopted by the board; and
- (d) Budget documents which include the board's strategic plans and goals.

(2) The board's current indexes are available to all persons for inspection and copying under the same rules and on the same conditions that apply to the board's public records.

(3) The board's final decisions, issued after January 1, 1990, are also available on its internet home page at bta.state.wa.us, where the board's custom index program will allow a search by subject matter, word, phrase, statute, or rule.

NEW SECTION

WAC 456-12-085 Fees. (1) No fee will be charged for inspecting the board's public records.

(2) The board will charge ten cents per page for copies of requested public records. Payment will be made by check payable to the board. The board may require that all charges be paid before the copies are released. The executive director may decide that no fee will be charged for the copies if the expense of processing the payment is greater than the cost of providing the copies.

NEW SECTION

WAC 456-12-095 Requesting public records. (1) A person may make an informal request to inspect or copy the board's public records, or to receive a copy of an identifiable public record, by contacting the board's office. The board will accept informal requests that are received in person or by mail, telephone, FAX, or e-mail.

(2) The board may require a person making an informal request to submit a formal written request.

(3) All formal written requests will include the following information:

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

(b) The date on which the request is made.

(c) A description of the requested records by docket number, appellant name, subject matter, or other means that will allow the board's staff to identify the requested records and make them available.

(d) A signed statement that the requested records will not be used for commercial purposes if a list of individuals is included in the material requested.

(4) The board's staff will assist any person making an informal or a formal request in identifying the requested records.

(5) No public record will be removed from the board's office.

(6) No public record will be marked or damaged in any way during inspection or copying.

(7) Within five business days of receiving a request for public records, the board will respond by either:

(a) Providing the records;

(b) Acknowledging in writing that the board has received the request and providing a reasonable estimate of the time the board will need to respond to the request; or

(c) Denying the request.

NEW SECTION

WAC 456-12-105 Denying requests for public records. (1) The board may determine that a requested public record is exempt under chapter 42.17 RCW or other law and may not be inspected or copied.

(2) All denials of a request for public records will contain a written statement from the executive director stating the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a

brief explanation of how the exemption applies to the record withheld.

(3) The board may remove identifying details when it makes available or publishes any public record when there is reason to believe that revealing such details would be an invasion of personal privacy protected by chapter 42.17 RCW.

NEW SECTION

WAC 456-12-115 Reviewing denials of requests for public records. (1) Any person objecting to a denial of a request for public records may submit a written request for review to the board.

(2) Upon receiving the written request for review, the executive director will call a meeting of the board to review the denial.

(3) The board will issue a written decision within two business days of receiving the request for review.

(4) The board's written decision regarding the request for review will be the final action by the agency.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 456-12-010 Purpose.
- WAC 456-12-020 Definitions.
- WAC 456-12-030 Description of organization and public meeting.
- WAC 456-12-040 Public records available.
- WAC 456-12-050 Communications with the board.
- WAC 456-12-060 Public records officer.
- WAC 456-12-070 Office hours.
- WAC 456-12-080 Requests for public records.
- WAC 456-12-090 Copying.
- WAC 456-12-100 Exemptions.
- WAC 456-12-110 Review of denials of public records requests.
- WAC 456-12-120 Protection of public records.
- WAC 456-12-130 Records index.
- WAC 456-12-140 Adoption of form.

Purpose: Amendment makes the following changes to the game of Washington blackjack. The use of house dealers is no longer allowed; the maximum number of decks that can be in play at one time is reduced from six to two; and a \$500 maximum limit is placed on the bank.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-125.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 99-09-096 on April 21, 1999, with a publication of May 5, 1999.

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 1, 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: August 1, 1999.

June 15, 1999

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-40-125 Washington blackjack—Rules of play—Wagering limits. (1) Fees to play Washington blackjack shall only be assessed on a time basis and collected using the direct method as defined in WAC 230-40-050. Washington blackjack is a nonhouse banking card game permitted in Class A and E card rooms. Washington blackjack shall be played in the following manner:

~~(((1) Up to six))~~ (2) No more than two standard fifty-two-card decks shall be used with suits disregarded and each card valued numerically only as follows: Ace equal 1 or 11; face cards (King, Queen, Jack) equal 10 each; others according to their spots, 10 to 2. The number of decks used shall be established by house rule. The cards shall be dealt from a shoe at all times. The game is played with ~~((either a house dealer and a player/banker or))~~ a player who ~~((is a))~~ deals the cards and banks the game (dealer/banker).

~~(((2)))~~ (3) When starting a new table the cards are cut to determine who the first banker will be. The dealer/banker shall announce the amount of money that he or she will put into the bank. If a minimum bank ((may be)) is established as per individual house rule, it shall not exceed five hundred dollars. ~~((If a house dealer is used, the banker delivers the bank to the dealer and the dealer shall place a marker reading "banker" on the bet line in front of the banker.~~

~~(((3)))~~ (4) Once the bank has been established, the player to the immediate left of the dealer/banker places his/her

**WSR 99-13-102
PERMANENT RULES
GAMBLING COMMISSION**

[Order 374—Filed June 15, 1999, 1:44 p.m., effective August 1, 1999]

Date of Adoption: June 11, 1999.

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wager on the bet line and the dealer/banker covers that wager by matching it with a like amount of chips. Each player makes their wager in turn and each wager is immediately matched by the dealer/banker. The maximum and minimum wager may be set by house rule but in no event shall the maximum wager exceed twenty-five dollars. If the bank runs out of money (tapped out) prior to the commencement of the deal, then only those players with a wager covered will be dealt a hand.

~~((4))~~ (5) The play begins with the dealer/banker dealing one card face up to each covered player including himself/herself, one more card face up to each covered player, and then one down card to himself/herself. A player may be dealt more than one hand by house rule. ~~((When a house dealer is used, no cards are dealt to the banker.))~~ If a player holds an ace and a face card or a ten, it is a "natural" 21 and the player collects ~~((1.5))~~ one and one-half times the amount of their bet from the dealer/banker, unless the dealer/banker also has a natural which results in a tie (push). All ties result in the players and the dealer/banker recovering their wagers.

~~((5))~~ (6) If the dealer/banker's face-up card is a ten, face card or ace, he/she shall look at the face-down card to see if he/she has a natural; if the face-up card is anything else, he/she may not look at the face-down card until his/her turn to draw. If the dealer/banker has a "natural," he/she collects the wagers from players who do not have a "natural." If the dealer/banker does not have a "natural," he/she pays off any player with a "natural" starting with the first one to the left of the dealer/banker. Should the dealer/banker not have enough money in the bank to make up the ~~((1.5))~~ one and one-half for one payoff due on a "natural," then those hands and wagers will be frozen in place until the additional wagers are made up or the hand is over. If after the hand is over, a dealer/banker cannot cover the ~~((1.5))~~ one and one-half for one, the player shall get the amount of wager that was covered by the dealer.

~~((6))~~ (7) If the dealer/banker's face-up card is an ace, the licensee, by house rule, may allow the player banking the game to offer an "insurance" bet against losing to the dealer/banker's possible "natural." The dealer/banker, before looking at his down card, inquires if any player wants insurance. A player who desires insurance places an amount equal to half his/her present wager on his/her own hand. When this bet is made, the dealer/banker looks at his/her down card. If it is a 10 count, the dealer/banker turns it face up and announces a "natural." The insurance bettor is paid off at a rate of 2 to 1 and, unless they have a "natural," lose their original wager. If the dealer/banker's down card is not a 10 count card, the player loses his/her insurance bet and continues playing on their original wager.

(8) If the dealer/banker does not have a "natural," play continues with the player on the dealer/banker's immediate left. The dealer/banker deals cards face up, one by one, as that player calls for them. The player's aim is to total 21 or as close to 21 without going over. When a player is satisfied with their total, they shall declare "stand." If the player wants more cards, the player declares "hit." If a player goes over a 21 point count, the hand is a "bust" and they must turn the hand down, while the dealer/banker collects the bet. The

dealer/banker does the same with each remaining player. Any player who stands must wait while the dealer/banker draws his or her cards. If the dealer/banker goes bust, each standing player is paid the amount of their wager. If the dealer/banker "stands," the down card is turned up and players whose totals are higher than the ~~((dealer's))~~ dealer/banker's are paid. The dealer/banker collects from any player whose total is less. Action is always to the left of the dealer/banker. Any frozen wagers needing to be "made up" will be done in order, to the left of the dealer/banker from losing wagers the dealer/banker collects.

~~((7))~~ (9) Should the dealer/banker not be able to cover all frozen wagers then those frozen wagers are released to the winning players and the deal passes immediately to the left at which time the new dealer/banker shall announce the amount of the bank and shuffle the cards. The same shall apply if the dealer/banker has no money in the bank. The dealer/banker may, if allowed by house rule, add to their bank in between hands.

~~((8))~~ (10) Upon completion of the shuffle, the player to the right of the dealer/banker shall cut the cards. After the cards have been placed into the shoe the dealer/banker shall insert a blank card approximately three quarters of the way through the deck(s). A dealer/banker may deal from the shoe until he/she reaches the blank card. After the blank card appears, the dealer/banker may continue dealing that hand, but will not start a new hand. ~~((If a house dealer is used, he/she returns the remaining chips in the bank to the banker.))~~ The player on the dealer/banker's immediate left shall be offered the opportunity to be the next dealer/banker ~~((or banker))~~. The discards may only be reshuffled to complete the last hand.

~~((9))~~ (11) Once wagers are placed and covered on the bet line, no player, including the dealer/banker, may touch those wagers until the winner has been determined. Any player touching the wagers may be ruled to have fouled and their wager forfeited.

~~((10))~~ (12) Any player who lifts their cards up from the table or slides their cards out of their own playing area shall be ruled to have fouled and their wager may be forfeited.

~~((11))~~ (13) No player may "buy" the bank. The ~~((bank))~~ deal must pass around the table to the left and no ~~((player))~~ person can authorize ~~((anyone other than a house dealer))~~ another person to deal for him or her. No player may be the banker for more than one consecutive shoe before passing the bank ~~((: Provided, That when there are less than five players at a table a player may deal more than one consecutive shoe only when the remaining players have passed the deal))~~. A new player entering the game may not participate as the dealer/banker until at least two other players have dealt. If a player does not wish to deal and passes the deal, that player may not play in the first two hands conducted by the next dealer/banker. A dealer/banker may, after completing one full hand, pass the deal and be able to participate in the next hand.

~~((12))~~ (14) The dealer/banker must stand on seventeen or above and must take hits on sixteen or below. If a dealer/banker has an ace, it shall be counted as eleven if it brings his or her total to seventeen or more (but not over twenty-one). Provided, That the ~~((house may elect to))~~ lic-

ensee, by house rule, may allow play of a "soft seventeen," which occurs when the ~~((dealer's))~~ dealer/banker's first two cards are an ace valued at eleven and a six. If the ~~((house))~~ licensee elects to play a soft seventeen, house rules must specify that the dealer/banker must hit a soft seventeen, and must stand on a hard seventeen and any eighteen or above. House blackjack rules must be posted in plain view to the players and the house must ensure they are consistently followed.

~~((+3))~~ (15) The conditions for doubling down shall be set by house rule, provided that the wager may be doubled and the player received only one more card. The player must then stand on those three cards. If the dealer's bank is insufficient to cover a double down wager, the player may wager an amount equal to the dealer's remaining bank. The dealer must then cover that wager. If the dealer has no bank then a player may not double down.

~~((+4))~~ (14) ~~If the dealer's face up card is a ten, face card or ace, he/she may look at their face down card to see if they have a natural; if his/her face up card is anything else, they may not look at their face down card until their turn comes to draw.~~

~~((+5))~~ (16) If a player's first two cards are a pair, then that player may split the pair into two separate hands. The amount of the player's original bet then goes on one of the cards, and they must place an equal amount as a bet on the other card. If the dealer/banker does not have enough in their bank to cover the doubled bet, the dealer/banker must cover an amount equal to the value of their remaining bank. The player then has the option to divide the wagers in any manner between the two hands, not to exceed the allowable limit per hand. If the dealer/banker has no bank then the player may divide their wager in any manner between the two hands, unless the player's original bet was a minimum allowed in that game then they may not split their pair. Additional splits shall be determined by house rule.

~~((+6))~~ (17) The dealer/banker will pay only on the value of the cards held by the player and shall not pay on the number of cards received or the card sequence.

**WSR 99-13-103
PERMANENT RULES
GAMBLING COMMISSION**

[Order 373—Filed June 15, 1999, 1:47 p.m., effective August 1, 1999]

Date of Adoption: June 11, 1999.

Purpose: Rule change removes Pai Gow, Dominos and Mah-jongg tiles as authorized card games.

Citation of Existing Rules Affected by this Order: Amending WAC 230-40-010.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 99-08-093 on April 6, 1999, with a publication of April 21, 1999.

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 1, 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: August 1, 1999.

June 15, 1999
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-11-073, filed 5/13/96, effective 7/1/96)

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))~~ (7) Pitch.

~~((9))~~ (8) Washington blackjack - as set forth in WAC 230-40-125.

~~((10))~~ ~~Pai Gow poker.~~

~~((11))~~ (9) Pan-9.

~~((12))~~ (10) Bid Whist.

~~((13))~~ ~~Dominos.~~

~~((14))~~ (11) 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 be in writing, and include the rules of play and all wagering schemes. Temporary approvals granted are valid for no more than six months or until adopted by the commission, whichever occurs first.

**WSR 99-13-138
PERMANENT RULES
DEPARTMENT OF
GENERAL ADMINISTRATION**

[Filed June 18, 1999, 10:31 a.m.]

Date of Adoption: June 18, 1999.

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Purpose: To delete rules which are outdated and no longer necessary for conducting public procurement transactions by state agencies.

Citation of Existing Rules Affected by this Order: Repealing WAC 236-48-005, 236-48-009, 236-48-023, 236-48-026, 236-48-041, 236-48-051, 236-48-052, 236-48-061, 236-48-081, 236-48-082, 236-48-084, 236-48-093, 236-48-097, 236-48-101, 236-48-151, 236-48-155, 236-48-162, 236-48-163, 236-48-164, 236-48-254, 236-48-300, 236-49-030, 236-49-040, and 236-49-061.

Statutory Authority for Adoption: Chapter 43.19 RCW. Adopted under preproposal statement of inquiry filed as WSR 99-10-068 on May 4, 1999.

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 24.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 24.

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.

June 18, 1999

Pat Kohler

Assistant Director

WSR 99-13-140
PERMANENT RULES
YAKIMA VALLEY
COMMUNITY COLLEGE

[Filed June 18, 1999, 2:53 p.m.]

Date of Adoption: June 5, 1999.

Purpose: To update chapter 132P-33 WAC including language and procedures for student complaints, to add sexual harassment policy, to expand violations to include specifics on plagiarism.

Citation of Existing Rules Affected by this Order: Amending WAC 132P-33-010, 132P-33-020, 132P-33-080, 132P-33-100, 132P-33-120, 132P-33-130, 132P-33-150, 132P-33-160, 132P-33-170, 132P-33-210, 132P-33-220, 132P-33-230, 132P-33-260, and 132P-33-270.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 99-08-019 on March 29, 1999.

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 3, Amended 14, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 14, 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 18, 1999

Suzanne M. West

Executive Assistant

to the President

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-010 Preamble. Yakima Valley Community College is dedicated not only to learning and the advancement of knowledge but also to the development of ethically sensitive and responsible persons. It seeks to achieve these goals through a sound educational program and policies concerning conduct that encourage independence and maturity while strengthening the spirit of mutual cooperation and responsibility shared by all members of the college community. Sharing goals held in common, the students, faculty, and staff of Yakima Valley Community College are joined in voluntary association in an educational community.

The student is, first of all, a member of the community at large, and as such, is entitled to the rights and responsibilities of any citizen of comparable age and maturity. In addition, students, as members of the college are in the unique position of being citizens of two communities, subject to the regulations imposed by both and accountable to both.

Yakima Valley Community College expects that students will respect the laws of the greater society. As an agency of the state of Washington, the college must respect and adhere to the regulations established by local, state, and federal authorities. As an educational institution, it has the added responsibility for assisting students in gaining an understanding of the law and its function, and the responsibilities imposed upon each individual in a democratic society to respect and support the legal structure which protects the individual and the society. As a functioning organization, ((†)) the college also has the responsibility to develop a set of regulations to assure the orderly conduct of the affairs of the college.

Admission to the college carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with the rules and regulations of the college, maintain high standards of integrity and honesty, respect the rights, privileges and property of other members of the college community and will not interfere with legitimate college affairs.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The

rights and responsibilities in this document are critical ingredients in the free, creative, and spirited educational environment to which the students, faculty and staff on Yakima Valley Community College are committed.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-020 Definitions. As used in this code of student rights and responsibilities the following words and phrases shall mean:

(1) "YVCC senate" means the representative governing body for students at Yakima Valley Community College recognized by the board of trustees.

(2) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

(3) "Board" means the board of trustees of Community College District 16, state of Washington.

(4) "College" means Yakima Valley Community College located within Community College District 16, state of Washington.

(5) "College facilities" means and includes any or all real and personal property owned or operated by the college and shall include all buildings and appurtenances affixed thereon or attached thereto.

(6) "College personnel" refers to any person employed by Community College District 16 on a full-time or part-time basis, except those who are faculty members.

(7) "Disciplinary action" means and includes suspension or any lesser sanction of any student by the dean of students, the student hearing committee, college president, or the board of trustees for the violation of any of the provisions of the code of student rights and responsibilities for which such sanctions may be imposed.

~~((a)) The college president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college ((for a period not to exceed ten academic calendar days.~~

~~(b) The college president or designee shall have the authority to take any disciplinary action including the authority to suspend any student of the college).~~

(8) "District" means Community College District 16, state of Washington.

(9) "Faculty member(s)" means any employee of Yakima Valley Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments.

(10) "President" means the duly appointed chief executive officer of Yakima Valley Community College, District 16, state of Washington, or in his/her absence, the acting chief executive officer.

(11) "Recognized student organization" means and includes any group or organization composed of students which is recognized formally by the student government of the college.

(12) A "sponsored event or activity" means any activity that is scheduled by the college and is supervised and controlled by the college's faculty members or college personnel. Such sponsorship shall continue only as long as the event is supervised and controlled by the college faculty member or college personnel. When the sponsored event or activity is of a prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the college's faculty member or college personnel responsible for the event or activity shall be deemed to be a nonsponsored activity.

(13) "Student," unless otherwise qualified, means and includes any person who is enrolled for classes or formally in the process of applying for admission to the college.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-080 Freedom of association and organization. Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the college community. They are free to organize and join associations to promote any legal purpose, whether it be religious, political, educational, recreational, or social.

Student organizations must be granted a charter by the college student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, and the name of a college employee who has agreed to serve as advisor. All student organizations must also submit to the student government a list of officers and keep that list updated when changes occur. In order to qualify for issuance of a charter, a student organization must be open to all students without respect to race, sex, creed, or national origin, except for religious qualifications which may be required by organizations whose aims are primarily sectarian, or for other reasonable justifications which are directly related to the purposes of the organization. Affiliation with a noncampus organization shall not be grounds for denial of a charter provided that other conditions for the charter issuance have been met.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-100 Student records. In compliance with the Family Educational Rights and Privacy Act, this policy has been created to insure continued confidentiality of student records at the college and govern the release of personally identifiable information contained within.

(1) **Education record.** Education records are defined as those records, files, and documents containing information directly pertaining to a student. At Yakima Valley Community College these are:

(a) Records pertaining to admission, advisement, registration, grading and progress ~~((to))~~ toward a degree that are maintained by the registrar.

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(b) Testing information used for advisement and counseling purposes by the counseling center.

(c) Information concerning payment of fees as maintained by the business office.

(d) Financial aid information as collected by the financial aid office.

(e) Information regarding students participating in student government or athletics that is maintained by the student programs office.

(2) **Access to education records.** Students who are or have attended the college have the right to examine or review their personal records, as defined above, by submitting to the registrar a written request indicating education records to which access is desired.

Note: Charges may be assessed for reproduced copies of education records.

(3) **Directory information.** The following information is considered "directory information" and thus may be disclosed without consent of the student, unless otherwise directed by the student, at any time, to the registrar in writing: The student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) **Disclosure from education records.** In addition to directory information the college will, at its discretion, make disclosures from education records of students with the student's prior written consent or to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students where officially elected or appointed to the ASYVCC senate or employed by the college. Access or release of records to the above is permissible only when the information is required for advisement, counseling, record keeping, reporting, or other legitimate educational interest consonant with their specific duties and responsibilities.

(b) To officials of another school in which the student seeks or intends to enroll.

(c) To authorized federal, state, or local officials as required by law.

(d) In connection with financial aid for which the student has applied or received.

(e) To accrediting organization, or organizations conducting studies for or on behalf of the institution.

(f) To appropriate parties in a health or safety emergency.

(g) To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954, upon receipt of a written affidavit stating that the student is a dependent for income tax purposes. This, however, will not affect the other rights of the student.

In cases where consent of the student is required for release of education records, the student shall in writing, signed and dated by the student, specify: The records to be disclosed, the purpose or purposes of the disclosure, and the

name of the party or parties to whom the disclosure can be made.

When personally identifiable information is released without prior consent of the student, other than directory information and information released to college officials or the student, the college official in charge of these records will record the names of the parties who have requested information from education records and the nature of the interest in that information.

Educational records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting their party disclosures to other parties listed in subsection (4)(a) through (g) of this section.

(5) **Challenge of education records.** Students who believe that information contained in their education records is inaccurate, misleading or violates the privacy of other rights of the student may request in writing to the appropriate college official that the college amend their record(s). The college official(s) will make every effort to settle disputes through informal meetings and discussion with the student.

In instances where disputes regarding contents of education records cannot be resolved by the parties concerned, the college official involved shall advise the student of the right to a hearing through a written request to the registrar or dean of students. Should the registrar or dean of students deem that the education records in question are inaccurate or misleading, he or she can ask that the records be amended by the appropriate college official. If the education records are held to be accurate, the student shall be granted the opportunity to place within those records a personal statement commenting upon the information contained within.

Each eligible student is afforded the right to file a complaint concerning alleged failures by the college to comply with the requirements of the act. The address of the office designated to investigate, process, and review violations and complaints which are filed is:

The Family Educational Rights and
Privacy Act Office (FERPA)
Department of Health, Education, and Welfare
330 Independence Avenue, SW
Washington, DC 20201

Copies of the Federal Register pertaining to the Family Education Rights and Privacy Act may be obtained from:

Superintendent of Documents
US Government Printing Office
Washington, DC 20402

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-120 Student complaints. Student complaints regarding academic employees (faculty) are governed by the negotiated policy agreement between the faculty and college board of trustees. (~~Students with complaints about academic employees may contact the dean of students, direc-~~

tor of student programs and activities, or division chairs for further information.)

Complaints regarding the staff and administrators shall be brought to the attention of the appropriate dean or the college president.

Any enrolled student who has a complaint concerning an alleged violation of his or her rights as a student of Yakima Valley Community College, has the opportunity to seek resolution of such complaint. A complaint under this section is defined as a violation of a legal right or a discriminatory act made against a student based upon his or her gender, color, race, national origin, age, religion, disability, or veteran status.

Any student who wishes to file a formal complaint against the president of the college shall submit his or her complaint directly to the board of trustees of Community College District 16.

A student who wishes to file a formal complaint against an administrator (other than the college president), or staff member must address the complaint to the dean of students within ten working days of the alleged act or acts. All complaints must be submitted in writing as detailed by the Yakima Valley Community College formal complaint form. A complaint made by a recognized student group must also include the written minutes from the meeting in which the student group voted to file a formal complaint and the complaint must be signed by the president of the student group. Any administrator or staff member who has a formal complaint filed against him or her has the right to be informed of the complaint and the allegations within two working days of its filing. An impartial investigation will take place in order to obtain the necessary facts. Any person contacted through this investigation process shall treat any information, including, but not limited to, the questions being asked, the names of the complainant and/or the administrator or staff person and the allegations themselves as confidential and shall not publicly discuss any information as stated above nor the allegations until such time as a hearing has been held or other resolution to this complaint has been made.

At any time during this process, the administrator or staff person involved shall retain his/her due process rights with regard to disciplinary action, including, but not limited to, the right to have a representative of his/her own choosing present at any or all meetings involving the alleged complaint.

The investigation shall provide facts involving the alleged allegation(s) and at a minimum include a taped interview of the complainant, the individual alleged to have committed a violation of rights or an act of discrimination, and any witnesses to the alleged conduct. Students may request a representative from the associated student body of Yakima Valley Community College to attend any meeting required during the investigative process. At no time shall any representative interfere with the investigation. The investigation shall commence within two weeks of receipt of the formal complaint and the independent investigator shall make a non-binding recommendation to the dean of students stating that the complaint is unfounded or that the complaint has merit. The student life coordinator shall file a written report with the dean of students who shall notify and submit documentation to the dean, vice-president, or college president, as appropriate,

within thirty days of receipt of the investigation report recommending one of the following three outcomes:

(1) The complaint is without merit and no further action is warranted;

(2) There is an agreed upon negotiated settlement of the matter; or

(3) The complaint has merit and further action should be taken.

Should disciplinary action be recommended, all steps as outlined in the negotiated agreements between the board of trustees of Yakima Valley Community College and the staff, and all applicable laws, shall be followed. Should disciplinary action be recommended with regard to an administrator, the determination shall be made by the immediate supervisor and/or the college president, as deemed appropriate.

Complaints that do not deal with gender, color, race, national origin, age, religion, disability, or veteran status, will first follow an informal process in which the dean of the department in which the complaint has originated, or the supervisor of the person of which the complaint is directed, will be notified and steps will be taken to informally resolve the complaints. If the complaint cannot be resolved informally, the above procedures will be implemented. Formal complaint forms can be obtained from the student life coordinator and the dean of students.

NEW SECTION

WAC 132P-33-123 Sexual harassment policy. The college is committed to eliminating sexual harassment and providing an environment respecting the dignity of employees and students. Sexual harassment demonstrates a lack of decency, integrity, and professionalism. It debases the workplace and classroom environment.

(1) Definition. Sexual harassment is a form of sex discrimination. It occurs in a variety of situations which share a common element: The inappropriate introduction of sexual activities or comments into the work or learning situation. Often, sexual harassment involves relationships of unequal power and contains elements of coercion, as when compliance with requests for sexual favors becomes a criterion for granting work, study, or grading benefits. However, sexual harassment may also involve relationships among equals, as when repeated sexual advances or demeaning verbal behavior have a harmful effect on a person's ability to study or work in the academic setting.

(2) General. For general policy purposes, the term sexual harassment may include, without limitation, such behavior as unwelcome sexual advances, requests for sexual favors and other physical or verbal conduct and expressive behavior of a sexual nature where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education.

(b) Submission to, or rejection of, such conduct by an individual is used as the basis for academic or employment decisions affecting that individual.

(c) Such conduct has the purpose or effect of interfering with an individual's academic or professional performance or

creating an intimidating, hostile, demeaning employment or educational environment.

(3) Grievance procedures.

(a) A student who feels he/she has been subjected to harassment should report the incident(s) to the "college representative." Students who are contacted by another student or college employee regarding a sexual harassment grievance should direct those grieving to the college representative.

(b) The student life coordinator for students. The college representative shall be the ombudsman between the person allegedly subjected to harassment and the grievance process and procedure. The college representative may, in any appropriate case and with the written authorization of the president, designate another employee of the college to act as the college representative. Any person so designated shall in all ways act with the authority of the college representative.

(c) The college representative will provide a supportive, receptive, and confidential environment while listening to the grievant's concern.

(d) The college representative will delineate and discuss with the student, available options in handling and coping with their situation.

(e) The college representative shall provide guidance and referral to available support services, assistance in weighing the options, and potential dangers.

(f) The student who files a grievance complaining of sexual harassment (the grievant) may be accompanied by a friend or advisor when reporting the incident to the college representative.

(g) The grievant may also submit a brief written statement including the date, place, time, status of the accused, and a description of the circumstances and events that occurred.

(h) After the college representative has heard the grievant's complaint and has suggested any available support services, the college representative shall investigate the complaint. An investigation shall be conducted in all cases unless the grievant, after meeting with the college representative, decides to withdraw the grievance.

(i) The college representative's investigation shall be based upon specific information. Charges may be submitted in writing by the grievant or prepared by the college representative and approved by the grievant.

(j) Investigation of complaints shall be kept in confidence and designed to protect the rights of both the grievant and the party accused (respondent).

(k) The college representative shall provide the respondent with a copy of the written charges. The respondent must reply in writing within five calendar days of receipt of the charges.

(l) The college representative will conduct a thorough investigation including, but not limited to, providing both the grievant and respondent the opportunity to state their positions and interview witnesses. The investigation shall be concluded within ninety days of receipt of written complaint. During the course of the investigation the grievant and respondent shall be included in the process and have access to the relevant documentation.

(m) Records will be kept during the investigation and shall be kept in a confidential manner by the college representative.

(n) Retaliation against the grievant during or after the grievance process is expressly forbidden and constitutes grounds for a separate grievance or other institutional action.

(o) At the close of the investigation, the college representative shall reduce his/her findings and recommendations to writing and shall present those findings and recommendations to the "appointing authority" where the respondent is a college employee, or the "disciplinary authority" where the respondent is a college student.

(p) The appointing authority/disciplinary authority shall consider the findings and recommendations of the college representative. Following consideration, the appointing authority/disciplinary authority shall determine whether or not disciplinary/corrective action is warranted. The grievant shall be advised of college action on her/his grievance at that time.

(q) Should the appointing authority determine that disciplinary/corrective action should be considered, applicable provisions of employee rights and responsibilities shall be utilized. These include, but are not limited to, state and federal constitutional and statutory provisions, rules of the state personnel resources board, collective bargaining agreements and college policies.

NEW SECTION

WAC 132P-33-125 Complaints against academic employees in accordance with the negotiated agreement.

In any instance where an administrator of the district receives a substantive complaint about the performance of an academic employee from students or the public or from personnel in the district, the administrator shall so notify the employee's supervising administrator and shall refer the complaint to that administrator. The academic employee shall be notified of the complaint by the supervising administrator within thirty days of the administration's first cognizance of the complaint.

The supervising administrator and the academic employee shall then meet in a timely manner to discuss the complaint informally and, if possible, to resolve it. Such meeting shall normally take place during the academic employee's assignment period and shall ordinarily (except under extraordinary or emergency circumstances) be held prior to any other investigation of the complaint. If disciplinary action is deemed appropriate by the supervising administrator following such meeting(s), he or she shall proceed in accordance with Section 15.4 regarding progressive discipline.

No disciplinary action shall result from a complaint unless the complaint has been reduced to writing, dated, and signed by the complainant and presented to the affected employee by the supervising administrator prior to any such disciplinary action.

Nothing in this section shall be construed as taking the place of normal evaluation procedures as required elsewhere in this agreement, nor as taking the place of dismissal procedures as set forth in Article XI of this agreement. The

employee shall have the right to YVCF representation in implementation of this section.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-130 Distribution and posting of materials. The college encourages free expression. Use of college facilities as provided herein, however, does not accord users immunity from legal action.

Permission for posting of literature in the various restricted areas provided therefore, shall be obtained from the following college officials:

(1) The (~~director of student programs~~) student life coordinator for posting on the restricted posting areas of the HUB and those areas located on the campus outside of college buildings.

(2) Deans and directors for posting on the restricted posting areas provided in the appropriate college facility.

ASYVCC campaign rules govern special poster and sign locations for elections. Information on these special policies and regulations is available in the ASYVCC office.

Posting of posters, signs, and other publicity or promotional materials is permitted only in the locations specified above. All material sought to be posted in restricted posting areas must have the identity of its sponsorship appearing on its face.

The dissemination or distribution of materials by persons on the public streets, walks and ways of the campus or off-campus college facility, shall be subject to the laws of the particular city, state of Washington, and the United States.

Permission for the dissemination or distribution of materials in other areas of the college campus, buildings and facilities shall be obtained from the (~~director of student programs~~) student life coordinator. Persons distributing materials without permission shall be subject to the provisions of the *Code of student rights and responsibilities*.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-150 Use of college facilities. Any recognized ASYVCC organization may request approval from the (~~director of student programs~~) student life coordinator to utilize available college facilities for authorized activities as provided for in official ASYVCC documents. Facilities will be provided free of charge to the organization except when such use necessitates staffing and services beyond regular college requirements. Standard college fees will be charged in these cases.

Use of facilities for purposes other than those approved or in an irresponsible manner may result in withdrawal of this privilege for an organization.

Student organizations should schedule facility use requests with the director of student programs as far in advance as possible.

NEW SECTION

WAC 132P-33-155 Electronic communication policy.

The following is a general policy:

(1) Computer and network use at Yakima Valley Community College must be consistent with the mission, policies, and procedures of the college and applicable federal, state, and local laws and regulations. Yakima Valley Community College computers and networking facilities are primarily designated for educational and research purposes.

(2) Users must respect the rights and property of others. Users must not improperly access, misuse, send, or misappropriate information or files. Unauthorized access to systems, software, or data is prohibited.

(3) Yakima Valley Community College computers and network facilities must not be used for commercial purposes or private gain.

(4) Yakima Valley Community College computers and network facilities must not be used to transmit or solicit the transmission of any communication in any form where the content and/or meaning of the message transmitted or distributed would violate any applicable law or regulation.

(5) Users of Yakima Valley Community College computers and network facilities must promote efficient use of the networks. Users must minimize and avoid unnecessary network traffic which might interfere or negatively impact the work of other users of the YVCC network or connected networks. Uses that significantly interfere with the ability of others to make effective use of the network or which disrupt the YVCC network or any connected networks, systems, services, or equipment are prohibited.

(6) Interpretation, application, and modification of this policy will be at the sole discretion of Yakima Valley Community College. Violations may result in loss of computer and network privileges and other penalties as applicable under YVCC policies and federal, state, and local laws and regulations.

(7) Yakima Valley Community College makes no warranty of any kind, expressed or implied, regarding computer resources or services, or the contents of resources or electronic messages over the YVCC campus network or connected networks. Yakima Valley Community College will not be liable in any event for incidental or consequential damages, direct or indirect, resulting from the use of the YVCC campus network or network services.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-160 Noncollege speaker policy. The trustees, the administration, and the faculty of the college subscribe to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. In conformity with the American tradition of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community:

(1) Any recognized ASYVCC student organization with the written sanction of its advisor, may ask individuals to

speak on the campus subject to normal restraints imposed by considerations of common decency and the state law.

(2) The appearance of a speaker on the campus does not involve an endorsement, either implicit or explicit, of the speaker's views by the college, its students, its faculty, its administration, or its board of trustees.

(3) The scheduling of facilities for hearing invited speakers shall be made through the office of the (~~director of student programs~~) student life coordinator.

(4) The (~~director of student programs~~) student life coordinator or designee will be notified at least three academic calendar days prior to the appearance of an invited speaker, at which time a form (available in the student programs office) must be completed with such particulars as name of speaker, speech or discussion topic, time of appearance(s) and sponsoring organization. The form must bear the signature of the sponsoring organization's advisor. Exceptions to the three day ruling may be made by the (~~director of student programs~~) student life coordinator with the approval of the dean of students.

(5) The dean of students may require views other than those of the invited speaker to be presented at the meeting, or at a subsequent meeting. The campus president may assign a faculty member to preside over any meeting where a speaker has been invited.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-170 Violations. Any student shall be subject to immediate disciplinary action provided for in code procedures and summary suspension rules who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Violates any provision of the *Code of student rights and responsibilities*;

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, research administration, disciplinary proceedings or other lawful activities on the college campus.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(e) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(f) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(g) Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the dean of students, or any other person designated by the campus president.

(h) Intentionally inciting others to engage immediately in any of the conduct prohibited herein, which incitement leads directly to such conduct. (Inciting is that advocacy which prepares the group addressed for imminent action and steers it to the conduct prohibited herein.)

(i) Possessing, consuming or furnishing of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited by law.

(j) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(k) Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(l) Using, possessing, furnishing, or selling any narcotic or dangerous drug as those terms are used in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist.

(m) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(n) Theft or conversion of college property or private property.

(o) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(p) Buying, copying, borrowing, or otherwise plagiarizing another's images, ideas, evidence, examples, opinions, or other original products or documents from published, unpublished, or electronic sources for the purpose of deceiving an instructor as to the product's origination.

(q) Plagiarism is "the wrongful act of taking the product of another person's mind and presenting it as one's own" (qtd. In *MLA Handbook for Writers of Research Papers*, 4th Edition, 26). Plagiarism occurs when an author fails to give credit for:

- Someone else's words;
- Someone else's examples;
- Someone else's ideas or opinions;
- Statistics or other facts compiled by someone else;
- Evidence or testimony taken from someone else's argument;

• An image from another artist.

(i) YVCC recognizes two types of plagiarism: Intentional and unintentional. Intentional plagiarism is the dishonest act of appropriating another's ideas, words, facts, opinions, or images with the intent to deceive others about the document's origin. Any student found to have committed intentional plagiarism shall be subject to disciplinary actions provided for in the *Code Procedures and Summary Suspension Rules*.

(ii) Students may also commit plagiarism without intent to deceive. A student's intent to deceive shall be taken into account when instructors evaluate an act of plagiarism. All forms of plagiarism which an instructor determines to be unintentional should be treated as instructional problems to be handled within the student/instructor relationship with the instructor following, but not limited by, the penalty guideline below:

(A) Student must resubmit the assignment after instruction but before an agreed upon due date.

(B) Student can receive a lowered grade on the assignment, including "F."

(C) Student can be advised to seek aid from the writing center or tutoring center as a condition before receiving a grade or resubmitting an assignment.

The instructor need not take formal disciplinary action for unintentional plagiarism.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-210 Appeals. (1) Appeals contesting recommendations of disciplinary action(s) shall be taken in the following order:

(a) Disciplinary action taken by or at the recommendation of the dean of students or designated representative may be appealed to the student hearing committee;

(b) Disciplinary recommendations made by the student hearing committee may be appealed by the student to the college president; in the case of a recommendation for suspension it may also be appealed to the college president; all decisions by the president or designee are final.

~~((c) Disciplinary action taken by the college president and resulting in suspension exceeding in duration one college quarter may be appealed by the student to the board of trustees and their decision shall be final.))~~

(2) All appeals by a student must be made in writing to the committee, college president or designee or board of trustees ~~((and presented to the committee, college president or designee or chairman of the board of trustees))~~ within ten calendar days after the student has been notified of the action from which he/she has a right of appeal.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-220 Student hearing committee. (1) **Composition.** The college shall have a standing committee composed of nine members, who shall be chosen and appointed no later than October 15 of each year to serve as a standing committee until their successors are appointed. The membership of the standing committee shall consist of three members of the administration, excepting the dean of students, chosen by the college president; three faculty members chosen by the faculty organization; and three students chosen by the ASYVCC senate. Any student entitled to a hearing before a student hearing committee shall choose, in writing, five members of the standing committee to hear and decide the appeal, provided, the student must choose at least one student, one faculty member and one member of the administra-

tion from the nine member standing committee. The balance of the student hearing committee, two members, may be chosen from the remainder of the standing committee, provided that both shall not be from the same classification. If a hearing is to be conducted for a student from a specialized program (i.e., allied health, vocational-technical), an additional member will be appointed to the hearing committee by the division involved. In the event that unforeseen circumstances prevent a previously selected committee member from attending the hearing, the student must choose a replacement from among the balance of the standing committee.

(2) Procedures for hearing.

(a) Five members of the student hearing committee will hear, de novo, and make recommendations to the college president or designee on all disciplinary cases appealed to the committee by the student or referred to it by the dean of students or designated representative. Recommendations involving suspension will be referred to the college president or designee.

(b) The student hearing committee shall elect from among its five members a ~~((chairman))~~ chair for the purpose of presiding at the disciplinary hearing.

(c) Hearings generally will be held in closed session, except when a student requests that persons other than those directly involved be invited to attend. If at any time during the conduct of a hearing any person is disruptive of the proceedings, the ~~((chairman))~~ chair of the student hearing committee may exclude such person from the hearing room.

(d) The student has a right to a fair and impartial hearing before the committee on any charge of violating a provision or provisions of the *Code of student rights and responsibilities*. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the committee from making its findings of fact, conclusions and recommendations as provided below. Failure by the student to cooperate may be taken into consideration by the committee in recommending to the college president or designee the appropriate disciplinary action.

(e) The student shall be given written notice of the time and place of the hearing before the committee. Said notice shall contain:

(i) A statement of the date, time, place and nature of the disciplinary proceedings;

(ii) A statement of the specific charges against the student including references to the particular sections of the *Code of student rights and responsibilities* involved;

(iii) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(f) The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; the student shall be entitled to present evidence in his/her own behalf and cross-examine witnesses testifying against him/her as to factual matters. The student shall have all authority possessed by the college to obtain information that the student specifically describes, in writing, and tenders to the dean of students no later than three days prior to the hearings or to request the presence of witnesses or the production of other evidence relevant to the hearings.

(g) The student may be represented by counsel of his/her choice at the disciplinary hearings. If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as counsel, the student must tender three days notice thereof to the dean of students.

(h) In all disciplinary proceedings the college may be represented by the dean of students or designee; the dean of students may then present the college's case against the student accused of violating the *Code of student rights and responsibilities*, provided, that in those cases in which the student elects to be represented by a licensed attorney, the dean of students may elect to have the college represented by an assistant attorney general.

(i) The proceedings of the hearing shall be recorded. A copy thereof shall be on file at the office of the dean of students.

(j) The time of the hearing may be advanced by the committee at the request of the student or continued for good cause.

(3) Admissible evidence.

(a) Only those matters presented at the hearing in the presence of the accused student will be considered in determining whether the student hearing committee has sufficient cause to believe that the accused student is guilty of violating the rules that the student is charged with having violated.

(b) In determining whether sufficient cause, as stated in the preceding paragraph (a) of this subsection, does exist, members of the student hearing committee shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs.

(c) The ~~((chairman))~~ chair of the student hearing committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

(4) **Interference with proceedings.** Any student interfering with the proceedings of the meeting with the dean of students or the formal hearing or any subsequent hearing shall be in contempt of the proceedings and may be summarily suspended from the college by the dean of students or the student hearing committee or the college president or designee, ~~((or the board of trustees at the time the interference takes place or))~~ within fifteen academic calendar days thereafter.

(5) Decision by the committee.

(a) Upon conclusion of the disciplinary hearing, the student hearing committee shall consider all the evidence therein presented and decide by majority vote whether to recommend to the college president or designee the following actions:

(i) That the college terminate the proceedings and exonerate the student or students;

(ii) That the college impose minor sanctions directly, such as, but not limited to, a warning, reprimand, fine, restitution, or disciplinary probation;

(iii) That the student be suspended from college including a recommendation of the duration of suspension.

(b) The student shall be provided with a copy of the committee's findings of fact and conclusions regarding whether

the student did violate any rule or rules of the *Code of student rights and responsibilities* and the committee's recommendation to the college president or designee. The committee shall also advise the student in writing of the right to present within ten calendar days, a written statement to the college president or designee appealing the recommendation of the committee.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-230 Final decision regarding disciplinary sanction. (1) The college president or designee (except the dean of students) shall, after reviewing the record of the case prepared by the student hearing committee together with any statement filed by the student, include therein a written acceptance of the recommendations of the committee, or written directions as to what ~~((lesser disciplinary))~~ sanction shall be taken.

(2) If the college president or designee decides that discipline is to be imposed after the review provided by subsection (1) of this section, the college president or designee shall notify the student in writing of the discipline imposed.

(3) In all cases of disciplinary action, the decision of the college president or designee shall be final ~~((except for those cases involving suspension if the suspension has been appealed to the board))~~.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-260 Reestablishment of academic standings. Students who have been suspended pursuant to disciplinary procedures set forth in code procedures of summary suspension rules, and whose suspension upon appeal is found to have been unwarranted shall be provided the opportunity to reestablish their academic and student standing ~~((to the extent possible within the abilities of the college))~~ pursuant to college policy, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

AMENDATORY SECTION (Amending Resolution No. 81-4, filed 12/21/81)

WAC 132P-33-270 Initiation of summary suspension proceedings. The college president or designee may suspend any student of the college ~~((for not more than ten academic calendar days))~~ pending investigation, action or ~~((prosecution))~~ prosecution on charges of an alleged *Code of student rights and responsibilities* violation or violations, and if the college president or designee has reason to believe the student's physical or emotional safety and well-being, or the safety and well-being of the other college community members, or the safety and well-being of the college property command such suspension.

WSR 99-13-150
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed June 21, 1999, 1:34 p.m.]

Date of Adoption: June 19.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-300 Application for certificate of ownership for abandoned vehicles, 308-56A-305 Sheriff's sale, 308-56A-310 Personal property lien—Chattel, landlord, 308-56A-315 Name change, 308-56A-320 Transfer by court order, 308-56A-325 Owner incompetent, and 308-56A-330 Owner bankrupt.

Statutory Authority for Adoption: RCW 46.01.110.

Other Authority: RCW 46.12.101.

Adopted under notice filed as WSR 99-09-043 on April 16, 1999.

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 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 7, 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.

June 18, 1999

Fred Stephens

Director

AMENDATORY SECTION (Amending Order TL/RG/36, filed 10/9/87)

WAC 308-56A-300 Application for ~~((title))~~ certificate of ownership for abandoned vehicles. ~~((An application for title for any abandoned vehicle, as defined in RCW 46.55.010(1), sold by a registered tow truck operator, as defined in RCW 46.55.010(6), must be accompanied by a copy of the properly completed abandoned vehicle report—affidavit of sale submitted and processed in accordance with RCW 46.55.130(2)(h).))~~ **What ownership document does the department require to issue a certificate of ownership for a vehicle which has been abandoned?** A properly completed, department required, abandoned vehicle report - affidavit of sale form, as provided in chapter 46.55 RCW.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-305 ~~((Sheriff's))~~ Law enforcement sale. ~~((1) An application for title for a vehicle sold by a sheriff pursuant to Washington state law transfers only the interests of the person shown on the bill of sale, or if the former owner is not shown, only the interests of the registered owner of record, and shall be accompanied by:~~

~~(a) The sheriff's bill of sale; and~~

~~(b) A copy of the court order directing the sale, if any.~~

~~(2) The vehicle must be titled in the name of the purchaser shown on the bill of sale.)~~ **(1) What ownership document does the department require to issue a certificate of ownership for a vehicle which has been purchased at a law enforcement sale?** The department requires, in addition to other documents required by chapters 46.01 and 46.12 RCW:

(a) The current certificate of ownership, if it is available; and

(b) A bill of sale from law enforcement to the purchaser stating that the vehicle was sold in accordance with chapter 63.32, 63.35 or 63.40 RCW; or

(c) A copy of an order from any district or superior court of any county of this state authorizing law enforcement to sell the vehicle.

(2) Does the sale of a vehicle at a law enforcement sale remove any previous security interest? Yes, security interests are released upon the sale of a vehicle at a law enforcement sale.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-310 Personal property lien—Chattel, landlord. ~~((The application for title for any vehicle sold under a personal property lien shall transfer only the registered owner's interest and shall be accompanied by the seller's bill of sale and~~

~~(1) Court decree directing sale; or~~

~~(2) Affidavit from the seller~~

~~(a) In a form approved by the department, and~~

~~(b) A statement explaining how the lien was acquired supported by documentation satisfactory to the department.)~~

(1) What documents does the department require to issue a certificate of ownership for a vehicle which has been processed through the chattel lien procedure? The department requires, in addition to other documents required by chapters 46.01 and 46.12 RCW:

(a) A copy of a court order. The court order must state specifically that the lien shall be removed; or

(b) If the court order does not indicate removal of the security interest, the new owner may:

(i) Negotiate with a secured party to obtain either a release of interest or a new security agreement; or

(ii) Petition the original court that issued the order, or higher court, to have the matter of the secured interest resolved; or

(c) An affidavit of sale chattel/landlord lien form provided or approved by the department.

If there is a lienholder, we require a release of interest from the lienholder. If no release of interest is obtained the lien will be shown on the new certificate of ownership.

(2) When does the department require a court order to issue a certificate of ownership as a result of a chattel lien? A court order is required when:

(a) The vehicle is no longer in the possession of the person/business who is claiming the chattel/landlord lien; or

(b) Someone other than the owner requested the services.

(3) What documents does the department require to issue a certificate of ownership for a vehicle, which has been processed through the landlord lien procedure? The department requires, in addition to other documents required by chapters 46.01 and 46.12 RCW:

(a) A copy of a court order; or

(b) An affidavit of sale chattel/landlord lien form provided or approved by the department.

(4) When does the department require a court order to issue a certificate of ownership as a result of a landlord lien? A court order is required when:

(a) The vehicle is no longer in the possession of the person/business who is claiming the landlord lien; or

(b) There is more than one lien claimed against the vehicle.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-315 Name change. ((On any application for reissue of title where the name of the registered owner has been changed by court action, a certified copy of the court order authorizing the name change shall be attached to the application.)) **What documentation does the department require to change my name shown on the certificate of ownership?** In addition to other documents required by chapters 46.01 and 46.12 RCW, the department requires:

(1) A court order if the name was changed by a court order; or

(2) An affidavit signed by you stating:

(a) Your previous and current names; and

(b) The reason for the name change; and

(c) That the purpose of the name change is not to defraud creditors.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-320 Transfer by court order. ((Any application for certificate of title, where a change of legal or registered owner of a vehicle is the result of the order of a court, shall be accompanied by a certified copy of the order or a certification from the clerk of court on a department approved form confirming the court's action. If the last issued certificate of title is not attached to the application, an affidavit of lost or destroyed title or an affidavit explaining the non-availability of the title document shall also be attached to the application.)) **(1) What does the department require if ownership of a vehicle is awarded by court order?** In addition to other documents required by chapters 46.01 and 46.12 RCW, the department requires:

(a) A copy of the Washington state court order, or certification from the clerk of court confirming the court's action, for vehicles titled in Washington state;

(b) A copy of the foreign court order if a vehicle for which ownership was most recently established is in the same jurisdiction as the court action, example: California court order and California vehicle ownership documents;

(c) The court order to be filed in accordance with RCW 6.36.025 if the court order and vehicle certificate of ownership are not from the same jurisdiction;

(d) Obtain a certificate of ownership in their name from a foreign jurisdiction.

(2) What information needs to be on the court order for the department to accept it? The department requires at minimum, the court order to contain:

(a) The name of the person to whom the property is awarded;

(b) A description of the vehicle(s) awarded, including the vehicle identification number or Washington license plate, if available;

(c) Validation that the court order has been filed;

(d) An indication that the court order is the final judgment of the court in this matter; and

(e) A signature of an authorized representative of the court.

(3) Does the department require all pages of the final court order? No, the department requires only copies of pages of the final court order containing:

(a) The information listed in subsection (2) of this section; and

(b) If the court order identifies any collateral agreements, those portions of the collateral agreement identifying the vehicle and its disposition, the first page and the signature page of that collateral agreement; and

(c) The page of the order actually signed by the judge/commissioner.

(4) Does the copy of the court order need to be certified? The copy of the court order does not need to be certified.

(5) What does the department require if the court order does not describe the vehicle by vehicle identification number or Washington license plate number? The department requires a certified or notarized statement from the owner describing the vehicle in the court order by year, make and VIN.

(6) Does the court order allow the department to remove the security interest recorded on the current certificate of ownership? The department shall:

(a) Remove the security interest if the court order specifically directs the department to do so.

(b) Not remove the security interest if not specified to do so in the court order. The new owner may:

(i) Negotiate with a secured party to obtain either a release of interest or a new security agreement; or

(ii) Petition the original court that issued the order, or higher court, to have the matter of the secured interest resolved.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-325 Owner incompetent. ~~((On any application for certificate of title where the former owner of record of the vehicle has been declared legally incompetent, the incompetent's interest in the vehicle shall be released by signature of the court appointed guardian. A certified copy of the court order appointing the guardian shall be attached to the application.))~~ (1) What documentation does the department require to show guardianship has been appointed for a person who has been declared incompetent? The department requires a copy of an order from any district or superior court of competent jurisdiction.

(2) How is the interest of a person who has been declared incompetent by the court recorded on the certificate of ownership issued by the department? The department will record on the certificate of ownership the name of the court appointed guardian(s) followed by the designation GDN and the name of the estate of the person declared incompetent. Example: John Doe GDN, Estate of Mary Smith.

(3) Who releases interest on a vehicle ownership document if the owner is declared incompetent? Only the court appointed guardian may release interest in a vehicle owned by an individual who has been declared incompetent. The release of interest must be accompanied by a copy of the court order appointing the guardian if guardianship is not recorded on the current certificate of ownership.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

WAC 308-56A-330 Owner bankrupt. ~~((On any application for certificate of title where the prior owner's interest has been terminated through bankruptcy proceedings, the interest of the bankrupt in the vehicle may be released by his/her trustee. If the release is by his/her trustee, a certified copy of the court order appointing the trustee shall be attached to the application.))~~ Who releases interest in a vehicle when an owner has been declared bankrupt? The owner or a trustee appointed by the court has the authority to release interest on a vehicle certificate of ownership when the owner has been declared bankrupt. The release of interest shall be accompanied by a copy of the court order appointing the trustee.

WSR 99-13-151

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed June 21, 1999, 1:37 p.m.]

Date of Adoption: June 19, 1999.

Purpose: Assist in the implementation of motor vehicle excise tax credit authorized under RCW 88.42.022.

Statutory Authority for Adoption: RCW 46.12.225.

Other Authority: RCW 46.01.110.

Adopted under notice filed as WSR 99-09-044 on April 16, 1999.

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 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, 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.

June 18, 1999

Fred Stephens

Director

NEW SECTION

WAC 308-57-500 Personal use motor vehicle excise tax credit—Qualifications. (1) **When will I receive my motor vehicle excise tax credit?** You will receive motor vehicle excise tax credit whenever you pay motor vehicle excise tax for your personal use motor vehicle. The excise tax credit applies to registrations that are due or become due July 1, 1999, or after as authorized by chapter 82.44 RCW.

(2) **What is a personal-use motor vehicle?** For the purposes of this section a personal-use motor vehicle is one which is:

(a) Registered to an individual(s) rather than a business; and

(b) Registered with a passenger (PAS), motorcycle (CYC) or truck (TRK) use class. The scale weight of the truck may not exceed six thousand pounds.

(3) **Is a vehicle registered in the name of a trust considered a personal use vehicle for vehicle excise tax purposes?** Vehicle(s) registered in a trust name, for the purposes of this section, are not considered a personal use vehicle and therefore not qualified for the vehicle excise tax credit.

(4) **What is the amount of motor vehicle excise tax credit?** The maximum credit is thirty dollars and applies to motor vehicle excise tax authorized by chapter 82.44 RCW only.

(5) **What amount of credit do I receive if my motor vehicle excise tax is less than thirty dollars?** If the motor vehicle excise tax assessed for your vehicle is less than thirty dollars, you will receive a credit equal to the amount of motor vehicle excise tax due.

(6) **May the thirty dollar motor vehicle excise tax credit be applied to any other fees or taxes collected at the time of registration?** No, the thirty dollar motor vehicle excise tax credit does not apply toward any other fees or taxes collected at the time of vehicle registration. The credit can-

not be applied to taxes or fees such as regional transit authority taxes, sales or use taxes, gross weight fees, etc.

(7) If I am exempt from payment of motor vehicle excise tax, will I receive a thirty dollar motor vehicle excise tax credit? No, if you are exempt from motor vehicle excise tax, you will not receive a motor vehicle excise tax credit.

(8) If the registration period for my vehicle is for more or less than twelve months, is the thirty dollar credit adjusted accordingly? No, the up to thirty dollar motor vehicle excise tax credit is a fixed amount applied when motor vehicle excise tax is paid or a registration period regardless of the number of months your personal use vehicle is registered.



WSR 99-12-077
EMERGENCY RULES
DEPARTMENT OF REVENUE

[Filed May 28, 1999, 11:03 a.m.]

Date of Adoption: May 28, 1999.

Purpose: WAC 458-20-135, explains the tax reporting responsibilities of extractors. WAC 458-20-136, explains the tax reporting responsibilities of manufacturers and processors for hire. WAC 458-20-13601, explains the application of the retail sales and use tax exemptions provided by RCW 82.08.02565 and 82.12.02565 for certain machinery and equipment used by manufacturers and processors for hire.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-135 Extracting natural products and 458-20-136 Manufacturing, processing for hire, fabricating.

Statutory Authority for Adoption: RCW 82.32.300.

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 implement the manufacturing machinery and equipment sales and use tax exemption, as amended by chapter 211, Laws of 1999. Some of the legislative changes, which provided clarification of the exemption, were retroactive to 1995. Taxpayers have a limited time to file refund claims and will suffer financial hardships if not provided sufficient information to determine if they are eligible for refunds as well as the exemption itself. There is insufficient time to adopt a permanent rule before the statute of limitations runs out at the end of 1999. Adoption of these rules will provide immediate information to taxpayers, tax practitioners, and department staff to use in determining the taxability of specific machinery and equipment.

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 2, 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 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: Immediately.

May 28, 1999
 Claire Hesselholt
 Rules Manager

AMENDATORY SECTION (Amending WSR 86-09-058, filed 4/17/86, effective 5/18/96 [5/18/86])

WAC 458-20-135 Extracting natural products. ((The word "extractor" means)) **(1) Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Many persons extracting natural products also use the same extracted products in a manufacturing process. This rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins. Persons engaged in a manufacturing activity should also refer to WAC 458-20-136 (Manufacturing, processing for hire, fabricating) and 458-20-13601 (Manufacturers and processors for hire—Sales and use tax exemptions for machinery and equipment).

In addition to all other taxes, harvesters of timber may be subject to the forest excise tax levied by chapter 84.33 RCW (Timber and Forest Lands). Chapter 458-40 WAC (Taxation of Forest Land and Timber) provides important tax-reporting information regarding the forest tax program.

(2) Extracting activities. RCW 82.04.100 defines the term "extractor" to mean every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product((,-or-)). The term includes a person who similarly fells, cuts, or takes timber, Christmas trees other than plantation Christmas trees, or other natural products((,-or-)). It also includes any person who takes fish((,-or-takes, cultivates, or raises)) shellfish, or other sea or inland water foods or products.

(("Extractor")) (a) The term "extractor" does not include:

(i) Persons performing under contract the necessary labor or mechanical services for others ((-or-));

(ii) Persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession((,- (RCW 82.04.100-))

The following activities are illustrative of operations which are included within the extractive activity:

(+)) (iii) Persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession; or

(iv) Persons cultivating or raising shellfish or any other cultural aquatic product as defined in RCW 15.85.020 on the person's own land or on land in which the person has a present right of possession. This exclusion from the definition of "extractor" is because these persons qualify as farmers under RCW 82.04.213.

(b) An extractor may subsequently take an extracted product and use it as a raw material in a manufacturing process. The following examples explain when an extracting process ends and a manufacturing process begins for various situations. These examples should be used only as a general guide. Similar determinations for other situations can be made only after a review of all of the facts and circumstances.

(i) Logging operations, including the ((bucking, yarding, and loading of timber or logs after felling, as well as the)) actual cutting or severance of trees are extracting activities. ((It) Extracting includes other activities necessary and incidental to logging, such as logging road construction or maintenance, slash burning, slashing, scarification, stream cleaning or rebuilding, miscellaneous cleaning, and trail work, where such activities are performed pursuant to a timber harvest operation((: PROVIDED, That persons performing such activities must identify in their business records the timber harvest operation of which their work is a part)). As a general rule, the extracting activity ends once the tree is felled, cut, or taken. The subsequent activity of cutting, delimiting, and measuring with respect to the felled, cut, or taken trees is a manufacturing activity. (See WAC 458-20-136 on manufacturing.)

((2)) (ii) Mining and quarrying operations are extracting activities, including the ((activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.)) screening, sorting, piling, and washing of rock, sand, stone, or gravel if the extractor does not directly or by contracting with others crush or blend the materials at the site where the materials were taken or produced.

The crushing and/or blending of rock, sand, stone, or gravel are not extracting activities. These are manufacturing activities. (See WAC 458-20-136 on manufacturing.) Likewise, any screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending, is considered a part of the manufacturing activity if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered manufacturing activities.

((3)) (iii) Fishing operations, including the taking of any fish, or the taking, cultivating, or raising of shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) ((for sale or commercial use. It) is an extracting activity. Extracting includes the removal of the meat from the shell((- and the cleaning and icing of fish or sea products by the person catching or taking them. It does not include cultivating or raising fish entirely within confined rearing areas under RCW 82.04.100)). The filleting or steaking of fish are manufacturing activities. (See WAC 458-20-136 on manufacturing.)

((BUSINESS AND OCCUPATION TAX

EXTRACTING LOCAL SALES.—Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification retailing and those who sell such products at wholesale in this state are taxable under the classification wholesaling—all others.—Persons taxable under the classification retailing and wholesaling—all others are not taxable under the classification extracting with respect to the extracting of products so sold within this state.

EXTRACTING INTERSTATE OR FOREIGN SALES.—Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification extracting upon the value of the products so sold, and are not

taxable under retailing or wholesaling—all others in respect to such sales. (See also WAC 458-20-193.)

EXTRACTING FOR COMMERCIAL USE.—Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under extracting. (For tax liability of such persons on the sale of manufactured products see WAC 458-20-136, manufacturing, processing for hire, fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under extracting on the value of products extracted and so used. (See WAC 458-20-134 for definition of commercial or industrial use.)

EXTRACTING FOR OTHERS:)) (3) Tax-reporting responsibilities of persons extracting natural products. Persons who extract products in this state are subject to the extracting B&O tax upon the value of the products, unless otherwise provided by law. Extractors who sell the products at retail or wholesale in this state are subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the extractor must report under both the "production" (extracting) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit (MATC) system. See also WAC 458-20-19301 (Multiple activities tax credits) for a more detailed explanation of the MATC reporting requirements.

(a) An extractor making retail sales must collect and remit retail sales tax on all sales to consumers, unless the sale is exempt by law (e.g., see WAC 458-20-244 regarding sales of certain food products). Extractors making wholesale sales must obtain resale certificates from their customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.)

(b) Persons performing under contract, either as prime or subcontractors; the necessary labor or mechanical services for ((others who are engaged in the business as)) extractors, are ((taxable under the extracting for hire classification of the business and occupation)) subject to the extracting for hire B&O tax upon their gross income from ((such)) the labor or services. ((If the contract includes the hauling of the products extracted over public roads, such persons are also taxable under the motor transportation classification of the public utility tax upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the service classification of the business and occupation tax upon the gross income received from such hauling. (See WAC 458-20-180.)) Persons performing the necessary labor or mechanical services for manufacturers are subject to the processing for hire B&O tax. (See also WAC 458-20-136.)

((FOREST EXCISE TAX

In addition to all other taxes, a person engaged in business as a harvester of timber is subject to the forest excise tax levied by chapter 84.33 RCW. The word "harvester" means every person who from the persons own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. It does not

~~include persons performing under contract the necessary labor or mechanical services for a harvester. See chapter 458-40 WAC for detailed provisions, procedures, and other definitions:~~

~~RETAIL SALES TAX~~

~~The retail sales tax applies upon all sales of extracted products made at retail by the extractor thereof, except as provided by WAC 458-20-244, Food products:~~

~~USE TAX))~~

~~(c) The retail sales tax applies to all purchases of equipment, component parts of equipment, and supplies by persons engaging in extracting or extracting for hire activities unless a specific exemption applies. If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department.~~

~~(d) RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions for certain machinery and equipment used by manufacturers. While this exemption does not extend to extractors, persons engaged in both extracting and manufacturing activities should refer to WAC 458-20-13601 for an explanation of how these exemptions may apply to them.~~

~~(e) Persons constructing or maintaining logging roads pursuant to timber harvest operations are subject to use tax on all materials used in such construction, except for materials on which sales tax was paid at the time of purchase)) considered consumers of all materials incorporated into the logging roads. Their purchase and/or use of these materials is subject to either the retail sales or use tax.~~

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

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

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 88-21-014, filed 10/7/88, effective 11/7/88)

WAC 458-20-136 Manufacturing, processing for hire, fabricating. (1) **Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to manufacturers. It identifies the special tax classifications and rates that apply to specific manufacturing activities. The law provides a retail sales and use tax exemption for certain machinery and equipment used by manufacturers. Refer to RCW 82.08.02565, 82.12.02565, and WAC 458-20-13601 (Manufacturers and processors for hire - Sales and use tax exemption for machinery and equipment) for more information regarding this exemption. Persons engaging in both extracting and manufacturing activities should also refer to WAC 458-20-135 (Extracting natural products.)

(2) **Definitions.** "The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor

or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food products, the making of custom made suits, dresses, coats, awnings, blinds, boats, curtains, draperies, rugs, and tanks, and other articles constructed or made to order, and the curing of animal hides and food products.

~~((2))~~ The term "to manufacture" also includes:

(a) The production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician, effective October 1, 1998 (chapter 168, Laws of 1998);

(b) The cutting, delimiting, and measuring of felled, cut, or taken trees, effective July 1, 1995 (chapter 211, Laws of 1999, and chapter 3, Laws of 1995 1st sp.s.);

(c) The crushing and/or blending of rock, sand, stone, gravel, or ore, effective July 1, 1995 (chapter 211, Laws of 1999, and chapter 3, Laws of 1995 1st sp.s.); and

(d) The cleaning of fish. The manufacturing B&O tax does not apply, however, if the cleaning activities are limited to the removal of the head, fins, or viscera from fresh fish without further processing, other than freezing. RCW 82.04.2403.

(3) The word "manufacturer" means every person who, from the person's own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either directly, or by contracting with others for the necessary labor or mechanical services.

~~((3))~~ However, a nonresident of the state of Washington who owns materials processed for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

(4) The term "to manufacture" does not include:

(a) ~~The conditioning of seed for use in planting ((or activities which consist of));~~

(b) The cubing of hay or alfalfa;

(c) The growing, harvesting, or production of agricultural products;

(d) The cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state; ((the mere cleaning and freezing of whole fish;)) or

(e) The repairing and reconditioning of tangible personal property for others.

(5) The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different or useful article of tangible personal property is produced for sale

or commercial or industrial use. Thus, a processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials.

(6) Persons who both manufacture and sell those products in this state must report their gross receipts under both the manufacturing and retailing or wholesaling classifications. A credit may then be taken against the selling tax in the amount of the manufacturing tax reported. (See also WAC 458-20-19301.)

(7) **Manufacturing—interstate or foreign sales.** Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification manufacturing upon the value of the products so sold, and are not taxable under retailing or wholesaling—all others in respect to such sales. (See also WAC 458-20-193(A).) A credit may be applicable if a gross receipts tax is paid on the selling activity to another state. (See also WAC 458-20-19301.)

(8) **Business and occupation tax—hops.** The business and occupation tax shall not apply to amounts received by hop growers or dealers for hops which are shipped outside the state of Washington for first use, if those hops have been processed into extract, pellets, or powder in this state. Amounts charged by a processor or warehouse for processing or warehousing, however, are not exempt.

(9) **Manufacturing—special classifications.** ~~((The law))~~ RCW 82.04.260 provides several special classifications and rates for activities which constitute "manufacturing" ~~((as defined in this rule))~~ under RCW 82.04.120. In all such cases the principles set forth in subsections (6) and (7) of this rule concerning multiple tax classifications and credit provisions are also applicable. These special classifications and rates include:

(a) Manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, meal, or canola byproducts, or sunflower seeds into sunflower oil ~~((RCW 82.04.260(2)))~~;

(b) Splitting or processing dried peas ~~((RCW 82.04.260(3)))~~;

(c) Manufacturing seafood products which remain in a raw, raw frozen, or raw salted state ~~((RCW 82.04.260(4)))~~;

(d) Manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables ~~((RCW 82.04.260(5)))~~; and

(e) Manufacturing nuclear fuel assemblies ~~((RCW 82.04.260(9)). In all such cases the principles set forth in subsections (6) and (7) of this section concerning multiple tax classifications and credit provisions are also applicable))~~.

(10) The special classification and rate provided by RCW 82.04.260 for slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale ~~((RCW 82.04.260(7)))~~ combines manufacturing and nonmanufacturing activities into a single taxable business activity. For persons who break, slaughter, and/or process meat products for others, the statutory classification and rate are applicable to the value of products so processed and delivered to customers within this state and to interstate or foreign customers. The mere wholesale selling of perishable meat products not manufactured by the vendor is subject to

the statutory classification and rate only upon gross receipts from sales within this state. Interstate or foreign sales are deductible from gross proceeds of sales. (See WAC 458-20-193(A).)

(11) **Manufacturing for commercial use.** Persons who manufacture products in this state for their own commercial or industrial use are taxable under the classification manufacturing on the value of the products so manufactured and used. (See WAC 458-20-134 for definition of commercial or industrial use.)

(12) **Processing for hire.** Persons processing for hire for consumers or for persons other than consumers are taxable under the processing for hire classification upon the total charge made therefor.

(13) **Materials furnished in part by customer.** In some instances, the persons furnishing the labor and mechanical services undertakes to produce a new article, substance, or commodity from materials or ingredients furnished in part by them and in part by the customer. In such instances, tax liability is as follows:

(a) The persons furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by them is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

(b) If the person furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

(c) In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

(14) **Retail sales and use taxes.** Persons taxable as engaging in the business of manufacturing and selling at retail any of the products manufactured and persons manufacturing, fabricating, or processing for hire tangible personal property for consumers shall collect the retail sales tax upon the total charge made to their customers.

~~((+5))~~ (a) RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions for certain machinery and equipment used by processors for hire and manufacturers. (See also WAC 458-20-13601.)

(b) Sales to processors for hire and to manufacturers of other articles of tangible personal property which do not become an ingredient or component part of a new article produced, or are not chemicals used in processing the same, are retail sales, and the retail sales tax must be collected thereon. (However, see WAC 458-20-113 and 458-20-134 for certain express exemptions.) If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department.

~~((+6) Use tax.)~~ (c) Manufacturers are taxable under the use tax upon the use of articles manufactured by them for their own use in this state unless a specific exemption applies.

(See WAC 458-20-113 (~~and~~), 458-20-134, and 458-20-13601 for certain express exemptions.)

~~((17))~~ (d) See WAC 458-20-244 for sales and use tax on food products.

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 458-20-13601 Manufacturers and processors for hire - Sales and use tax exemption for machinery and equipment. (1) **Introduction.** This rule explains the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565 for sales to or use by manufacturers or processors for hire of machinery and equipment used directly in a manufacturing operation or research and development operation. This rule explains the requirements that must be met to substantiate a claim of exemption. For information regarding the distressed area sales and use tax deferral refer to WAC 458-20-24001 and chapter 82.60 RCW. For the high technology business sales and use tax deferral refer to chapter 82.63 RCW.

On and after July 25, 1999, a person engaged in testing for manufacturers or processors for hire is eligible to take the exemption, subject to the requirements explained below.

(2) **Legislative history.** The manufacturing machinery and equipment exemption, codified as RCW 82.08.02565 and RCW 82.12.02565, became effective July 1, 1995. The exemption has since been the subject of a number of changes: See 1995 1st sp.s. c 3, 1996 c 173, 1996 c 247, 1998, c 330, and 1999 c 211.

(a) In 1996, the exemption was extended to include charges for repairing, cleaning, altering, or improving the machinery and equipment. The same act also revised the definition of "machinery and equipment" to include tangible personal property that becomes an ingredient or component of the machinery and equipment, including repair and replacement parts. A second act extended the exemption to research and development engaged in by manufacturers or processors for hire. Both acts took effect June 6, 1996.

(b) In 1998, the duplicate certificate and annual reporting requirement were eliminated, effective June 11, 1998.

(c) In 1999, the 1995 legislation was clarified retroactively by ESHB 1887, chapter 211, laws of 1999, to include certain logging and mining activities, segmented manufacturing, and off-site testing by manufacturers, and to explain that hand-powered tools were excluded. As of July 25, 1999, the exemption is extended on a prospective basis to persons who perform third party testing for manufacturers or processors for hire.

(3) **Definitions.** For purposes of the manufacturing machinery and equipment tax exemption the following definitions will apply.

(a) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel.

(b) "Device" means an item that is not attached to the building or site. Examples of devices are: Forklifts, chain-

saws, air compressors, clamps, free standing shelving, software, ladders, wheelbarrows, and pulleys.

(c) "Industrial fixture" means an item attached to a building or to land. Fixtures become part of the real estate to which they are attached and upon attachment are classified as real property, not personal property. Examples of "industrial fixtures" are fuel oil lines, boilers, craneways, and certain concrete slabs.

(d) "Manufacturer" has the same meaning as provided in chapter 82.04 RCW.

(e) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. A manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the processed material leaves the manufacturing site. The operation includes storage of raw materials at the site, the storage of in-process materials at the site, and the storage of the processed material at the site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail.

(i) Neither duration or temporary nature of the manufacturing activity nor mobility of the equipment determine whether a manufacturing operation exists. For example, operations using portable saw mills or rock crushing equipment are considered "manufacturing operations."

(ii) Manufacturing tangible personal property for sale can occur in stages, taking place at more than one manufacturing site. For example, if a taxpayer processes pulp from wood at one site, and transfers the resulting pulp to another site that further manufactures the product into paper, two separate manufacturing operations exist. The end product of the manufacturing activity must result in a article, substance, or commodity for sale.

(f) "Machinery and equipment" means industrial fixtures, devices, and support facilities, and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation or research and development operation. "M&E" means "machinery and equipment."

(g) "Processor for hire" has the same meaning as used in chapter 82.04 RCW and as explained in WAC 458-20-136.

(h) "Qualifying operation" means a manufacturing operation, a research and development operation, or, as of July 25, 1999, a testing operation.

(i) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010 by a manufacturer or processor for hire. RCW 82.63.010 defines "research and development" to mean: Activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved prod-

ucts, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the federal food and drug administration under chapter 21, C.F.R., as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(j) "Sale" has the same meaning as "sale" in chapter 82.08 RCW, which includes by reference RCW 82.04.040. RCW 82.04.040 includes by reference the definition of "retail sale" in RCW 82.04.050. "Sale" includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price.

(k) "Support facility" means a part of a building or a structure or improvement, used to contain or steady an industrial fixture or device. A support facility must be specially designed and necessary for the proper functioning of the industrial fixture or device and must perform a function beyond being a building or a structure or an improvement. It must have a function relative to an industrial fixture or a device. To determine if some portion of a building is a support facility the parts of the building are examined. For example, a highly specialized structure, like a vibration reduction slab under a microchip clean room, is a support facility. Without the slab, the delicate instruments in the clean room would not function properly. The ceiling and walls of the clean room are not support facilities if they only serve to define the space and do not have a function relative to an industrial fixture or a device.

(l) "Tangible personal property" has its ordinary meaning.

(m) "Testing" means activities performed to establish or determine the properties, qualities, and limitations of tangible personal property.

(n) "Testing operation" means the testing of tangible personal property for a manufacturer or processor for hire. A testing operation begins at the point where the tangible personal property enters the testing site and ends at the point where the tangible personal property leaves the testing site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the site of which the cogeneration project is an integral part. The term does not include the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail.

(4) **Sales and use tax exemption.** The M&E exemption provides a retail sales and use tax exemption for machinery and equipment used directly in a manufacturing operation or research and development operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and

equipment. On and after July 25, 1999, the exemption may be taken for qualifying machinery and equipment used directly in a testing operation by a person engaged in testing for a manufacturer or processor for hire.

Sellers remain subject to the retailing B&O tax on all sales of machinery and equipment to consumers if delivery is made within the state of Washington, notwithstanding that the sale may qualify for an exemption from the retail sales tax.

(a) **Sales tax.** The purchaser must provide the seller with an exemption certificate. The exemption certificate must be completed in its entirety. The seller must retain a copy of the certificate as a part of its records. This certificate may be issued for each purchase or in blanket form certifying all future purchases as being exempt from sales tax. Blanket forms must be renewed every four years.

The form must contain the following information:

- (i) Name, address, and registration number of the buyer;
- (ii) Name of the seller;
- (iii) Name and title of the authorized agent of the buyer/user;
- (iv) Authorized signature;
- (v) Date; and
- (vi) Whether the form is a single use or blanket-use form.

You may obtain a copy of a M&E certificate form from the Department of Revenue on the Internet at <http://www.dor.wa.gov/>, under "Other forms and schedules" or by contacting the Department's Taxpayer Services Division at: Department of Revenue, Taxpayer Services, P.O. Box 47478, Olympia, WA 98504-7478.

(b) **Use tax.** The use tax complements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any tangible personal property purchased at retail, where the user has not paid retail sales tax with respect to the purchase of the property used. (See also RCW 82.12 RCW and WAC 458-20-178.) If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the retail sales tax (commonly referred to as deferred sales tax) or use tax directly to the department unless the purchase and/or use is exempt from the retail sales and/or use tax. A qualifying person using eligible machinery and equipment in Washington is exempt from the use tax.

(5) **Who may take the exemption.** The exemption may be taken by a manufacturer or processor for hire who manufactures articles, substances, or commodities, for sale as tangible personal property. The exemption is for M&E used directly in a manufacturing operation or research and development operation. A processor for hire who does not sell tangible personal property is eligible for the exemption if the processor for hire manufactures articles, substances, or commodities that will be sold by the manufacturer. See WAC 458-20-136 and RCW 82.04.110 for more information. On and after July 25th, 1999, persons who engage in testing for manufacturers or processors for hire are eligible for the exemption.

(6) **What is eligible for the exemption.** Machinery and equipment used directly in a qualifying operation by a qualifying person is eligible for the exemption. See subsection (9) for a discussion of the "used directly" criteria.

There are three classes of eligible machinery and equipment: industrial fixtures; devices; and support facilities. Also eligible is tangible personal property that becomes an ingredient or component of the machinery and equipment, including repair parts and replacement parts. "Machinery and equipment" also includes pollution control equipment installed and used in a manufacturing operation, testing operation, or research and development operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation, testing operation, or research and development operation.

(7) **What is not eligible for the exemption.** In addition to items that are not eligible because they do not meet the used directly test, there are four categories of items that are statutorily excluded from eligibility, regardless of whether they are used directly in a qualifying operation. The following property is not eligible for the M&E exemption:

(a) Hand-powered tools. Screw drivers, hammers, and wrenches are examples of hand-powered tools. Electric, including cordless-powered tools, are not hand-powered tools.

(b) Property with a useful life of less than one year. All eligible machinery and equipment must satisfy the useful life criteria, including repair parts and replacement parts. For example, items such as blades and bits are generally not eligible for the exemption because while they may become component parts of eligible machinery and equipment they generally have a useful life of less than one year. Blades generally having a useful life of more than one year, such as certain sawmill blades, are eligible. See subsection (8) for thresholds to determine useful life.

(c) Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building. Buildings provide work space for people or shelter machinery and equipment. The building itself is not eligible for the exemption but the industrial fixtures and support facilities that become affixed to or part of the building might be eligible. The subsequent real property status of industrial fixtures does not affect eligibility for the exemption.

(d) Building fixtures that are not integral to the manufacturing operation, testing operation, or research and development operation that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical. Examples of nonqualifying fixtures are: fire sprinklers, building electrical systems, or washroom fixtures.

(8) **The "useful life" threshold.** The following steps should be used in making a determination whether an item meets the "useful life" threshold. The series of questions progress from simple documentation to complex documentation. In order to substantiate qualification under any step, a taxpayer must maintain adequate records. Tangible personal property that is acquired for a one-time use does not qualify for the M&E exemption, e.g. a mold or form that is discarded upon use. Catastrophic loss, damage, or destruction of an item does not affect eligibility of machinery and equipment that otherwise qualifies. Assuming the machinery and equipment meets all of the other M&E requirements, the useful life criteria can be determined by answering the following questions for each individual piece of machinery and equipment:

(a) Is the machinery and equipment eligible to be and actually capitalized for either federal tax purposes or accounting purposes?

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no,"

(b) Is the machinery and equipment warranted by the manufacturer to last at least one year?

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no,"

(c) Is the machinery and equipment normally replaced at intervals of one year or more, as established by industry or business practice? (This is commonly based on the actual experience of the person claiming the exemption.)

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no,"

(d) Is the machinery and equipment expected at the time of purchase to last at least one year, as established by industry or business practice? (This is commonly based on the actual experience of the person claiming the exemption.)

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no," it does not qualify for the exemption.

(9) **The "used directly" criteria.** Items that are not used directly in a qualifying operation are not eligible for the exemption. The statute provides eight descriptions of the phrase "used directly." The manner in which a person uses an item of machinery and equipment must match one or more of these descriptions. If M&E is not "used directly" it is not eligible for the exemption. Examples of items that are not used directly in a qualifying operation are cafeteria furniture, safety equipment not a part or component of an eligible item of machinery and equipment, packaging materials, shipping materials, or administrative equipment. Machinery and equipment is "used directly" in a manufacturing operation, testing operation, or research and development operation, if the machinery and equipment meets any one of the following criteria:

(a) Acts upon or interacts with an item of tangible personal property. Examples of this are drill presses, cement mixers (agitators), ready-mix concrete trucks, hot steel rolling machines, rock crushers, and band saws. Also included is machinery and equipment used to repair, maintain, or install tangible personal property. Computers qualify under this criteria if: (i) they direct or control machinery or equipment that acts upon or interacts with tangible personal property or (ii) if they act upon or interact with an item of tangible personal property.

(b) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site or the testing site. Examples of this are wheelbarrows, handcarts, storage racks, forklifts, tanks, vats, robotic arms, piping, and concrete storage pads. Floor space in buildings does not qualify under this criteria. Not eligible under this criteria are items that are used to ship the product or in which the product is packaged, as well as materials used to brace or support an item during transport.

(c) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site. Examples of "away from the site" are road testing of trucks, air testing of planes, or water testing of boats,

with the machinery and equipment used off site in the testing eligible under this criteria. Machinery and equipment used to take readings or measurements, such as devices that take readings or probe with sensors, is eligible under this criteria.

(d) Provides physical support for or access to tangible personal property. Examples of this are catwalks adjacent to production equipment, scaffolding around tanks, braces under vats, and ladders near controls. Machinery and equipment used for access to the building or to provide a work space for people or a space for tangible personal property or machinery and equipment, such as stairways, is not eligible under this criteria.

(e) Produces power for, or lubricates machinery and equipment. A generator providing power to a sander is an example of machinery and equipment that produces power for machinery and equipment. An electrical generating plant that provides power for a building is not eligible under this criteria. Lubricating devices such as hoses, oil guns, pumps, and meters, whether or not attached to machinery and equipment, are eligible under this criteria.

(f) Produces another item of tangible personal property for use in the manufacturing operation, testing operation, or research and development operation. Machinery and equipment that makes dies, jigs, or molds, and printers that produce camera ready images are examples of this.

(g) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported; or

(h) Is integral to research and development as defined in RCW 82.63.010. There is no requirement that the research and development operation produce tangible personal property for sale.

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.

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: ESHB 2947 amended RCW 50.44.050 and 50.44.053, pertaining to unemployment benefits for educational employees. The legislation contained an emergency clause which made it effective upon signing, March 30, 1998. The new legislation thus applies to educational employees currently applying for benefits. Discussions with stakeholders and interested parties regarding the content of the permanent rules are ongoing. Emergency rules are needed to assist with eligibility determinations during the permanent rule adoption process.

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 0, Repealed 3.

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.

June 2, 1999
Carver Gayton
Commissioner

WSR 99-13-003

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed June 3, 1999, 11:59 a.m.]

Date of Adoption: June 2, 1999.

Purpose: To adopt rules implementing ESHB 2947, which took effect on March 30, 1998. This bill amended RCW 50.44.050 to modify the definition of "academic year" for all educational institutions. It also amended RCW 50.44.053 to delete the provision that "reasonable assurance" does not include agreements that are contingent on funding, enrollment, or program changes. New rules are adopted establishing objective criteria defining schools with a twelve-month academic period, defining terms, and clarifying "reasonable assurance."

Citation of Existing Rules Affected by this Order: Repealing WAC 192-16-051 and 192-16-052.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

Chapter 192-210 WAC

SPECIAL CATEGORY OCCUPATIONS

NEW SECTION

WAC 192-210-005 Definitions—Educational employees. (1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services. Tenure or tenure track status is considered a contract.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.150.220 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120

(regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

NEW SECTION

WAC 192-210-010 What are the objective criteria used to define "academic year"?—RCW 50.44.050(5). Summer term will be considered part of the academic year for an educational institution unless:

(1) Total enrollment of full-time equivalent students during the previous summer term is less than one third of the average academic year enrollment of full-time equivalent students for the fall, winter, and spring terms of the preceding two years; or

(2) Total full-time equivalent staff during the previous summer term is less than fifty percent of the academic year average of the full-time equivalent staff during the fall, winter, and spring terms during the preceding two years.

NEW SECTION

WAC 192-210-015 How will the department decide if reasonable assurance exists? (1) Reasonable assurance is a bona fide offer from an educational institution to assign an individual future work at that institution under the same terms and conditions as the individual's previous employment. It is less than a contract or written agreement, but more than a mere possibility of future employment. The department must find that continued employment for that individual is likely or probable.

(2) Decisions regarding the existence of reasonable assurance will be made on an individual basis, with consideration given to contingencies that may exist in the individual case.

(3) If there is a disagreement regarding whether an individual has reasonable assurance, the institution must provide the department with documentation in support of its statement that reasonable assurance exists for that individual.

(4) Following are some, but not all, examples of the types of documentary evidence that may be provided by an institution:

(a) The terms of any contract or agreement between the individual and the educational institution, including length, contingencies, or provisions for cancellation,

(b) Whether the employer pays fringe benefits to the individual, such as health care, during periods between academic years or terms,

(c) The number of comparable positions at the institution,

(d) Projections of student enrollment, school funding, or program funding contained in the institution's budget,

(e) Any hiring priorities used by the school, such as precedence given to full-time or tenured staff or the use of seniority lists,

(f) The individual's employment history,

(g) Whether the class(es) have been consistently offered by the institution, including whether the class has been canceled due to lack of enrollment.

(5) The existence of reasonable assurance will be determined by the total weight of the evidence, rather than the existence of any one factor included in subsection (4).

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 192-16-051	Special coverage provisions for educational employees—Definitions—RCW 50.44.050(1)
WAC 192-16-052	Objective criteria used to define "academic year"—RCW 50.44.050(5)
WAC 192-16-057	Interpretive regulation—"Under the same terms and conditions of employment" defined

WSR 99-13-009

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 99-72—Filed June 4, 1999, 9:46 a.m.]

Date of Adoption: June 4, 1999.

Purpose: Commercial and personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-16-320.

Statutory Authority for Adoption: RCW 75.08.080.

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: Conforms federal and state salmon length measurement in coastal waters. There is insufficient time to promulgate permanent rules as the troll fishery is already underway.

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.

June 4, 1999

Larry W. Peck
for Jeff P. Koenings
Director

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 5, 1999, 6:00 p.m.

June 4, 1999

Evan Jacoby
for Jeff P. Koenings
Director

NEW SECTION

WAC 220-16-32000A Definition—Coastal salmon length. Notwithstanding the provisions of WAC 220-16-320, effective immediately until further notice the length of salmon taken from SMCRA 1 through 3 and those waters of SMCRA 4 west of the Bonilla-Tatoosh line means the shortest distance between the tip of the snout or jaw (whichever extends furthest while the mouth is closed) and the tip of the longest lobe of the tail, without resort to any force or mutilation of the salmon other than fanning or swinging the tail.

**WSR 99-13-012
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-71]—Filed June 4, 1999, 2:20 p.m., effective June 5, 1999, 6:00 p.m.]

Date of Adoption: June 4, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700A; 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 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: This regulation adopts the tribal proposal to close the setline fishery in Bonneville Reservoir while leaving open the setline fishery in John Day Reservoir where harvestable numbers of sturgeon are available. This action is consistent with the state/tribal management plan concerning sturgeon fisheries between Bonneville and McNary Dams. This regulation conforms state rules with tribal rules and is consistent with Compact Action of June 3, 1999. There is insufficient time to promulgate permanent rules.

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

WAC 220-32-05700B Columbia River sturgeon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-057, effective 6:00 p.m. June 5, 1999 until further notice, it is unlawful for a person to take, fish for, or possess sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla, and Nez Perce treaties may fish for sturgeon with set line gear under the following provisions:

1) 6:00 p.m. June 5, 1999 until further notice in Columbia River Salmon Management and Catch Reporting Area 1H (John Day Reservoir).

2) During the season specified in Section 1, it is unlawful to:

a) retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.

b) sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of a sturgeon prior to sale of the sturgeon to a wholesale dealer licensed under chapter RCW 75.28, or to sell or barter sturgeon eggs at retail.

c) deliver to a wholesale dealer licensed under chapter RCW 75.28 any sturgeon that are not in the round with the head and tail intact.

3) During the season specified in Section 1, it is 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

d) without visible buoys attached and with buoys that do not specify operator and tribal identification.

EMERGENCY

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. June 5, 1999:

WAC 220-32-05700A Columbia River sturgeon seasons above Bonneville Dam. (99-26)

WSR 99-13-051
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-74—Filed June 9, 1999, 4:01 p.m.]

Date of Adoption: June 9, 1999.

Purpose: Commercial fishing rules.

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 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: Harvestable amounts of sea cucumbers are available in all districts and areas listed. San Juan Channel and southwestern Haro Strait are closed consistent with state/tribal agreement. Titlow Beach Marine Preserve and Sund Rock Marine Preserve are closed to preserve the character of the Marine Preserves. Tatoosh Island closure is consistent with tribal agreements. Eagle Harbor and Sinclair Inlet are closed for health-related reasons. Two divers are allowed when a vessel is designated on two licenses, consistent with SB 5658 passed by the 1999 legislature. Daily reports of landings are needed to prevent overharvest of allocations in each management region; fish receiving tickets are not received and processed in a manner that permits timely closure of region. There is insufficient time to promulgate permanent rules.

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.

June 9, 1999

J. P. Koenings

Director

NEW SECTION

WAC 220-52-07100K Sea cucumbers Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Effective 6:00 a.m. June 28, 1999 until further notice, 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, and 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 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 following areas are closed to the harvest of sea cucumbers at all times:

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

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

(c) Tatoosh Island - Those waters within one-quarter mile of Tatoosh Island.

(d) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island.

(e) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to land-fall below the Veteran's Home in Annapolis.

(3) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on June 26 and 27, July 3, 4, 10, 11, 17, 18, 24, 25 and 31, August 1, 7, 8, 14, 15, 21, 22, 28 and 29, 1999.

(4) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard, except that two divers may be in the water if the vessel has been designated on two sea cucumber dive fishery licenses.

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NEW SECTION

WAC 220-69-24000L 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 99-13-058**EMERGENCY RULES****DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-75—Filed June 11, 1999, 9:56 a.m.]

Date of Adoption: June 10, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-28-61900D; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

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 establishes free fishing weekend and is necessary until permanent rules take effect.

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.

June 10, 1999

J. D. Brittell

for Jeff P. Koenings

Director

NEW SECTION

WAC 232-12-61900D Permanent state-wide game fish rules. Notwithstanding the provisions of WAC 232-12-619, the Saturday and Sunday following the first Monday in June is declared as free fishing weekend in Washington.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 13, 1999:

WAC 232-12-61900D Permanent state-wide game fish rules.

WSR 99-13-059**EMERGENCY RULES****DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-73—Filed June 11, 1999, 9:58 a.m., effective June 12, 1999, 12:01 a.m.]

Date of Adoption: June 10, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-30500D; and amending WAC 220-56-305.

Statutory Authority for Adoption: RCW 75.08.080.

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: This regulation is intended to keep the recreational harvest of sturgeon from Bonneville Reservoir, the Dalles Reservoir and its tributaries within the established harvest guidelines. There is insufficient time to promulgate permanent rules.

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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: June 12, 1999, 12:01 a.m.

June 10, 1999

J. D. Brittell

for Jeff P. Koenings

Director

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.

June 11, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-56-30500E Sturgeon—Areas and seasons.

Notwithstanding the provisions of WAC 220-56-305, effective 12:01 a.m. June 12, 1999 until further notice it is unlawful to retain sturgeon from the Columbia River and its tributaries from the Bonneville Dam to John Day Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. June 11, 1999:

WAC 220-56-30500D Sturgeon—Areas and seasons. (99-30)

NEW SECTION

WAC 220-32-05500W Indian subsistence fishing

Notwithstanding the provisions of WAC 220-32-055 effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, White Salmon River, Wind River, or Drano Lake except under the following provisions:

a) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Wednesdays to 6:00 p.m. Saturdays of each week immediately to June 19, 1999. Fishing is not allowed from boats or other floating devices.

b) The Klickitat River from the site of the former Swinging Bridge (RM 1.5) to Fishway Number 5 (RM 2.2) is open noon Wednesdays to 6:00 p.m. Saturdays of each week from June 16 until further notice. Fishing is not allowed from boats or other floating devices.

c) The White Salmon River from the mouth to Condit Dam is open 7 days per week immediately to June 12, 1999. Fishing is allowed from fishing platforms, bank, or boat.

d) The Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls and from 200 feet above Shipperd Falls upstream to a marker 30 feet below the mouth of Tyee Springs (the outlet stream for Carson National Fish Hatchery) is open 7 days per week immediately to July 3, 1999.

e) Drano Lake from the Highway 14 Bridge to the orange markers near the mouth of the Little White Salmon River is open 7 days per week immediately to June 19, 1999. Each fisher is allowed to use a maximum of 2 fishing gears. Fishing is allowed from bank or boat.

f) Allowable gear includes dipnets, setbag nets, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

**WSR 99-13-079
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-77—Filed June 11, 1999, 3:12 p.m.]

Date of Adoption: June 11, 1999.

Purpose: Subsistence fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500V; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

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 hatchery escapement goal has been reached at Carson and Little White Salmon hatcheries and harvestable salmon are available in the tributaries of the Yakama tribe. This rule is consistent with the 1996-98 management agreement for 1999 fisheries, and conforms state and tribal rules. There is insufficient time to promulgate permanent rules.

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.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500V Indian subsistence fishing. (99-50)

EMERGENCY

WSR 99-13-080
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-76—Filed June 11, 1999, 3:15 p.m., effective June 12, 1999, 8:00 a.m.]

Date of Adoption: June 10, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-56-33000R; and amending WAC 220-56-330.

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: Crab test fishing results indicate there is a harvestable surplus of hardshell crab in the area to be opened. There is insufficient time to promulgate permanent rules.

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 12, 1999, 8:00 a.m.

June 10, 1999

Evan Jacoby
 for Jeff P. Koenings
 Director

NEW SECTION

WAC 220-56-33000S Personal use crab pot fishery—
Exceptions to permanent rules Notwithstanding the provisions of WAC 220-56-330:

(1) Effective 6:00 a.m. June 13, 1999 until further notice, it is lawful to fish for and possess crab taken for personal use using shellfish pot gear from those waters of Catch Record Card Area 7 within San Juan County.

(2) Effective 8:00 a.m. June 12, 1999 until further notice, it is lawful to fish for and possess crab taken for personal use using shellfish pot gear from those waters of Catch Record Card Areas 8-1 and 8-2.

(3) Effective immediately it is lawful to fish for and possess crab taken for personal use using shellfish pot gear from

those waters of Catch Record Card Area 9, south of a line from Point Partridge to Point Wilson and north of a line from Olele Point to Foulweather Bluff and from Foulweather Bluff to Double Bluff.

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. June 12, 1999:

WAC 220-56-33000R	Personal use crab fishery— Allocation/softshell closures. (99-69)
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WSR 99-13-099
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-78—Filed June 15, 1999, 11:51 a.m.]

Date of Adoption: June 14, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-57-51500Q and 232-28-61900M; and amending WAC 220-57-515 and 232-28-619.

Statutory Authority for Adoption: RCW 75.08.080 and 77.12.040.

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: Carson Hatchery has exceeded the escapement need and surplus hatchery fish are available for harvest. This rule replaces the selective fishery rules with night closure and nonbuoyant lure restrictions for game fish to provide for harvest of hatchery salmon and steelhead. Surplus hatchery salmon and steelhead are available for harvest. There is insufficient time to promulgate permanent regulations.

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.

June 14, 1999
J. P. Koenings
Director

NEW SECTION

WAC 220-57-51500R Wind River Notwithstanding the provisions of WAC 220-57-515, effective immediately through June 30, 1999 it is lawful to fish for salmon in the Wind River from boundary line/markers at the mouth upstream to markers 400 feet below Shipperd Falls and from the High Bridge upstream to the lower boundary marker below Carson National Fish Hatchery. Daily limit of two chinook salmon greater than 12 inches in length. Night closure and non-bouyant lure restriction in effect.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-57-51500Q Wind River (99-51)

NEW SECTION

WAC 232-28-61900N Exceptions to statewide game fish rules—Wind River Notwithstanding the provisions of WAC 232-28-619, Wind River (Skamania County): Open immediately through June 30, 1999, from the mouth upstream to markers 400 feet downstream from Shipperd Falls and from the High Bridge upstream to lower boundary marker below Carson National Fish Hatchery. Night closure and non-buoyant lure restriction during this fishery.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900M Exceptions to statewide rules—Wind River. (99-51)

WSR 99-13-124
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed June 16, 1999, 9:33 a.m.]

Date of Adoption: June 16, 1999.

Purpose: The running start program rules at chapter 392-169 WAC are amended in order to make it clear that: (1) Running start students may not be charged tuition until a student's enrollment exceeds eighteen credit hours for a quarter or semester and (2) the fifteen hour definition of "full-time equivalent enrollment" only applies to the allocation of state funding.

Citation of Existing Rules Affected by this Order: Amending WAC 392-169-025, 392-169-030, 392-169-055, 392-169-057, and 392-169-060.

Statutory Authority for Adoption: RCW 28A.600.390.

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: Emergency rule adoption is necessary to facilitate the current running start enrollment process throughout the state by precluding the assessment of tuition for the 16th, 17th and 18th credit hours of enrollment, and eliminating uncertainty respecting tuition assessment practices.

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 5, 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.

June 16, 1999
Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 95-02, filed 4/14/95, effective 5/15/95)

WAC 392-169-025 Full-time equivalent (FTE) running start enrollment—Definition. For the purposes of generating state running start basic education moneys under this chapter and chapter 392-121 WAC, "full-time equivalent (FTE) running start enrollment" (i.e., college or university enrollment) means the FTE of running start students on an enrollment count date when each student's FTE is determined subject to the limitations of WAC 392-169-022(~~(, 392-169-055)~~) and 392-169-115 as follows:

- (1) For college or university courses denominated in quarter credits, the quotient of an eligible student's quarter credits of running start enrollment divided by fifteen.
- (2) For college or university courses denominated in semester credits, the quotient of an eligible student's semester credits of running start enrollment divided by fifteen.
- (3) For college or university courses not denominated in quarter or semester credits, the quotient of an eligible student's average hours of running start enrollment per week

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divided by twenty-five. Hours of enrollment shall be determined pursuant to WAC 392-121-106 through 392-121-183.

(4) The sum of the results of running start enrollment under subsections (1), (2) and (3) of this section shall not exceed 1.00 FTE per student on any count day or in any school year.

AMENDATORY SECTION (Amending Order 94-01, filed 2/1/94, effective 3/4/94)

WAC 392-169-030 Annual average full-time equivalent (AAFTE) running start enrollment—Definition. For purposes of generating state running start basic education moneys under this chapter and chapter 392-121 WAC, "annual average full-time equivalent (AAFTE) running start enrollment" means the sum of the AAFTE of all running start students for a school year when each running start student's AAFTE equals the sum of the student's running start FTE enrollment on the nine running start count dates divided by nine.

AMENDATORY SECTION (Amending Order 95-02, filed 4/14/95, effective 5/15/95)

WAC 392-169-055 Enrollment—Extent and duration of tuition free running start enrollment. (~~Running start program enrollment under this chapter is limited as follows (and as may be further limited for academic reasons under WAC 392-169-057):~~) This section establishes the time periods and the maximum hours an eligible student is entitled to enroll tuition free in the running start program:

(1) An eligible student who enrolls in grade eleven may enroll tuition free in an institution of higher education while in the eleventh grade for (~~no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college or university quarters as a full-time equivalent college or university student, or two semesters as a full-time equivalent college or university student or nine months as a full-time equivalent technical college student)~~);

(a) Up to eighteen credit hours per quarter as a college or university student during the fall, winter, and spring quarters; or

(b) Up to eighteen credit hours per semester as a college or university student during the fall and spring semesters; or

(c) Up to thirty hours per week as a technical college student during the fall, winter, and spring quarters; or

(d) Any combination of (a), (b), and (c) of this subsection, for course work equivalent to one academic year of enrollment (e.g., two college or university quarters for eighteen credit hours per quarter, plus one technical college quarter for thirty hours per week).

(2) An eligible student who enrolls in grade twelve may enroll tuition free in an institution of higher education while in the twelfth grade for (~~no more than the course work equivalent to one academic year of enrollment as an annual average full-time equivalent running start student (i.e., three college or university quarters as a full-time equivalent community college or university student, or two semesters as a full-~~

~~time equivalent college or university student and nine months as a full-time technical college student)~~);

(a) Up to eighteen credit hours per quarter as a college or university student during the fall, winter, and spring quarters; or

(b) Up to eighteen credit hours per semester as a college or university student during the fall and spring semesters; or

(c) Up to thirty hours per week as a technical college student during the fall, winter, and spring quarters; or

(d) Any combination of (a), (b), and (c) of this subsection, for course work equivalent to one academic year of enrollment (e.g., two college or university quarters for eighteen credit hours per quarter, plus one technical college quarter for thirty hours per week).

(3) Enrollment in an institution of higher education is limited to the fall, winter and spring quarters, and the fall and spring semesters.

(4) As a general rule a student's eligibility for running start program enrollment terminates at the end of the student's twelfth grade regular academic year, notwithstanding the student's failure to have enrolled in an institution of higher education to the full extent permitted by subsections (1) and (2) of this section: Provided, That a student who has failed to meet high school graduation requirements as of the end of the student's twelfth grade regular academic year (September-June) due to the student's absence, the student's failure of one or more courses, or another similar reason may continue running start program enrollment for the sole and exclusive purpose of completing the particular course or courses required to meet high school graduation requirements, subject to the enrollment limitation established by subsection (2) of this section.

AMENDATORY SECTION (Amending Order 95-02, filed 4/14/95, effective 5/15/95)

WAC 392-169-057 Enrollment—Extent of combined high school and running start enrollment. Concurrent or combined regular high school program and running start program enrollment by a student may exceed the equivalent of full-time enrollment as follows:

(1) An eligible student's concurrent enrollment in both the regular high school program, and in running start or an institution of higher education under this chapter, may exceed the equivalent of full-time enrollment: Provided, That a designated school district representative and a designated college or university representative may jointly limit a student's concurrent high school and institution of higher education enrollment, but not to less than the equivalent of full-time enrollment, for bona fide academic reasons based upon a joint evaluation of the student's capabilities and the total course work the student seeks to enroll in.

(2) For purposes of limiting a student's combined regular high school and running start program enrollment for bona fide academic reasons under subsection (1) of this section thirty hours per week shall constitute full-time high school or technical college enrollment, and (~~fifteen~~) eighteen quarter credit hours or (~~fifteen~~) eighteen semester credit hours shall constitute full-time college or university enrollment. (~~Thus, for example, a student enrolled in the regular high school pro-~~

~~gram for ten hours per week (one third FTE) and in a college for ten quarter credit hours (two thirds FTE) is enrolled the equivalent of full time.)~~

AMENDATORY SECTION (Amending Order 95-02, filed 4/14/95, effective 5/15/95)

WAC 392-169-060 Enrollment—Exception from tuition and fees. A running start student shall not be required by an institution of higher education to pay any tuition or other fee as a condition to the student's full participation in running start college or university course work and related activities, or as a condition to the award of credit therefor: Provided, That requiring a running start student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this section: Provided further, That this limitation on the assessment of tuition and fees does not apply to a student's enrollment above and beyond (~~running start program enrollment limitations under this chapter (i.e., college and university enrollment in excess of one FTE and college and university summer enrollment may be conditioned upon the payment of regular tuition and fees))~~ the maximum hours a student is entitled to enroll tuition free under WAC 392-169-055.

**WSR 99-13-130
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-79—Filed June 17, 1999, 4:11 p.m., effective June 18, 1999, 12:01 a.m.]

Date of Adoption: June 17, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-31900V, 220-57-50500E, 232-28-61900K, 220-57-31900W and 220-57-50500F; and amending WAC 220-57-319 and 220-57-505.

Statutory Authority for Adoption: RCW 75.08.080.

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: Hatchery escapement goals are expected to be achieved. This regulation is removing angling restrictions placed on this fishery in April. The White Salmon spring chinook fishery has passed and the fishery is primarily a steelhead/trout fishery and is not in need of restrictions. There is insufficient time to promulgate permanent rules.

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 5.

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 18, 1999, 12:01 a.m.

June 17, 1999

J. P. Koenings

Director

NEW SECTION

WAC 220-57-31900W Lewis River. Notwithstanding the provisions of WAC 220-57-319, effective 12:01 a.m. June 18 1999 through July 31, 1999, it is lawful to fish for or possess salmon in those waters of the Lewis River from the mouth upstream to the overhead power lines below Merwin Dam. Daily Limit: Six salmon per day, not more than two may be adults.

NEW SECTION

WAC 220-57-50500F White Salmon River. Notwithstanding the provisions of WAC 220-57-505, effective 12:01 a.m. June 18, 1999 through July 31, 1999, it is lawful to fish for or possess salmon in those waters from the mouth upstream to the powerhouse. Daily Limit: Six salmon per day, not more than two may be adults.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. June 17, 1999:

- WAC 220-57-31900V Lewis River. (99-67)
- WAC 220-57-50500E White Salmon River. (99-67)
- WAC 232-28-61900K Exceptions to statewide rules. (99-67)

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. July 31, 1999:

- WAC 220-57-31900W Lewis River.
- WAC 220-57-50500F White Salmon River.

EMERGENCY

WSR 99-13-131
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-80—Filed June 17, 1999, 4:16 p.m.]

Date of Adoption: June 17, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-88A-07000R; 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 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 provisions of this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rule making. The 1999 state/tribal Puget Sound shrimp harvest management plan requires adoption of the harvest seasons and the prohibition on night time fishing contained in this emergency rule. Failure to comply with the conservation and/or allocation requirements of such plans may result in contempt of federal court or failure of all commercial shrimp fishing in a given region addressed by a plan. Under current rules, the spot shrimp quotas established in the 1999 state/tribal Puget Sound shrimp harvest management plan can be far exceeded in one day of fishing. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest. There is insufficient time to promulgate permanent rules. These rules are necessary to implement the 1999 state/tribal Puget Sound shrimp harvest management plan and meet all allocation requirements under Subproceeding 89-3 in *United States v. Washington*. These rules will allow for a sharing of catch between treaty and nontreaty shrimp fishers. There is insufficient time to promulgate permanent rules.

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 Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 17, 1999

Larry W. Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-88A-07000S Emerging commercial fishery—Puget Sound shrimp—Weekly trip limits—Open areas—Closes 26B and 26C. Notwithstanding the provisions of WAC 220-88A-070, effective immediately until further notice it is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) All waters of Crustacean Management Regions 1A, 1C, 2, 3, 4, and 6 are open to harvest of all shrimp immediately until further notice, with the following exceptions:

(a) Effective 5:00 p.m. June 17, 1999 until further notice, all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B and 26C are closed to the harvest of spot shrimp.

(b) Effective 5:00 p.m. June 20, 1999 until further notice, all waters of Crustacean Management Region 2 are closed to the harvest of spot shrimp.

(2) It is unlawful to set or pull shellfish pot gear from one hour after official sunset until one hour before official sunrise.

(3) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 800 pounds per week or to exceed 300 pounds per week from Crustacean Management Regions 4 or 6. The spot shrimp trip limit accounting week is Monday through Sunday.

(4) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day.

(5) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area.

(6) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-88A-07000R Emerging commercial fishery—Puget Sound shrimp pot (99-56)

WSR 99-13-132
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-81—Filed June 17, 1999, 4:19 p.m.]

Date of Adoption: June 17, 1999.

Purpose: Commercial fishing rules.

Statutory Authority for Adoption: RCW 75.08.080.

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: This rule implements the exempted fishing permit program recommended by PFMC to allow for a directed whiting fishery with by catch allowances for direct dumping of the cod end into refrigerated seawater. Since this fishery does not allow sorting, legal overages are forfeited to the state, and payment at fair market value reduces the incentive to target on species other than whiting. There is insufficient time to promulgate permanent rules.

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.

June 17, 1999

J. P. Koenings

Director

NEW SECTION

WAC 220-44-10000A Coastal bottom fish—Purchaser's responsibility to remit funds from purchase of coastal bottom fish. It is unlawful for any person licensed as a wholesale dealer or fish buyer to purchase bottom fish taken in coastal or offshore waters in violation of this section.

(1) The following definitions apply to this section:

(a) "Designated processor" means a wholesale dealer designated by the holder of an EFP who has agreed to accept whiting and other species taken in the whiting fishery

(a) "EFP" means a state-issued exempted fishing permit for the coastal whiting fishery.

(b) "EFP vessel" means an exempted fishing permit vessel in the whiting fishery in coastal and offshore waters that is permitted to land bottom fish in excess of the trip and cumulative limits in WAC 220-44-050, as well as other fish taken incidental to whiting.

(c) "Fair market value" means the wholesale market price paid by a designated processor for a species or species complex, or the average price paid for such fish by the industry for the preceding thirty days, which ever is the greater amount, or, if no purchases have been made of the species or species complex during the preceding thirty days, the amount set forth in Oregon Administrative Rule 635-006-0232, as adopted on May 12, 1999.

(d) "Legal overage" means the amount of a limit species taken in excess of the trip or cumulative limits provided for in WAC 220-44-050.

(e) "Limit species" means any of the species or species complexes provided for in WAC 220-44-050 which have a trip or cumulative limit.

(2) Notwithstanding the provisions of WAC 220-44-050, it is lawful for the holder of an EFP to possess a legal overage if the holder of the EFP is fishing for whiting or has whiting aboard.

(3) A designated processor receiving whiting taken by an EFP vessel must hold any salmon for scientific investigation pursuant to RCW 75.12.210, and must hold any halibut or Dungeness crab for disposal by the State.

(4) If a designated processor accepts whiting from an EFP vessel, the designated processor must accept all limit species aboard the vessel at the time of landing, and must pay the fair market value for the entire amount of the legal overage in the landing.

(5) The designated processor must remit any payment for purchase of a legal overage to the Department within two weeks days after receipt of the fish.

(6) Failure to pay or remit the fair market value for the legal overage constitutes unlawful trafficking and is punishable under RCW 77.15.260.

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 99-13-145
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-82—Filed June 18, 1999, 4:38 p.m.]

Date of Adoption: June 18, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-307, 220-57-502, and 232-28-619.

Statutory Authority for Adoption: RCW 75.08.080 and 77.12.040.

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: A toxic spill and subsequent explosion and fire resulted in extremely high mortalities to the resident and anadromous fish species and other aquatic life in the affected portion of Whatcom Creek (mouth to river mile 2.5). Fish and crawfish populations have been severely

impacted to the point that any recreational fishing would have a negative influence on the remaining fish population. Further recreational fishing and shellfish gathering (crawfish) would also inhibit recovery by causing additional disturbance to streambanks and instream habitat. There is insufficient time to promulgate permanent rules.

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 3, 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.

June 18, 1999

Larry Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-56-30700A Shellfish—Closed areas. Notwithstanding the provisions of WAC 220-56-307, effective immediately until further notice, it is unlawful to fish for or possess shellfish in those waters of Whatcom Creek and its tributaries, from its mouth to Lake Whatcom (City of Bellingham's flow control structure off Electric Ave.)

NEW SECTION

WAC 220-57-50200A Whatcom Creek. Notwithstanding the provisions of WAC 220-57-502, effective immediately until further notice, it is unlawful to fish for or possess foodfish in those waters of Whatcom Creek and its tributaries, from its mouth to Lake Whatcom (City of Bellingham's flow control structure off Electric Ave.)

NEW SECTION

WAC 232-28-61900P Exceptions to statewide game fish rules—Whatcom Creek. Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, it is unlawful to fish for or possess gamefish in those waters of Whatcom Creek and its tributaries, from its mouth to Lake Whatcom (City of Bellingham's flow control structure off Electric Ave.).

WSR 99-13-146 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 99-83—Filed June 18, 1999, 4:41 p.m.]

Date of Adoption: June 18, 1999.

Purpose: Commercial and personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500W and 220-57-29000W; and amending WAC 220-32-055 and 220-57-290.

Statutory Authority for Adoption: RCW 75.08.080.

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 hatchery escapement goal has been reached at Carson, Little White Salmon, and Leavenworth hatcheries and harvestable salmon are available in the tributaries for the Yakama tribe and in the Icicle River for recreational fishers. This rule is consistent with the 1996-98 management agreement for 1999 fisheries, and conforms state and tribal rules. There is insufficient time to promulgate permanent rules.

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.

June 18, 1999

Larry Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-32-05500X Indian subsistence fishing Notwithstanding the provisions of WAC 220-32-055 effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River, Wind River, Icicle River, or Drano Lake except under the following provisions:

a) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Wednesdays to 6:00 p.m. Saturdays of each week immediately to June 19, 1999. Fishing is not allowed from boats or other floating devices.

b) The Klickitat River from the site of the former Swinging Bridge (RM 1.5) to Fishway Number 5 (RM 2.2) is open noon Wednesdays to 6:00 p.m. Saturdays of each week immediately until further notice. Fishing is not allowed from boats or other floating devices.

c) The Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls and from 200 feet above Shipperd Falls upstream to a marker 30 feet below the mouth of Tyee Springs (the outlet stream for Carson National Fish Hatchery) is open 7 days per week immediately to July 3, 1999.

d) Drano Lake from the Highway 14 Bridge to the orange markers near the mouth of the Little White Salmon River is open 7 days per week immediately to June 19, 1999. Each fisher is allowed to use a maximum of 2 fishing gears. Fishing is allowed from bank or boat.

e) The Icicle River where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open weekly from 9 a.m. Wednesdays through 6 p.m. Saturdays, effective immediately until July 17, 1999. Fishing is not allowed from boats or any other floating devices.

f) Allowable gear includes dipnets, setbag nets, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500W Indian subsistence fishing. (99-77)

NEW SECTION

WAC 220-57-29000W Icicle River Notwithstanding the provisions of WAC 220-57-290, effective June 20, 1999 through July 17, 1999 it is lawful to fish for salmon in those waters of the Icicle River from 400 feet downstream of the Leavenworth Fish Hatchery to the mouth. Daily limit one salmon greater than 12 inches in length. Night closure and non-buoyant lure restrictions are in effect.

REPEALER

The following section of the Washington Administrative Code is repealed one hour after official sunset on July 17, 1999:

WAC 220-57-29000W Icicle River.

WSR 99-13-157
EMERGENCY RULES
FREIGHT MOBILITY
STRATEGIC INVESTMENT BOARD
 [Filed June 21, 1999, 3:14 p.m.]

Date of Adoption: June 21, 1999.

Purpose: To adopt reasonable rules and procedures necessary to implement the freight mobility program. Legislative appropriation gives authority to the Freight Mobility Strategic Investment Board to fund projects starting July 1, 1999.

Statutory Authority for Adoption: Chapter 47.06A RCW, Freight mobility.

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: Legislative appropriation gives authority to the Freight Mobility Strategic Investment Board to fund projects starting July 1, 1999.

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 38, 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 38, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 38, 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.

June 21, 1999
 P. J. Hammond, P.E.
 Assistant Secretary
 Highways and Local Programs

Title 226 WAC

**FREIGHT MOBILITY
 STRATEGIC INVESTMENT BOARD**

Chapter 226-01 WAC

DESCRIPTION OF ORGANIZATION

NEW SECTION

WAC 226-01-010 Purpose and authority. Chapter 175, Laws of 1998 provides that the freight mobility strategic investment board shall adopt reasonable rules and procedures necessary to implement the freight mobility program.

NEW SECTION

WAC 226-01-020 Freight mobility program intent. It is the policy of the state of Washington that limited public transportation funding and competition between freight and general mobility improvements for the same fund sources require strategic, prioritized freight investments that reduce

EMERGENCY

barriers to freight movement, maximize cost-effectiveness, yield a return on the state's investment, require complementary investments by public and private interests, and solve regional freight mobility problems. State financial assistance for freight mobility projects must leverage other funds from all potential partners and sources, including federal, county, city, port district, and private capital.

NEW SECTION

WAC 226-01-030 Organization of the freight mobility strategic investment board. The freight mobility strategic investment board (FMSIB) is a twelve-member board, organized under the provisions of chapter 175, Laws of 1998. The board administers the freight mobility strategic investment program for the purpose of financing freight mobility projects. The following board members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years:

(1) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the association of Washington cities or its successor;

(2) Two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor;

(3) Two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor;

(4) One member representing the office of financial management;

(5) One member appointed as a representative of the trucking industry;

(6) One member appointed as a representative of the railroads;

(7) The secretary of the department of transportation;

(8) One member representing the steamship industry; and

(9) One member of the general public.

NEW SECTION

WAC 226-01-040 Time and place of meetings. Regular public meetings of the board shall be held on the third Friday of every odd numbered month. Each such regular meeting shall be held in SeaTac, Washington, and begin at the hour of 9:00 a.m. or at such other time and place as designated by the board.

A special meeting of the board may be called by the chairperson or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting, and all provisions of chapter 42.30 RCW shall apply.

NEW SECTION

WAC 226-01-050 Address of board. Persons wishing to obtain information or to make submissions or requests of any kind shall address their correspondence to:

Executive Director, Freight Mobility Strategic Investment Board
Washington State Department of Transportation
TransAid Service Center
Post Office Box 47390
Olympia, Washington 98504-7390

NEW SECTION

WAC 226-01-060 Definitions. For purposes of implementing the requirements of chapter 175, Laws of 1998, relative to the freight mobility strategic investment board, the following definitions shall apply:

(1) "Board" means the freight mobility strategic investment board (FMSIB).

(2) "Department" means the department of transportation.

(3) "Freight mobility" means the safe, reliable, and efficient movement of goods within and through the state to ensure the state's economic vitality.

(4) "Director" is the executive director of the freight mobility strategic investment board.

(5) "Local governments" means cities, towns, counties, special purpose districts, port districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts.

(6) "Public entity" means a state agency, city, town, county, port district, or municipal or regional planning organization.

(7) "Partnership" means the public entities sponsoring a project. The partnership as used in this chapter does not include the board.

(8) "Lead agency" refers to the agency selected by the project partnership to be the point of contact with the board for a particular project.

(9) "Original matching ratio" refers to the board's share of the project cost when it was initially approved for funding.

(10) "Strategic freight corridor" means a transportation corridor of great economic importance within an integrated freight system that:

(a) Serves international and domestic interstate and intrastate trade;

(b) Enhances the state's competitive position through regional and global gateways;

(c) Carries freight tonnages of at least:

(i) Four million gross tons annually on state highways, city streets, and county roads;

(ii) Five million gross tons annually on railroads; or

(iii) Two and one-half million net tons on waterways; and

(d) Has been designated a strategic corridor by the board. However, new alignments to, realignments of, and new links to strategic corridors that enhance freight movement may qualify, even though no tonnage data exists for facilities to be built in the future.

NEW SECTION

WAC 226-01-070 Administration costs. The board costs for necessary services and facilities that are attributable to the freight mobility strategic investment program shall be paid from the biennial appropriation.

Chapter 226-02 WAC**PUBLIC ACCESS TO INFORMATION AND RECORDS**NEW SECTION

WAC 226-02-010 Purpose. The purpose of this chapter shall be to ensure compliance by the board with the provisions of RCW 42.17.250 through 42.17.348 dealing with public records.

NEW SECTION

WAC 226-02-020 Public records officer. The freight mobility strategic investment board public records shall be in the charge of the executive director, who shall be the public records officer for the board. The person so designated shall be officed in the board's office in Olympia, Washington. The public records officer shall be responsible for implementation of the board's rules and regulations regarding release of public records, coordinating staff efforts of the board in this regard and generally ensuring compliance of the staff with the public records disclosure requirements of chapter 1, Laws of 1973 (chapter 42.17 RCW).

NEW SECTION

WAC 226-02-030 Public records available. All public records of the board, as defined in chapter 42.17 RCW, are available for public inspection and copying as provided in these rules, unless the record falls within the specific exemptions of RCW 42.17.310 or other statute exempting or prohibiting disclosure of specific information or records.

NEW SECTION

WAC 226-02-040 Requests for public records. Subject to the provisions of subsection (3) of this section, public records are obtainable by members of the public when those members of the public comply with the following procedures.

(1) A request shall be addressed to the public records officer. Such request shall include the following:

- (a) The name of the person requesting the record.
- (b) The time of day and calendar date on which the request was made.
- (c) The nature of the request.
- (d) If the matter requested is referenced within the current index maintained by the board, a reference to the requested record as it is described in such current index.
- (e) If the requested matter is not identifiable by reference to the board's current index, a statement that identifies the specific record requested.

(f) A verification that the records requested shall not be used to compile a commercial sales list.

(2) The public records officer shall inform the member of the public making the request whether the requested record is available for inspection or copying at the board's office in Olympia, Washington.

(3) When it appears that a request for a record is made by or on behalf of a party to a lawsuit or a controversy to which the board is also a party or when such a request is made by or on behalf of an attorney for such a party, the request shall be referred to the assistant attorney general assigned to the board for appropriate response.

NEW SECTION

WAC 226-02-050 Availability for public inspection and copying of public records—Office hours. Public records shall be available for inspection and copying during the normal business hours of the board. For the purposes of this chapter, the normal office hours shall be from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 226-02-060 Inspection and copying cost. (1) No fee shall be charged for inspection of public records.

(2) The board shall impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy records; such charges shall not exceed the amount necessary to reimburse the board for its actual costs incident to such copying. Actual costs shall include the labor costs of staff, machine cost and paper cost necessary to provide copies of requested records.

NEW SECTION

WAC 226-02-070 Protection of public records. In order to implement the provisions of RCW 42.17.290, requiring agencies to enact reasonable rules to protect public records from damage or disorganization, the following rules have been adopted.

(1) Copying of public documents shall be done by board personnel and under the supervision of said personnel, upon the request of members of the public under the procedures specified in WAC 226-02-040.

(2) No document shall be physically removed by a member of the public from the area designated by the board for the public inspection of documents for any reason whatever.

(3) When a member of the public requests to examine an entire file or group of documents, as distinguished from a request to examine certain individual documents which can be identified and supplied by themselves, the board shall be allowed a reasonable time to inspect the file to determine whether information protected from disclosure by RCW 42.17.310 is contained therein, and the board shall not be deemed in violation of its obligation to reply promptly to requests for public documents by reason of causing such an inspection to be performed.

NEW SECTION

WAC 226-02-080 Denial of request. (1) The board shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.17.310 or other statute.

(2) Each denial of a request for a public record shall be accompanied by a written statement to the person requesting the record specifying the reasons for denial, including a statement of the specific exemption authorizing the withholding of the record, in whole or in part, and a brief explanation of how the exemption applies to the record or portion of record withheld.

NEW SECTION

WAC 226-02-090 Review of agency denial. Whenever a person objects to a conclusion that a public record is exempt from disclosure, the person may request the attorney general to review the matter in accordance with RCW 42.17.325.

NEW SECTION

WAC 226-02-100 Records index. (1) The board has available for public inspection and copying at its offices in Olympia a current index of the following records:

(a) State legislation and proposed rules and regulations pertaining to board standards.

(b) Those statements of policy and interpretations of policy, statute and bylaws which have been adopted by the board;

(c) Minutes of board meetings;

(d) Resolutions approved by the board;

(e) FMSIB program guidelines;

(f) Program reports and publications;

(g) Budgets and expenditures;

(h) FMSIB project administration and accounting files.

(2) A system of indexing shall be as follows:

(a) The indexing system will be administered by the board's public records officer.

(b) Copies of the index shall be available for public inspection and copying in the manner provided in this chapter.

(c) The public records officer shall update the index at least once a year and shall revise the index when deemed necessary by the board.

NEW SECTION

WAC 226-02-110 Availability. The board's current index shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

Chapter 226-12 WAC

SUBMISSION OF PROPOSED FREIGHT MOBILITY PROJECTS TO BOARD (FMSIB)

NEW SECTION

WAC 226-12-010 Designation of lead agency. The agencies involved in a multiagency project shall designate one agency as the lead agency. The lead agency must be a city, town, county, port or the Washington state department of transportation.

NEW SECTION

WAC 226-12-040 Applications for freight mobility projects. When requested by the board, applications for proposed projects shall be submitted to the board by public entities seeking allocation of funds from the FMSIB. The application form will be provided by the board.

NEW SECTION

WAC 226-12-080 Priority criteria for freight mobility projects. From the effective date of this act through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the board and contained in the January 16, 1998, report entitled "*Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program.*" The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. For projects funded after June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the board.

Chapter 226-16 WAC

REQUIREMENTS FOR FREIGHT MOBILITY PROJECT DEVELOPMENT

NEW SECTION

WAC 226-16-010 Methods of construction. All construction by a public entity using board funds shall be done by advertisement, competitive bid and contract, except:

- (1) Utility and railroad relocations and adjustments; and
- (2) Installation of traffic control devices.

If federal funds are included in the project, the negotiated contract shall include the applicable provisions of federal highway administration policies and procedures prescribed in 23 C.F.R. 140, 23 C.F.R. 645 and 23 C.F.R. 646, *Federal Aid Policy Guide*.

NEW SECTION

WAC 226-16-020 Registered engineer in charge. All projects using board funds shall be planned, designed, and constructed under the supervision of a professional engineer registered in the state of Washington.

NEW SECTION

WAC 226-16-040 Standard specifications. The current edition of the WSDOT/APWA *Standard Specifications for Road, Bridge, and Municipal Construction* shall be included in any contract using board funds.

NEW SECTION

WAC 226-16-050 Value engineering study requirements. Value engineering studies shall be required in accordance with the policy adopted by the board.

NEW SECTION

WAC 226-16-100 Design standards for freight mobility strategic investment board projects. All board funded projects shall be prepared using currently applicable design standards.

NEW SECTION

WAC 226-16-110 Allocation of freight mobility strategic investment program funds to regions. For the purpose of allocating funds for the freight mobility strategic investment program, the board shall allocate the first fifty-five percent of funds to the highest priority projects, without regard to location. The remaining funds shall be allocated equally among three regions of the state pursuant to RCW 47.06A.050.

NEW SECTION

WAC 226-16-150 Freight mobility program management. The board will implement reasonable controls on project development as it deems necessary to allocate funds within the program funding level to prioritized projects.

NEW SECTION

WAC 226-16-160 Work progress on freight mobility projects. The lead agency must begin work on a project within twelve months of the date the board approves the project, unless the board grants an extension. To determine if work has begun, the board will assess the project progress as compared to the information provided the board when the project was authorized for funding. If project activity has not started and it appears the project is falling behind the proposed schedule, the board may review the project status to determine if board funds should be withdrawn from the project and reallocated to another proposed project.

NEW SECTION

WAC 226-16-170 Phase approval of freight mobility projects. The board will authorize freight mobility project approvals by phase for the purpose of controlling project expenditures and assuring that projects experiencing delay will not unduly tie up freight mobility funds. The three phases are design, right-of-way, and construction. Each phase normally will be funded by separate board approvals on forms provided by the board.

NEW SECTION

WAC 226-16-180 Cost increases on freight mobility projects. Increases in freight mobility funds will not be available.

NEW SECTION

WAC 226-16-200 Lack of performance on freight mobility projects. To assure that freight mobility projects remain on schedule, the board will monitor the project progress based on at least semi-annual reports and reimbursement payments on the project.

Chapter 226-20 WAC**FINANCIAL AND PAYMENT REQUIREMENTS**NEW SECTION

WAC 226-20-010 Matching ratios for freight mobility program funds. The board gives preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. Pursuant to Engrossed Substitute House Bill No. 1125, Laws of 1999, the board's original matching ratio shall not exceed sixty-five percent, unless the board grants a special exception. The maximum amount of funding on a project from the freight mobility board is fifty million dollars. The board may allow the use of matching ratios greater than the original matching ratio on any phase of a project to facilitate project development, with the understanding that the total payments made by project completion shall not exceed the original matching ratio. The board allows other state funds to be considered part of the local matching funds.

NEW SECTION

WAC 226-20-020 Certification of nonprogram funds. The lead agency shall certify that nonprogram funds are available for the funding phase being considered.

NEW SECTION

WAC 226-20-030 Reimbursable costs. Project costs eligible for reimbursement from the account shall be those proper and allowable costs incurred on a project after the project is authorized by the board.

NEW SECTION

WAC 226-20-040 Audit of freight mobility program projects. Project records for each project developed through the use of freight mobility funding shall be audited to determine that the amount of freight mobility funds paid in connection with the project can be attributed to the project and supported by project records. The audit shall determine whether the lead agency has materially complied with the rules of the board and whether any failures to comply are significant in nature or effect. The board shall audit projects at the time of the project completion or at such additional times as may be directed by the board.

NEW SECTION

WAC 226-20-050 Recovery of freight mobility program funds on canceled projects. Authorized projects that are subsequently canceled by the agency or the board may be eligible for reimbursement from the board. If the agency developed the project in good faith, with a reasonable expectation of completion, the board may allow reimbursement. If the board does allow reimbursement for a canceled project, the board share of the project cannot exceed the original matching ratio.

NEW SECTION

WAC 226-20-060 Partial or progress payments for project costs. The board will not make payments of freight mobility funds on projects unless the following tasks are complete:

- (1) The board has approved the phase of the project.
- (2) Local matching funds are certified to be available for the phase of the project that is being billed.

Requests for payment may be submitted from time to time as the work progresses. Payments less than five hundred dollars will not be made unless it is the final request for payment. The final request for payment must be submitted within six months of the completion of work.

The board will make an adjustment to the final payment, if necessary to assure that the original board matching ratio is not exceeded.

**WSR 99-13-168
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-84—Filed June 22, 1999, 1:38 p.m., effective June 23, 1999, 12:01 a.m.]

Date of Adoption: June 21, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000Z and 220-56-38000S; 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 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 recreational harvesters have taken their 50% of the resource and this regulation is necessary to ensure conservation and/or court ordered sharing of the allowable harvest. There is insufficient time to promulgate permanent rules.

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: June 23, 1999, 12:01 a.m.

June 21, 1999

Larry W. Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-56-35000A Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective 12:01 a.m. June 23, 1999, until further notice, it is unlawful to harvest or possess clams, cockles, or mussels taken for personal use from the following public tidelands during the closed periods herein, and lawful to harvest only during the open periods specified herein:

- (1) DNR 57B (Brown Point) **Closed** July 15 until further notice.
- (2) Dosewallips State Park - **Closed** June 30 until further notice.
- (3) Kitsap Memorial State Park - **Closed** June 30 until further notice.
- (4) South Indian Island County Park - **Closed** June 30 until further notice.

NEW SECTION

WAC 220-56-38000T Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-56-380, effective 12:01 a.m. June 23, 1999, until further notice, it is unlawful to harvest or possess oysters taken for personal use from the following public tidelands except as provided below:

- (1) Potlatch State Park - **Closed** June 23 - until further notice.

EMERGENCY

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. June 22, 1999:

WAC 220-56-35000Z	Clams other than razor clams—Areas and seasons. (99-47)
WAC 220-56-38000S	Oyster—Areas and seasons. (99-47)

WSR 99-13-186**EMERGENCY RULES
STATE BOARD FOR****COMMUNITY AND TECHNICAL COLLEGES**

[Filed June 23, 1999, 9:35 a.m.]

Date of Adoption: June 17, 1999.

Purpose: Employees eligible to participate in the system's retirement annuity purchase plan.

Citation of Existing Rules Affected by this Order: Amending WAC 131-16-021.

Statutory Authority for Adoption: Chapter 28B.50 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.

Reasons for this Finding: Clarifying rules to reflect that part-time faculty and administrators employed at 50% time or more are eligible for enrollment in the TIAA/CREF retirement plan. Deletes obsolete language; reflects legislative and administrative changes.

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 1, 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: Immediately.

June 22, 1999

Claire C. Krueger

Executive Assistant

Agency Rules and Contracts Coordinator

AMENDATORY SECTION (Amending WSR 98-14-033, filed 6/23/98, effective 7/24/98)

WAC 131-16-021 Employees eligible to participate in retirement annuity purchase plan. (1) Eligibility to participate in the TIAA/CREF plan is limited to persons who hold appointments to college district or state board staff positions as full-time or part-time faculty members or administrators exempt from the provisions of chapter 28B.16 RCW and ~~((who)),~~ effective July 1, 1999, are assigned a cumulative total of at least ~~((eighty))~~ fifty percent of full-time workload as defined by the collective bargaining agreement and/or the appointing authority at one or more college districts or the state board for at least two consecutive college quarters ((or whose employment meets the requirements for an "eligible position" as defined by the Washington state teachers retirement system)). (Part-time faculty workload is calculated in accordance with RCW 28B.50.489 and 28B.50.4891.)

(2) Participation in the plan is also permitted for current and former employees of college districts or the state board who are on leave of absence or who have terminated employment by reason of permanent disability and who are receiving a salary continuation insurance benefit through a plan made available by the state of Washington: Provided, That such noncontributory participation shall not be creditable toward the number of years of full-time service utilized in calculating eligibility for supplemental retirement benefits pursuant to WAC 131-16-061.

(3) Optional participation in tax-deferred annuities other than this qualified plan as offered by individual colleges is permitted consistent with the Internal Revenue Code: Provided, That the provisions of WAC 131-16-015, 131-16-050, and 131-16-061 shall not apply in such cases. Optional tax-deferred annuities are provided through a salary reduction agreement between the employee and employer. There is no employer contribution for optional tax-deferred annuities.

(4) An employee who moves from an ineligible to an eligible position for the same appointing authority may become a participant by so electing in writing within six months following such move.

(5) A participant who moves from an eligible position to an ineligible position for the same appointing authority may continue to be a participant by so electing within six months following such move.

(6) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this section, as long as continuously employed by the same appointing authority. For the purpose of this section, spring and fall quarters shall be considered as consecutive periods of employment.

(7) As a condition of employment, all employees who become eligible on and after January 1, 1997, shall participate in this plan upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington state teachers retirement system or the Washington public employees retirement system may participate as provided in WAC 131-16-031(1).

EMERGENCY



WSR 99-13-004
RULES COORDINATOR
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed June 3, 1999, 12:22 p.m.]

I appoint Ben Gravely to replace Melinda Brown, Administrative Legal Services Unit, as my designee to act as the rules coordinator and hearing officer for the Office of the Superintendent of Public Instruction. This assignment is effective immediately. Ben will be responsible for:

1. Solicitation of comments from the public,
2. Providing a draft of any rule change to the code reviser's office,
3. Providing a written analysis of the proposed rule,
4. Appropriately distributing a notice of a hearing,
5. Conducting the hearing,
6. Preparing a summary of comments and agency responses, and
7. Providing me with a notice of adoption for my review and signature.

This designation is effective until cancelled in writing.
 Dr. Terry Bergeson
 Superintendent of
 Public Instruction

WSR 99-13-005
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
 [Memorandum—June 3, 1999]

The board of trustees of Bellingham Technical College will hold a study session to discuss budgets on Thursday, June 17, 1999, 7:30 a.m. to 9:00 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, June 17, 1999, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

WSR 99-13-014
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
 [Memorandum—June 3, 1999]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday and Friday, July 15-16, 1999, in Spokane beginning at 10:30 a.m. A tour of IAC-assisted sites is scheduled Thursday afternoon and the meeting will continue on Friday, July 16th beginning at 8:30 a.m.

Agenda items for the meeting include 1999 legislative update, 2000 legislative proposals, Public Lands Inventory Project Major Findings Preview, WWRP 1st Year and Unallocated Final Approval, program manual updates, discussion

of NOVA program study issues, project cost increases, and committee approval of the Youth Athletic Fields Account Maintenance Projects.

If you plan to participate or have materials for committee review, please submit information to IAC no later than June 25, 1999. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by June 25 at (360) 902-3000 or TDD (360) 902-1996.

WSR 99-13-015
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—June 3, 1999]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce the cancellation of the regularly scheduled board of trustees meeting on Wednesday, June 9, 1999. The board of trustees has scheduled a **special board meeting** on Monday, June 7, 1999. The time and location are below. The meeting will begin with a closed executive session to discuss personnel matters, followed by an open session. There may be action taken after the executive session. The agenda for the meeting includes: Action Items - 1) Board Action Exhibit Number 99-19, 2000-2001 Calendar; 2) Board Action Exhibit Number 99-20, Allocation From ASPCP Budget For Van Purchase. The board of trustees will follow their regular agenda.

Meeting Date/Location	Time
Monday, June 7, 1999	12:30 p.m.
Board Room, 325H Pierce College at Fort Steilacoom 9401 Farwest Drive S.W. Lakewood, WA	

Action may be taken as necessary at the discretion of the board as a result of any item properly considered in executive or open session.

WSR 99-13-021
RULES OF COURT
STATE SUPREME COURT
 [June 3, 1999]

IN THE MATTER OF THE ADOPTION)	ORDER
OF THE AMENDMENTS TO RAP 10.2;)	NO. 25700-A-653
RAP 10.6; RAP 10.8; RAP 12.4; AND RAP)	
13.4.)	

The Court having recommended the adoption of the proposed amendments to RAP 10.2; RAP 10.6; RAP 10.8; RAP 12.4 and RAP 13.4, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

MISC.

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 1999.

DATED at Olympia, Washington this 3rd day of June, 1999.

Richard P. Guy

B. Durham

Alexander, J.

Smith, J.

Talmadge, J.

Johnson, J.

Sanders, J.

Madsen, J.

Ireland, J.

PROPOSED AMENDMENTS TO RULES OF APPELLATE PROCEDURE (RAP)

RAP 10.2

TIME FOR FILING BRIEFS

(a) Brief of Appellant or Petitioner. The brief of an appellant or petitioner should be filed with the appellate court within 45 days after the report of proceedings is filed in the trial court; or, if the record on review does not include a report of proceedings, within 45 days after the party seeking review has filed the designation of clerk's papers and exhibits.

(b) Brief of Respondent in Civil Case. The brief of a respondent in a civil case should be filed with the appellate court within 30 days after service of the brief of appellant or petitioner.

(c) Brief of Respondent in Criminal Case. The brief of respondent in a criminal case should be filed with the appellate court within 60 days after service of the brief of appellant or petitioner. If a pro se supplemental brief is filed the state shall, within 30 days after receiving service, file a supplemental response addressing any of the issues raised in the pro se supplemental brief or stating that no response is necessary.

(d) Reply Brief. A reply brief of an appellant or petitioner should be filed with the appellate court within 30 days after service of the brief of respondent unless oral argument is set fewer than 30 days after the brief of respondent is filed. In that instance, the reply brief must be filed at least 14 days before oral argument.

(e) Pro Se Supplemental Brief in Criminal Case. A pro se supplemental brief in a criminal case should be filed with the appellate court within 60 days after the defendant/appellant has been served with a verbatim report of proceedings.

(f) Brief of Amicus Curiae. A brief of amicus curiae ~~not requested by the appellate court must be filed with the appellate court not later than the date fixed by the appellate court~~ should be received by the appellate court and counsel of record for the parties and any other amicus curiae not later

than 30 days before oral argument in the appellate court, unless the court sets a later date or allows a later date upon a showing of particular justification by the applicant.

(g) Answer to Brief of Amicus Curiae. A brief in answer to the brief of amicus curiae may be filed with the appellate court not later than the date fixed by the appellate court.

(h) Service of Briefs. At the time a party files a brief, the party should serve one copy on every other party and on any amicus curiae, and file proof of service with the appellate court. In a criminal case in which the defendant is the appellant, appellant's counsel shall serve the appellant and file proof of service with the appellate court. Service and proof of service should be made in accordance with rules 18.5 and 18.6.

(i) Sanctions for Late Filing and Service. The appellate court will ordinarily impose sanctions under rule 18.9 for failure to timely file and serve a brief.

References

Rule 18.6, Computation of Time, (c) Filing by mail.

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

RAP 10.6

AMICUS CURIAE BRIEF

(a) When Allowed by Motion. The appellate court may ~~prior to oral argument,~~ on motion, -grant permission to file an amicus curiae brief only if all parties consent, or if the filing of the brief would assist the appellate court. An amicus curiae brief may be filed only by an attorney authorized to practice law in this state, or by a member in good standing of the Bar of another state in association with an attorney authorized to practice law in this state.

(b) Motion. A motion to file an amicus curiae brief must include a statement of (1) applicants interest and the person or group applicant represents, (2) applicants familiarity with the issues involved in the review and with the scope of the argument presented or to be presented by the parties, (3) specific issues to which the amicus curiae brief will be directed, and (4) applicants reason for believing that additional argument is necessary on these specific issues. The brief of amicus curiae may be filed with the motion.

(c) On Request of the Appellate Court. The appellate court may ask for an amicus brief at any stage of review; and establish appropriate timelines for the filing of the amicus brief and answer thereto.

(d) Objection to Motion. An objection to a motion to file an amicus curiae brief must be received by the appellate court and counsel of record for the parties and the applicant not later than 5 business days after receipt of the motion.

(e) Disposition of Motions. The Supreme Court and each division of the Court of Appeals shall establish by general order the manner of disposition of a motion to file an amicus curiae brief, including whether such disposition is reviewable or subject to reconsideration by the particular court.

MISC.

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

RAP 10.8

A party or amicus curiae may file a statement of additional authorities, without argument. The statement must be served and filed prior to the filing of the decision on the merits or, if there is a motion for reconsideration, prior to the filing of the decision on the motion.

RAP 12.4

MOTIONS FOR RECONSIDERATION OF DECISION TERMINATING REVIEW

(a) Generally. A party may file a motion for reconsideration only of a decision by the judges (1) terminating review, or (2) granting or denying a personal restraint petition on the merits. The motion should be in the form and be served and filed as provided in rules 17.3(a), 17.4 (a) and (g), and 18.5, except as otherwise provided in this rule. A party may not file a motion for reconsideration of an order refusing to modify a ruling by the commissioner or clerk.

(b) Time. The party must file the motion for reconsideration within 20 days after the decision the party wants reconsidered is filed in the appellate court.

(c) Content. The motion should state with particularity the points of law or fact which the moving party contends the court has overlooked or misapprehended, together with a brief argument on the points raised.

(d) Answer and Reply. A party should not file an answer to a motion for reconsideration or a reply to an answer unless requested by the appellate court.

(e) Length. The motion, answer, or reply should not exceed 25 pages in length.

(f) No Oral Argument. A motion for reconsideration will be decided without oral argument.

(g) Grant of Motion. If a motion for reconsideration is granted, the appellate court may (1) modify the decision without new argument, (2) call for new argument, or (3) take such other action as may be appropriate.

(h) Only One Motion Permitted. Each party may file only one motion for reconsideration, even if the appellate court modifies its decision or changes the language in the opinion rendered by the court.

(i) Amicus Curiae Memoranda. When a motion for reconsideration has been filed, the appellate court may grant permission to file an amicus curiae memorandum for the purpose of addressing the court regarding the soundness of legal principles announced in the course of the opinion. Absent a showing of particular justification, an amicus curiae memorandum should be received by the court and counsel of record for the parties and any other amicus curiae not later than 5 days after the motion for reconsideration has been filed. Rules 10.4 and 10.6 should govern generally disposition of a motion to file an amicus curiae memorandum, except that no answer to an amicus curiae memorandum should be filed unless requested by the court. An amicus curiae memorandum or answer should not exceed 10 pages.

RAP 13.4

DISCRETIONARY REVIEW OF DECISION TERMINATING REVIEW

(a) How To Seek Review. A party seeking discretionary review by the Supreme Court of a Court of Appeals decision terminating review must file a petition for review or an answer to the petition which raises new issues. The petition for review must be filed in the Court of Appeals within 30 days after an order is filed denying a timely motion for reconsideration of all or any part of that decision. If the petition for review is filed prior to the Court of Appeals determination on the motion for reconsideration or on a motion to publish, the petition will not be forwarded to the Supreme Court until the Court of Appeals files an order on all such motions. If no motion for reconsideration of all or part of the Court of Appeals decision is made, a petition for review must be filed within 30 days after the decision is filed. The first party to file a petition for review must, at the time the petition is filed, pay the statutory filing fee to the clerk of the Court of Appeals in which the petition is filed.

(b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only: (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or (2) If the decision of the Court of Appeals is in conflict with a decision of another division of the Court of Appeals; or (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

(c) Content and Style of Petition. The petition for review should contain under appropriate headings and in the order here indicated: (1) Cover. A title page, which is the cover. (2) Tables. A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where cited. (3) Identity of Petitioner. A statement of the name and designation of the person filing the petition. (4) Citation to Court of Appeals Decision. A reference to the Court of Appeals decision which petitioner wants reviewed, the date of filing the decision, and the date of any order granting or denying a motion for reconsideration. (5) Issues Presented for Review. A concise statement of the issues presented for review. (6) Statement of the Case. A statement of the facts and procedures relevant to the issues presented for review, with appropriate references to the record. (7) Argument. A direct and concise statement of the reason why review should be accepted under one or more of the tests established in section (b), with argument. (8) Conclusion. A short conclusion stating the precise relief sought. (9) Appendix. An appendix containing a copy of the Court of Appeals decision, any order granting or denying a motion for reconsideration of the decision, and copies of statutes and constitutional provisions relevant to the issues presented for review.

(d) Answer and Reply. A party may file an answer to a petition for review. If the party wants to seek review of any issue which is not raised in the petition for review, that party must raise that new issue in an answer. Any answer should

be filed within 30 days after the service on the party of the petition. A party may file a reply to an answer only if the answer raises a new issue. A reply to an answer should be filed within 15 days after the service on the party of the answer. An answer or reply should be filed in the Supreme Court. The Supreme Court may call for an answer or a reply to an answer.

(e) Form of Petition, Answer, and Reply. The petition, answer, and reply should comply with the requirements as to form for a brief as provided in rules 10.3 and 10.4, except as otherwise provided in this rule.

(f) Length. The petition for review, answer, or reply should not exceed 20 pages double spaced, excluding appendices.

(g) Service and Reproduction of Petition, Answer, and Reply. The clerk will arrange for the reproduction of copies of a petition for review, an answer, or a reply, and bill the appropriate party for the copies as provided in rule 10.5. The clerk will serve the petition, answer, or reply as provided in rule 10.5(b).

(h) Amicus Curiae Memoranda. The Supreme Court may grant permission to file an amicus curiae memorandum in support of or opposition to a pending petition for review. ~~The motion to file such a memorandum should comply generally with rules 10.4 and 10.6.~~ Absent a showing of particular justification, an amicus curiae memorandum should be ~~filed and served on the parties at least 20 days prior to the date set for consideration of the petition for review.~~ received by the court and counsel of record for the parties and other amicus curiae not later than 60 days from the date the petition for review is filed. Rules 10.4 and 10.6 should govern generally disposition of a motion to file an amicus curiae memorandum. An amicus curiae memorandum or answer thereto should not exceed 10 pages.

(i) No Oral Argument. The Supreme Court will decide the petition without oral argument.

References

Form 9, Petition for Review.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 99-13-022
RULES OF COURT
STATE SUPREME COURT

[June 3, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO NEW APR) NO. 25700-A-654
17 (PUBLISHED FOR COMMENT AS)
APR 16))

The Washington State Bar Association having recommended the adoption of proposed New APR 17 (published for comment as APR 16), and the Court having considered the new rule and comments submitted thereto, and having determined that the proposed new rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed new rule as attached hereto is adopted.

(b) That the rule will be published in the Washington Reports and will become effective September 1, 1999.

DATED at Olympia, Washington this 3rd day of June, 1999.

Richard P. Guy

Smith, J.	Alexander, J.
Johnson, J.	Talmadge, J.
Madsen, J.	B. Durham
Sanders, J.	Ireland, J.

New APR 17

(Published for Comment as APR 16)

SUSPENSION FROM PRACTICE

(a) **Suspension from Practice:** The Washington State Bar Association shall request that the Supreme Court suspend a member from the practice of law upon the execution of written findings from an adjudicative process that: (1) The member is more than six months delinquent in noncompliance with a valid and enforceable order entered by a court of competent jurisdiction requiring the member to pay child support, and (2) the member has had the opportunity for an adjudicative proceeding to contest the issue of compliance with the child support order, and (3) there are currently no good faith negotiations for a repayment agreement or other modification of the order, and (4) there are no pending judicial or administrative proceedings to determine whether child support is delinquent. A member shall be considered in compliance with an order of child support if the member is current with a payment arrangement pursuant to an order which contemplates payments for past due child support. The hearing will be held, on actual notice to the member of no less than sixty days. The hearing shall otherwise be conducted pursuant to and in accordance with the Rules for Lawyer Discipline but will be for an administrative suspension only so long as the conditions set forth above exist.

(b) **Order of Suspension:** After 60 days from the execution of the written findings the Court may enter an order suspending the member from practice, unless the member submits satisfactory proof one of the conditions set forth above does not exist.

(c) **Reinstatement:** A member who has been administratively suspended under this rule shall have a right to submit proof of a condition for suspension no longer exists. The Court may enter an order of reinstatement upon determination said proof is satisfactory and so long as the member meets all other requirements to practice law.

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(d) **Rules of Professional Conduct not superseded:**
Nothing in this rule supersedes any of the Rules of Professional Conduct.

WSR 99-13-023
RULES OF COURT
STATE SUPREME COURT
[June 3, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO JuCR 1.5;) NO. 25700-A-655
JuCR 2.1; JuCR 2.4; JuCR 3.9; JuCR 5.3;)
JuCR 5A.2; JuCR 6.4; JuCR 7.6; JuCR 7.12;)
AND JuCR 7.13)

The Superior Court Judges' Association Family and Juvenile Law Committee having recommended the adoption of the proposed amendments to JuCR 1.5; JuCR 2.1; JuCR 2.4; JuCR 3.9; JuCR 5.3; JuCR 5A.2; JuCR 6.4; JuCR 7.6; JuCR 7.12; and JuCR 7.13, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.
(b) That the amendments will be published in the Washington Reports and will become effective September 1, 1999.

DATED at Olympia, Washington this 3rd day of June, 1999.

	<u>Richard P. Guy</u>
<u>B. Durham</u>	<u>Alexander, J.</u>
<u>Smith, J.</u>	<u>Talmadge, J.</u>
<u>Johnson, J.</u>	<u>Sanders, J.</u>
<u>Madsen, J.</u>	<u>Ireland, J.</u>

PROPOSED AMENDMENTS TO RULES OF JUVENILE COURT (JuCR)

JuCR 1.5

CONTINUATION OF ACTIONS

(a) Dependency and Termination Proceedings.

(1) Actions filed on or after May 1, 1978, alleging dependency or seeking the termination of the parent-child relationship, in which the court has not entered a final order of dependency or termination prior to July 1, 1978, shall, after July 1, 1978, be governed by RCW 13.34 and these rules.

(2) The status of all juveniles found to be dependent prior to July 1, 1978, shall be reviewed as provided in RCW 13.34.130(5).

(3) Any proceeding to modify a disposition order in a case involving a juvenile found, prior to July 1, 1978, to be dependent shall be governed by RCW 13.34 and these rules.
(4) The court may modify the application of this section to a particular case when, in the opinion of the court, that application would work injustice.

(b) Juvenile Offense Proceedings. Juvenile offense proceedings shall be governed by the law in effect on the date the offense is found to have taken place.

Correction of inaccurate statutory reference.

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

JuCR 2.1

PLACEMENT OF JUVENILE IN SHELTER CARE GENERALLY

(a) Without Court Order. A juvenile may be placed in shelter care without court order if the juvenile has been taken into custody pursuant to RCW 13.34.055 or RCW 26.44.050.

(b) With Court Order. A juvenile may be placed in shelter care with a court order if:

(1) A dependency petition has been filed pursuant to rule 3.2 and a motion has been made pursuant to section (c); or

(2) The juvenile has previously been found to be dependent, is the subject of a disposition order still in effect, and a motion has been made pursuant to section (c).

(c) Obtaining Shelter Care an Order to Take Child into Custody—Supporting Affidavit or Declaration Filed. A request for an order pursuant to RCW 13.34.050 shall be by motion supported by ~~a statement of the facts that form the basis for the motion. The statement shall be in the form of a sworn affidavit, an unsworn declaration pursuant to RCW 9A.72.085, or testimony in open court an affidavit or declaration filed by the department in support of the petition setting forth specific factual information pursuant to RCW 13.34.050 and demonstrating a risk of imminent harm for the child.~~

(d) Obtaining an Order to Take Child into Custody—No Supporting Affidavit or Declaration Filed. A request for an order pursuant to RCW 13.34.050 in which the department has not filed with the court a supporting affidavit or declaration shall not be approved until the parents have been provided notice and the opportunity to be heard.

Pursuant to 1998 C 328 § 1, amending RCW 13.34.050.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

JuCR 2.4

PROCEDURE AT SHELTER CARE HEARING

(a) Inform Parties of Rights. The court shall inform the parties of their rights as set forth in RCW 13.34.090 and in Titles 2, 3, and 9 of these rules. The court may continue the

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hearing if the parties have been unable to retain a lawyer or have been unable to have a lawyer appointed for them.

(b) Hearing and Decision. The court shall hold the hearing on the question of shelter care in accordance with RCW 13.34.060(4) and RCW 13.34.090. The court shall make its decision in accordance with RCW 13.34.060(6).

(c) Release of Juvenile on Conditions. The court may release the juvenile on those conditions it deems appropriate. As provided in RCW 13.34.060(7), the conditions may be modified upon notice to the parties given in accordance with rule 11.2 and after a hearing.

Statutory references are broadened to streamline the need for updating.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

JuCR 3.9

REVIEW HEARING

The status of all juveniles found to be dependent shall be reviewed by the court at least every 6 months, in accordance with RCW 13.34.130(5), except when a guardianship has been established under RCW 13.34.231 and 13.34.232. The parties shall be given notice of the review hearing in accordance with rule 11.2. All parties shall have the right to be present at the review hearing and to be heard. Notice of a review hearing concerning a juvenile who has been found dependent under RCW 13.34.030(4) and who has been removed from the parental home shall include an advisement that a petition to terminate the parent-child relationship may be filed.

Correction of inaccurate statutory reference.

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

JuCR 5.3

SCHEDULING OF FACT-FINDING HEARING

When a proper petition has been filed, pursuant to RCW 13.32A.160 the court shall schedule a fact-finding hearing upon the question of out-of-home placement. ~~The hearing shall be held within 5 calendar days after the filing of the petition if the child is in a center, or is not residing at home nor in an out-of-home placement pursuant to RCW 13.32A.160, otherwise the hearing shall be held within 10 calendar days. For a child who resides in a place other than his or her parent's home and other than an out-of-home placement as defined in RCW 13.32A.030, a hearing shall be held within 5 calendar days unless the last calendar day is a Saturday, Sunday, or holiday, in which case the hearing shall be held on the preceding judicial day. For a child living at home or in an out-of-home placement, a hearing shall be held within 10 days.~~

Pursuant to 1997 C146 § 6 amending RCW 13.32A.160.

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

JuCR 5A.2

SCHEDULING OF FACT-FINDING HEARING

When a proper petition has been filed, pursuant to RCW 13.32A.192 the court shall schedule a fact-finding hearing. ~~The hearing shall be held within 5 calendar days after the filing of the petition if the child is in a center, or is not residing at home nor in an out-of-home placement pursuant to RCW 13.32A.192, otherwise the hearing shall be held within 10 calendar days. For a child who resides in a place other than his or her parent's home and other than an out-of-home placement as defined in RCW 13.32A.030, a hearing shall be held within 5 calendar days unless the last calendar day is a Saturday, Sunday, or holiday, in which case the hearing shall be held on the preceding judicial day. For a child living at home or in an out-of-home placement, a hearing shall be held within 10 days.~~

Pursuant to 1997 C146 § 8 amending RCW 13.32A.192.

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

JuCR 6.4

ADVICE ABOUT DIVERSION PROCESS

(a) Advice When Confinement Possible. A juvenile alleged to have committed an offense for which an adult could be confined shall be given a copy of a statement in substantially the following form during the initial interview with a diversion unit. The statement shall also be read by, or read to, the juvenile before the juvenile signs the statement.

Advice About Diversion

1. Diversion is a different way of dealing with juveniles who are charged with an offense. You do not go to court and there is no trial before a judge.

2. A diversion agreement is a contract between you and the diversion unit. A diversion agreement may require you to do certain things, such as community service, attend a counseling, informational, or educational interview, or make restitution, but you cannot be sent to jail. Under certain circumstances you may be counseled and released, which means no further action will be required of you.

3. If you sign a diversion agreement, or if you are counseled and released, the offense with which you are charged ~~with~~ and any diversion agreement will be part of your criminal history. When you have a criminal history, (A) you may not necessarily be permitted to participate in diversion for other offenses you have committed or may commit in the future, and (B) you may be given a longer sentence for other offenses you have committed or may commit in the future.

4. Your criminal history for this offense will show whether or not you have completed the terms of this diversion agreement.

5. Your criminal history may be available to the police, the prosecutor, the court, and the diversion unit.

6. If you do not follow the diversion agreement, the prosecutor may bring you to a hearing for the offenses with which you are charged with. If you do not appear at the court hearing, the court may order that you be arrested.

~~7. You may ask the court to seal your file on this offense if you have not been charged with another offense for 2 years after you finish diversion.~~

87. When you are 18 years old, you may ask the court to destroy all records on this offense if your criminal history consists of only one diversion and 2 years have passed since you completed the diversion agreement.

~~9. When you are 23 years old, you may ask the court to destroy all records on this offense if you have not been convicted of a felony or serious offense, and there is no criminal proceeding pending against you.~~

108. You have the right to talk to a lawyer about whether you should participate in diversion or whether you should go to court. You will not have to pay for a lawyer if you cannot afford it. If you do not believe you committed this offense, you should talk to a lawyer.

119. When you agree to participate in the diversion process, you do not have the right to have a free lawyer appointed for you to help you work out a diversion agreement, but you do have the right to have a lawyer help you work out a diversion agreement if you can afford to pay for it.

~~1210. You do not have to participate in diversion. If you do not participate, your case will go to court if charges are filed by the prosecutor. If your case goes to court, you can have a lawyer to represent you, and you will not have to pay for the lawyer if you cannot afford it. If you are found guilty in court, the maximum penalty cannot be greater than the maximum penalty the diversion unit may impose.~~

11. I have been informed and fully understand that if the offense for which I have entered into a diversion agreement is a violation of RCW 66.44, 69.41, 69.50, or 69.52, and I was 13 years of age or older when the offense was committed, the diversion agreement will result in the suspension or revocation of my privilege to drive. (If not applicable, this paragraph should be crossed out and initialed by the offender.)

12. I have been informed and fully understand that if I am enrolled in a common school, the court will notify the principal of my diversion agreement if the offense for which I am entering into a diversion agreement is a violent offense as defined in RCW 9.94A.030; a sex offense as defined in RCW 9.84A.030; inhaling toxic fumes under chapter 9.47A RCW; a controlled substance violation under chapter 69.50 RCW; a liquor violation under RCW 66.44.270; or any crime under chapters 9A.36, 9A.40, 9A.46, and 9A.48 RCW. (If not applicable, this paragraph should be crossed out and initialed by the offender.)

13. I have read or someone has read to me everything printed above, and I understand it. I have been given a copy of this statement.

Dated _____ Dated _____

Parent or Guardian (optional) Juvenile

The above statement was read to the juvenile and signed by the juvenile on the date indicated.

Representative of Diversion Unit

If applicable:

I am fluent in the _____ language and I have translated this entire document for the juvenile from English into that language. The juvenile has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19____, at _____, Washington.

Interpreter

(b) Advice When No Confinement Possible. A juvenile alleged to have committed a traffic infraction or an offense for which an adult could not be confined shall be given a copy of a statement in substantially the following form during the initial interview with a diversion unit. The statement shall also be read by, or read to, the juvenile before the juvenile signs the statement.

Advice About Diversion

1. Diversion is a different way of dealing with juveniles who are charged with an offense. You do not go to court and there is no trial before a judge.

2. A diversion agreement is a contract between you and the diversion unit. If you are alleged to have committed a traffic infraction, a diversion agreement requires you to do community service or attend educational or counseling sessions. If you are alleged to have committed some other offense, a diversion agreement may require you to do certain things, such as community service, attend a counseling, informational, or educational interview, or make restitution, but you cannot be sent to jail. Under certain circumstances you may be counseled and released, which means no further action will be required of you.

3. If you do not follow the diversion agreement, the prosecutor may bring you to a hearing for the offenses with which you are charged with. If you do not appear at the court hearing, the court may order that you be arrested.

~~4. You may ask the court to seal your file on this offense if you have not been charged with another offense for 2 years after you finish diversion.~~

54. When you are 18 years old, you may ask the court to destroy all records on this offense if your criminal history consists of only one diversion and 2 years have passed since you completed the diversion agreement.

~~6. When you are 23 years old, you may ask the court to destroy all records on this offense if you have not been convicted of a felony or a serious charge, and there is no criminal proceeding pending against you.~~

75. You have the right to talk to a lawyer about whether you should participate in diversion or whether you should go to court. You will not have to pay for a lawyer if you cannot afford it. If you do not believe you committed this offense, you should talk to a lawyer.

86. When you agree to participate in the diversion process, you do not have the right to have a free lawyer appointed for you to help you work out a diversion agreement

MISC.

but you do have the right to have a lawyer help you work out a diversion agreement if you can afford to pay for it.

97. You do not have to participate in diversion. If you do not participate, your case will go to court if charges are filed by the prosecutor. If your case goes to court, you can talk to a lawyer but you may have to pay for it. If you are found guilty in court, the maximum penalty cannot be greater than the maximum penalty the diversion unit may impose.

108. If you are charged with a traffic infraction and agree to diversion, the diversion unit may notify the Department of Licensing. This may affect your driving privileges.

119. I have read or someone has read to me everything printed above, and I understand it. I have been given a copy of this statement.

Dated _____ Dated _____

Parent or Guardian (optional) Juvenile

The above statement was read to the juvenile and signed by the juvenile on the date indicated.

Representative of Diversion Unit

If applicable:

I am fluent in the _____ language and I have translated this entire document for the juvenile from English into that language. The juvenile has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Dated this _____ day of _____, 19____, at _____, Washington.

Interpreter

In addition to amendments proposed for grammatical purposes, under "Advise when confinement is possible": #7 and #9 are deleted pursuant to 1997 C338 § 40, amending RCW 13.050.050; #11 is added pursuant to 1988 C148 § 2, and #12 is added pursuant to 1997 C266 § 7, amending RCW 13.04.155. Under "Advise when no confinement possible": #4 and #6 are deleted pursuant to 1997 C338 § 40, amending RCW 13.050.050.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

JuCR 7.6

ARRAIGNMENT AND PLEAS

(a) Time and Procedure for Arraignment. A juvenile who is detained or subject to conditions of release must be arraigned within 14 days after the information or indictment is filed. The procedure for the arraignment of an alleged juvenile offender is governed by CrR 4.1.

(b) Plea. The taking of a plea of an alleged juvenile offender is governed by CrR 4.2.

(c) Advice of Standard Sentence. Before entering a plea, the juvenile should be advised of the standard sentence for

the offense charged, and should be advised of the criminal history upon which the standard sentence is based.

(d) Effect of Motion To Decline Jurisdiction. If a decline hearing is requested or required, then the juvenile court has no jurisdiction to accept a plea until a decline hearing is held and an order is entered retaining jurisdiction in the juvenile court. The time limit for the adjudicatory hearing under rule 7.8 does not begin to run until the day after the entry of the order retaining jurisdiction.

(e) Determination of Capacity. When a determination of capacity is required pursuant to RCW 9A.04.050, A hearing to determine the juvenile's capacity shall be held within 14 days from the filing of the information juvenile's first court appearance, separate from and prior to arraignment. Notice of the hearing to determine capacity and its purpose shall be given in accordance with rule 11.2.

The revision provides clarification with regard to applicability and addresses implementation problems caused by linking the time for the capacity hearing to the filing of the information.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

JuCR 7.12

DISPOSITION HEARING

(a) Time. A disposition hearing shall be held if the juvenile has pleaded guilty or has been found guilty by the court. The hearing may be held immediately following the juvenile's plea of guilty or immediately following the adjudicatory hearing if found guilty by the court. The disposition hearing may be continued for a period of up to 14 days after the plea or the conclusion of the hearing if the juvenile is held in detention, or 21 days after the plea or the conclusion of the hearing if the juvenile is not held in detention. Either time may be extended by the court for good cause shown. Notice of a continued hearing shall be given to all parties in accordance with rule 11.2.

(b) Conduct of Hearing. The court shall conduct the hearing in accordance with RCW 13.40.150. At the conclusion of the disposition hearing, the court shall, in accordance with CrR 7.2(b), advise the juvenile of the right to appeal, including when applicable the right to appeal a sentence based upon a finding of manifest injustice.

(c) Criminal History—Definition. In determining the standard range of disposition for a juvenile, the juvenile's criminal history includes any criminal complaint alleging an offense and resulting in one of the following prior to the commission of the current offense:

(1) A finding made prior to July 1, 1978, that the juvenile committed an offense, if the allegation was required to be proven beyond a reasonable doubt or if the juvenile admitted the allegation; or

(2) A conviction or a plea of guilty on or after July 1, 1978; or

(3) ~~A record of a diversion agreement entered into in accordance with the provisions of RCW 13.40.080.~~

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Violations, as defined by RCW 13.40.020, committed on or after July 1, 1998 are not included in a juvenile's criminal history.

(d) Criminal History—Multiple Charges. If the juvenile has been convicted of two or more charges arising out of the same course of conduct, then only the highest charge is counted as criminal history. If the juvenile has been convicted of two or more charges that did not arise out of the same course of conduct, then all of the charges count as criminal history, even though the charges may have consolidated into a single disposition order.

(e) Disposition Based Upon Finding of Manifest Injustice. If the court imposes a sentence based upon a finding of manifest injustice, the disposition order shall set forth those portions of the record material to the disposition.

(f) Disposition Requiring Detention in a State-Operated Juvenile Detention Facility. If the court imposes a sentence requiring commitment to the Division of Juvenile Rehabilitation of the Department of Social and Health Services for detention, the copy of the disposition order sent to the Division shall be accompanied by a statement of the criminal history relied upon by the sentencing court.

(g) Judgment and Sentence. For every disposition order entered pursuant to a juvenile court offense adjudication or deferred adjudication, the court entering the order shall forward to the Sentencing Guidelines Commission the information contained in the order and such criminal history, demographic, and other information as the Office of the Administrator for the Courts may prescribe. The Administrator for the Courts, at the direction of the Supreme Court, and after consulting with the Sentencing Guidelines Commission, shall determine the method for transmitting this information from the court to the Commission.

Pursuant to 1997 C338 § 12 amending RCW 13.40.0357.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

JuCR 7.13

RELEASE PENDING APPELLATE REVIEW

Pending appellate review of an order of adjudication or disposition, the juvenile court shall release the juvenile if the court determines, at a hearing, that detention is not necessary to prevent the juvenile from fleeing the jurisdiction or harming the juvenile or the person or property of others. Release of the juvenile pending review is governed by RCW 13.40.230(5) the court may impose conditions on release as provided in RCW 13.40.040(4) and 13.40.050(6).

Pursuant to 1997 C338 § 35 amending RCW 13.40.230(5).

Purpose

The proposed rule revisions accomplish the following:

- Conforms language and court requirements of the JuCRs to statute change pursuant to the 1997 and 1998 legislative session.
- Corrects inconsistent formatting, statutory references and grammatical defects.
- Eliminates barriers to the successful implementation of JuCR 7.6(e).

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 99-13-024
RULES OF COURT
STATE SUPREME COURT

[June 3, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO ARLJ 10) NO. 25700-A-656

The Court Management Council and the District and Municipal Court Management Association having recommended the adoption of the proposed amendment to ARLJ 10, and the Court having considered the amendment and comment submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That the amendment will be published in the Washington Reports and will become effective September 1, 1999.

DATED at Olympia, Washington this 3rd day of June, 1999.

Richard P. Guy
B. Durham Alexander, J.
Smith, J. Talmadge, J.
Johnson, J. Sanders, J.
Madsen, J. Ireland, J.

ARLJ 10

[New Rule]

CASE INFORMATION COVER SHEET

Rule 1-9 No change.

RULE 10 CASE INFORMATION COVER SHEET

(1) Each new civil filing, except in infraction cases, shall be accompanied by a Case Information Cover Sheet prepared and submitted by the plaintiff. The minimum requirements of this Case Information Cover Sheet shall be established by the Court Management Council in coordination with the Office of the Administrator for the Courts. Any additional case flow information deemed necessary for the management of cases by a court must be approved by the Office of the Administrator for the Courts.

Reviser's note: The brackets and enclosed material above occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 99-13-025
RULES OF COURT
STATE SUPREME COURT

[June 3, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO CRLJ 26;) NO. 25700-A-657
CrRLJ 2.1 (d)(2) AND IRLJ 2.2(d))

The District and Municipal Court Judges' Association having recommended the adoption of the proposed amendments to CRLJ 26; CrRLJ 2.1 (d)(2) and IRLJ 2.2(d), and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the Washington Reports and will become effective September 1, 1999.

DATED at Olympia, Washington this 3rd day of June, 1999.

Richard P. Guy

B. Durham

Alexander, J.

Smith, J.

Talmadge, J.

Johnson, J.

Sanders, J.

Madsen, J

Ireland, J.

CRLJ 26

DISCOVERY

Discovery in courts of limited jurisdiction shall be permitted as follows:

(a) Specification of Damages, Deposition of Party. A party may demand a specification of damages under RCW 4.28.360 and may take the deposition of another party, unless the court orders otherwise.

(b) Interrogatories and Requests for Production.

(1) The following interrogatories and requests for production may be submitted by any party:

(1A) State the amount of general damages being claimed.

(2B) State each item of special damages being claimed and the amount thereof.

(3C) List the name, address, and telephone number of each person having any knowledge of facts regarding liability.

(4D) List the name, address, and telephone number of each person having any knowledge of facts regarding the damages claimed.

(5E) List the name, address, and telephone number of each expert you intend to call as a witness at trial. For each

expert, state the subject matter on which the expert is expected to testify. State the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(2) In addition to section (b)(1), any party may serve upon any other party not more than two sets of written interrogatories containing not more than 20 questions per set without prior permission of the court. Separate sections, paragraphs or categories contained within one interrogatory shall be considered separate questions for the purpose of this rule. The interrogatories shall conform to the provisions of CR 33.

(3) The following requests for production may be submitted by any party:

(6A) Produce a copy of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of any judgment which may be entered in this action, or to indemnify or reimburse the payments made to satisfy the judgment.

(7B) Produce a copy of any agreement, contract or other document upon which this claim is being made.

(8C) Produce a copy of any bill or estimate for items for which special damage is being claimed.

(4) In addition to section (b)(3), any party may submit to any other party a request for production of up to five separate sets of groups of documents or things without prior permission of the court. The requests for production shall conform to the provisions of CR 34.

(c) Depositions.

(1) A party may take the deposition of any other party, unless the court orders otherwise.

(2) Each party may take the deposition of one additional person without prior permission of the court. The deposition shall conform to the provisions of CR 30.

(ed) Other Discovery at Discretion of Court. No additional discovery shall be allowed, except as the parties may stipulate or as the court may order. The court shall have discretion to decide whether to permit any additional discovery. In exercising such discretion the court shall consider (1) whether all parties are represented by counsel, (2) whether undue expense or delay in bringing the case to trial will result and (3) whether the interests of justice will be promoted.

(dg) How Discovery To Be Conducted. Any discovery authorized pursuant to this rule shall be conducted in accordance with Superior Court Civil Rules 26 through 37, as governed by CRLJ 26.

(f) Time for Discovery. Twenty-one days after the service of the summons and complaint, or counterclaim, or cross complaint, the served party may demand the discovery set forth in sections (a) - (c) of this rule, or request additional discovery pursuant to section (d) of this rule. Unless agreed by the parties and with the permission of the court, all discovery shall be completed within 60 days of the demand, or 90 days of service of the summons and complaint, or counterclaim, or cross complaint, whichever is longer.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

MISC.

PROPOSED AMENDMENTS OF CRIMINAL RULES
FOR
COURTS OF LIMITED JURISDICTION (CrRLJ)
CrRLJ 2.1 (d)(2)

COMPLAINT—CITATION AND NOTICE

(a) - (c) [Unchanged.]

(d) Filing.

(1) [Unchanged.]

(2) *Time.* The citation and notice shall be filed with the clerk of the court within two days ~~48 hours~~ after issuance, not including Saturdays, Sundays or holidays. A citation and notice not filed within the time limits of this rule may be dismissed without prejudice.

Purpose

To eliminate confusion by changin the required filing period from "48 hours" to "two days". This change is consistent with the amendment proposed at this time to IRLJ 2.2(d).

Reviser's note: The brackets and enclosed material above occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040

IRLJ 2.2(d)

INITIATION OF INFRACTION CASES

(a) - (c) [Unchanged.]

(d) **Filing of Notice.** When a notice of infraction has been issued, the notice shall be filed with a court having jurisdiction over the infraction or with a violations bureau subject to such court's supervision. The notice must be filed within two days of 48 hours issuance of the notice, excluding Saturdays, Sundays, and holidays. A notice of infraction not filed within the time limits of this section may be dismissed without prejudice.

Purpose

To eliminate confusion by changing the filing period for notices of infraction from "48 hours" to "two days." This proposed rule change is consistent with the changes being proposed at this time to CrRLJ 2.1 (d)(2).

Reviser's note: The brackets and enclosed material above occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

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

WSR 99-13-026

NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—June 1, 1999]

EDMONDS COMMUNITY COLLEGE
BOARD OF TRUSTEES

NOTICE OF SPECIAL MEETINGS
TO MEDIA/OTHER

- June 2-5, 1999* Association of Community College Trustees (ACCT) Regional Conference, Hyatt Regency, Lake Tahoe, Nevada.
- June 9, 1999* Retiree Reception: EdCC, Triton Union Building, Room 202, 20200 68th Avenue West, Lynnwood, WA, 2:00 p.m.
- June 11, 1999* Edmonds Community College Commencement, EdCC, Seaview Gymnasium, 19906 68th Avenue West, Lynnwood, WA, 7:30 p.m.
- June 15, 1999* Twin Rivers Corrections Center Graduation, TRCC Visiting Room, Monroe, Washington, 1:00 p.m.
- June 16, 1999* Washington State Reformatory Graduation, WSR Visiting Room, Monroe, Washington, 1:00 p.m.
- June 17, 1999 Edmonds Community College Board of Trustees Special Board Meeting, EdCC, Snohomish Hall, Cascade Conference Room 304A, 20000 68th Avenue West, Lynnwood, WA, **3:00 p.m.** (Note early starting time)

* This event is being scheduled as a special meeting, which is a study session where no action will be taken.

WSR 99-13-027
POLICY STATEMENT
DEPARTMENT OF HEALTH
[Filed June 7, 1999, 12:38 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Default Orders, A05.02.

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject Matter: The Nursing Commission has adopted a policy that transfers responsibility to generate and present default documents from the AAG to staff in an effort to maximize limited resources.

Effective Date: November 13, 1998.

Contact Person: Jeanne Giese, Nurse Practice Manager, Department of Health, Nursing Care Quality Assurance Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4728.

MISC.

WSR 99-13-028
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:39 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Public Disclosure (Excluding Lists and Labels), L01.07.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This revises the current division policy. This policy addresses requests to inspect and/or copy records.

Effective Date: January 15, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-029
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:40 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Placing Documents On The Internet, C06.01.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This policy establishes requirements to be followed when employees place documents on the Internet.

Effective Date: February 24, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-030
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:41 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Maintaining Accurate Information on the Internet and Managing Internet Correspondence, C07.01.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This policy establishes requirements to be followed in order to maintain accurate information on the Internet and manage Internet correspondence.

Effective Date: February 24, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

tions, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-031
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:42 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Calculating Late Renewal Penalty Fees, G02.02.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This revises the current division policy. The policy sets a scale to be used when establishing late renewal fees.

Effective Date: February 18, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-032
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:43 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Sexual Misconduct, D12.02.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This revises the current division policy. This is a policy governing sexual misconduct by health care providers and has been adopted for the professions where the secretary of Department of Health is the disciplinary authority.

Effective Date: March 4, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-033
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:45 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Intake and Assessment of "Complaints," D25.01.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This policy establishes complaint intake and assessment requirements along with additional requirements for building and maintaining disciplinary records for health care practitioners and businesses.

Effective Date: April 22, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-034
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:46 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Preparing and Distributing Meeting Agendas, C08.01.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This policy establishes guidelines for staff to follow when preparing and distributing board, commission, council, committee, advisory work group, panel or subcommittee meeting agendas.

Effective Date: April 27, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-035
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:47 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Building and Maintaining Applicant Records, G08.01.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This policy establishes requirements for building and maintaining credentialing records for health care practitioners and businesses.

Effective Date: March 23, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-036
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:48 p.m.]

NOTICE OF ADOPTION OF POLICY STATEMENT

Title of Policy: Preparing and Distributing Meeting Minutes, C09.01.

Issuing Entity: Health Professions Quality Assurance Division, Department of Health.

Subject Matter: This policy establishes guidelines for staff to follow when preparing and distributing board, commission, council, committee, advisory work group, panel or subcommittee meeting minutes.

Effective Date: April 27, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations, Health Professions Quality Assurance Division, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

WSR 99-13-037
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:49 p.m.]

NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

Title: "May a LPN implement a written medical protocol for Preventative TB Therapy without the review and approval of an RN?"

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject: The commission issued an advisory opinion in response to the request from Terry Jones.

Effective Date: May 21, 1999.

Contact Person: Jeanne E. Vincent, RN, MS, Associate Nurse Practice Manager, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4725.

WSR 99-13-038
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH

[Filed June 7, 1999, 12:50 p.m.]

NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

Title: "May a critical care nurse with ACLS certification, under the supervision of a physician, administer IV Propofol for sedation, to patients who are on a mechanical ventilator in a critical care unit?"

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject: The commission issued an advisory opinion in response to the request from Bette Sheeran, RN, CCRN,

Overlake Medical Center, Bellevue, and Joe Fuller, Zeneca Pharmaceuticals, Seattle.

Effective Date: May 21, 1999.

Contact Person: Jeanne E. Vincent, RN, MS, Associate Nurse Practice Manager, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4725.

WSR 99-13-040

NOTICE OF PUBLIC MEETINGS

TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—June 4, 1999]

MEETING NOTICE FOR JUNE 1999
TRANSPORTATION IMPROVEMENT BOARD
WENATCHEE, WASHINGTON

Sidewalk Committee, 1:00 p.m. - 1:30 p.m., Thursday, June 24, 1999, Ramada Inn, 1017 North Wenatchee Avenue, Wenatchee.

Increase Committee, 1:45 p.m. - 5:00 p.m., Thursday, June 24, 1999, at the Ramada Inn.

Work Session, 7:00 p.m. - 9:00 p.m., Thursday, June 24, 1999, at the Ramada Inn.

Board Meeting, 9:00 a.m., Friday, June 25, 1999, at the Ramada Inn.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by June 18, 1999.

The next scheduled meeting is July 23, 1999, in Ellensburg. A notice with further detail of the July meeting will be mailed July 2, 1999.

WSR 99-13-041

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING**

[Memorandum—June 8, 1999]

Please publish a public meeting notice for the next **Title and Registration Advisory Committee (TRAC)** meeting in the next publication of the State Register.

- DATE:** July 6, 1999
- TIME:** 1:00 p.m. - 3:00 p.m.
- PLACE:** Highways-Licenses Building
Conference Room 413
1125 Washington Street
Olympia, WA 98504

WSR 99-13-044

**NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
(Clemency and Pardons Board)**

[Memorandum—June 7, 1999]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule change of its September meeting:

The September meeting of the Clemency and Pardons Board has been changed from September 3 to September 10, at 10:00 a.m. in the John A. Cherberg Building, Senate Hearing Room 4, in Olympia, Washington.

WSR 99-13-046

DEPARTMENT OF ECOLOGY

[Filed June 8, 1999, 2:45 p.m.]

**PUBLIC PARTICIPATION GRANTS (PPG)
GUIDELINES AND APPLICATION PERIOD**

About The Guidelines: The guidelines were written for citizen groups and not-for-profit public interest organizations. It applies to projects that will start in 2000.

These guidelines will help groups plan and refine their projects. Officially, these guidelines define the Public Participation Grants program called for in the Model Toxics Control Act (RCW 70.105D.070(5)). They also explain the criteria Ecology uses to evaluate and award Public Participation Grants, and cover how to complete the application.

Goals of 2000 PPG Program: Ecology wants to improve the quality of the public's participation influence in decisions on how contaminated sites should be cleaned up and restored. Ecology also wants to increase the environmental benefits of education projects, in particular, projects that get people to generate less waste (source reduction) and projects that show people ways to prevent pollution.

How to Obtain the PPG Guidelines: To receive a copy of the guidelines call 1-800-RECYCLE. You will need to provide your name, address and group affiliation, if you have/there is one. After reading the guidelines, you may have questions about your project, so call 1-800-RECYCLE and a grants staff person will respond to your request.

Application Period Opens July 1, 2000: Starting Thursday, July 1, the Washington Department of Ecology will accept applications for public participation grants. The application period closes *Tuesday, August 31, 1999*. Groups of three or more unrelated individuals and not-for-profit, public interest organizations can qualify for a grant ranging from \$1,000 to \$60,000. Businesses and government departments, including universities, do not qualify.

Grants Pay for Public Involvement: The grants make it easier for people to be involved in two types of waste issues:

- The cleanup of hazardous waste sites.
- Carrying out the state's solid- and hazardous waste management priorities. The highest priority is reducing the amount of waste created.

MISC.

Ecology's highest interest is in projects that prevent pollution and produce measurable benefits to the environment.

Not-for-profit groups are encouraged to apply. These include environmental coalitions, community clubs, neighborhood associations, environmental education groups, business and trade associations, labor or worker health/safety organizations, groups who live in the path of potential contamination from hazardous waste cleanup sites, ethnic or minority societies, outdoor enthusiasts, professional or fraternal societies, and service clubs.

How to Apply: If your group has a project that might be eligible, request an application packet from: Department of Ecology, Solid Waste and Financial Assistance, P.O. Box 47600, Olympia, WA 98504-7600, phone 1-800-RECYCLE.

Your Application Must Be At Ecology By 5 p.m. Tuesday, August 31, 1999: Applications must be received by close of business Tuesday, August 31, 1999. This means your application must be received in the Solid Waste and Financial Assistance office in the Department of Ecology Headquarters building by 5 p.m. The headquarters building is at 300 Desmond Drive in Lacey. Postmarks do not qualify. Call (360) 407-6095 for directions to the building.

WSR 99-13-055

NOTICE OF PUBLIC MEETINGS PENINSULA COLLEGE

[Memorandum—June 2, 1999]

The board of trustees of Peninsula College, District 1, Port Angeles, Washington, submits a change to the September 1999 calendar.

The September 14 meeting will take place on the college campus in Port Angeles, Room A-12 at 2:00 p.m.

WSR 99-13-056

NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER

[Memorandum—June 9, 1999]

The Washington State Convention and Trade Center (WSCTC) Art Committee will meet on Wednesday, June 16, 1999, at 8:30 a.m., in Room 306 of the Convention Center, 800 Convention Place, Seattle.

A regular meeting of the WSCTC board of directors will be held on Wednesday, June 16, 1999, at 1:30 p.m. in Room 310 of the Convention Center.

If you have any questions regarding these meetings, please call (206) 694-5000.

WSR 99-13-057

ATTORNEY GENERAL'S OFFICE

[Filed June 10, 1999, 11:47 a.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by July 14, 1999. 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 July 14, 1999, 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) 586-4218, 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 seeks public input on the following opinion request(s).

99-06-01 Request by Margarita Prentice, Senator, 11th District

Does RCW 9.41.240 or any other statute prohibit the hiring of 18-20 year old persons as police officers or prison guards? Does Washington law prohibit the hiring of 18-20 year old persons as firefighters or paramedics?

WSR 99-13-088

NOTICE OF PUBLIC MEETINGS SOUTH PUGET SOUND COMMUNITY COLLEGE

[Memorandum—June 11, 1999]

At their June 10, 1999, regular meeting, the board of trustees of Community College District 24 adopted their 1999-2000 meeting schedule, shown below.

BOARD OF TRUSTEES
SOUTH PUGET SOUND COMMUNITY COLLEGE
DISTRICT XXIV

Regular Meeting Schedule
1999-00

DATE	TIME
Wednesday, August 11, 1999	Tentative
Thursday, September 2, 1999	3:00 p.m.
Tuesday, October 12, 1999	3:00 p.m.
Wednesday, November 10, 1999	3:00 p.m.
Thursday, December 9, 1999	3:00 p.m.
Thursday, January 13, 2000	3:00 p.m.
Thursday, February 10, 2000	3:00 p.m.
Thursday, March 9, 2000	3:00 p.m.
Thursday, April 13, 2000	3:00 p.m.
Thursday, May 11, 2000	3:00 p.m.
Thursday, June 8, 2000	3:00 p.m.

If you have any questions, please contact 754-7711, ext. 202.

WSR 99-13-090
RULES OF COURT
STATE SUPREME COURT
[June 8, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENT TO APR 1) NO. 25700-A-659

The Washington State Bar Association having recommended the adoption of the proposed amendment to APR 1, and the Court having considered the amendment and comments submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby ORDERED:

- (a) That the amendment as attached hereto is adopted.
 - (b) That the amendment will be published in the Washington Reports and will become effective September 1, 1999.
- DATED at Olympia, Washington this 8th day of June, 1999.

Guy, C.J.

B. Durham

Johnson, J. Talmadge, J.

Smith, J. Ireland, J.

PROPOSED ADOPTIONS OF ADMISSION TO PRACTICE RULES

APR 1

IN GENERAL; SUPREME COURT PREREQUISITES TO THE PRACTICE OF LAW; IMMUNITY

- (a) **Supreme Court.** [No change].
- (b) **Prerequisites to the Practice of Law.** [No change].

(c) Immunity. The Washington State Bar Association, its officers and agents (including but not limited to its staff, members of the Board of Governors, the Committee of Law Examiners, the Character and Fitness Committee, the Law Clerk Committee, or any other individual acting under authority of these rules) are immune from all liability for conduct and communications occurring in the performance of their official duties relating to the examination, character and fitness qualifications, admission, and licensing of persons seeking to be admitted to the practice of law or for a limited license to practice law, provided only that the Bar Association, officer, or agent shall have acted in good faith. The burden of proving bad faith in this context shall be upon the person asserting it. The Bar Association shall provide defense to any action brought against an officer or agent of the Bar Association for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgment taken therein. Communications to the Association, the Board of Governors, the Committee of Law Examiners, the Character and Fitness Committee, the Law Clerk Committee, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit may be predicated thereon.

Reviser's note: The brackets and enclosed material above occurred in the copy filed by the State Supreme Court an appear in the Register pursuant to the requirements of RCW 34.08.040..

WSR 99-13-091
RULES OF COURT
STATE SUPREME COURT
[June 8, 1999]

IN THE MATTER OF THE ADOPTION)
OF NEW APR 16 (PUBLISHED FOR)
COMMENT AS APR 18))

The Washington State Bar Association having recommended the adoption of new rule APR 16 (published for comment as APR 18), and the Court having considered the rule and comments submitted thereto, and having determined that the proposed new rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby ORDERED:

- (a) That the rule as attached hereto is adopted.
- (b) That the new rule will be published in the Washington Reports and will become effective September 1, 1999.

DATED at Olympia, Washington this 8th day of June, 1999.

MISC.

	Richard P. Guy
B. Durham	Smith, J.
Johnson, J.	Talmadge, J.
Madsen, J.	Ireland, J.

New APR 16
(Published for Comment as APR 18)

(a) **Policy.** It is the policy of the Supreme Court to encourage through a conciliatory process the informal and prompt resolution of disputes between lawyers and their clients, disputes between lawyers and other lawyers, and other disputes, including disputes between lawyers and other professionals regarding expert witness fees.

(b) **Mediation Program.** The Washington State Bar Association is authorized to maintain and administer a Mediation Program for the resolution of disputes voluntarily submitted by the parties, or referred by the Office of Disciplinary Counsel, when mediation appears appropriate, and to be governed by such guidelines as may be adopted by the Bar Association's Board of Governors and approved by the Supreme Court.

(c) **Confidentiality.** Mediation under this rule shall be confidential, and communications made or materials submitted in, or in connection with, the mediation proceeding will be privileged and confidential as provided by RCW 5.60.070, provided that no party to the mediation will be precluded from filing or pursuing a grievance under the Rules for Lawyer Discipline.

(d) **Selection and Appointment of Mediators.** Mediators may be agreed upon by the parties or shall be assigned from a list approved by the Board of Governors and maintained by the Bar Association of both lawyers and non-lawyers with the appropriate training and experience to serve effectively in a facilitative role. Lawyers assigned as mediators shall be active members of the Bar Association for at least 7 years.

(e) **Exoneration From Liability.**

(1) *Bar Association and Its Agents.* No cause of action shall accrue in favor of any person, arising from any action or proceeding pursuant to these rules, against the Bar Association, or its officers or agents (including but not limited to its staff, members of the Board of Governors, mediators, or any other individual acting under authority of these rules) provided only that the Bar Association, officer or agent shall have acted in good faith. The burden or proving bad faith in this context shall be upon the person asserting it. The Bar Association shall provide defense to any action brought against an officer or agent of the Bar Association for actions taken in good faith under these rules and shall bear the costs of that defense and shall indemnify the officer or agent against any judgment taken therein.

(2) *Parties and Witnesses.* Communications to the Bar Association, Board of Governors, mediator, mediation staff, or any other individual acting under authority of these rules, are absolutely privileged, and no lawsuit predicated thereon may be instituted against any party to a mediation, witness or other person providing information.

Purpose

In 1994, the Joint Task Force on Lawyer Discipline appointed by the Washington Supreme Court and the Washington State Bar Association recommended that a program and office of mediation be established to resolve disputes voluntarily submitted by the parties or referred by the Office of Disciplinary Counsel. It would provide for an informal and prompt resolution of disputes between lawyers and their clients, disputes between lawyers and other lawyers, and other disputes including disputes between lawyers and other professionals regarding expert witness fees.

This program was developed in conjunction with the Mediation Committee of the Alternate Dispute Resolution Section of the WSBA. It is designed to resolve disputes voluntarily submitted to it, and to provide means for resolution of disciplinary disputes involving less serious misconduct when a diversion program is developed as recommended by the Joint Task Force of Lawyer Discipline.

This proposed amendment provides for limited immunity based on the provision in Rules for Lawyer Discipline 12.11 applicable to disciplinary proceedings. Like that rule, this proposed amendment only extends immunity to those actions of Bar Association officials in the good faith performance of their official duties. As with RLD 12.11, it places the burden or proving bad faith on the person asserting bad faith. The immunity provided for parties providing information follows a similar provision in RLD 12.11.

WSR 99-13-100
DEPARTMENT OF ECOLOGY
[Filed June 15, 1999, 12:46 p.m.]

NOTICE OF ADOPTION

The Department of Ecology's Spill Prevention, Preparedness, and Response (Spills) Program has adopted the 1998-1999 Accepted Industry Standards for Cargo and Passenger Vessel Inspections (AIS) published in the Washington State Register on February 17, 1999, (page 115, WSR 99-04-115) with one amendment. Ecology accepted public comments on the Cargo and Passenger Vessel AIS until April 16, 1999. Three letters commenting on the AIS were received, two from the same cruise ship owner/operator and one from a passenger and car ferry owner/operator.

As a result of the comments from the passenger and car ferry owner/operator, the AIS for Work Hours/Fatigue has been expanded to include all of the provisions in the standards for training, certification, and watchkeeping for seafarers international convention. The additional provisions address crew rest requirements in case of an emergency or drill or other overriding operational condition.

MISC.

As a result of all the comments received, the inspection checklist used by ecology vessel inspectors has been modified to indicate those AIS that are not applicable to a particular type or class of vessel.

Copies of all comments received and ecology's responses to those comments are posted on the Spills Program web page located at: <http://www.wa.gov/ecology/spills/spills.html>.

Copies of the Cargo and Passenger Vessel Accepted Industry Standards and the Cargo and Passenger Vessel Inspection Checklist are available from: Mr. Stan Norman, Prevention Section Manager, Spills Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7465, e-mail snor461@ecy.wa.gov, fax (360) 407-6042/7288.

WSR 99-13-122
AGENDA
HUMAN RIGHTS COMMISSION

[Filed June 16, 1999, 8:14 a.m.]

RULE-MAKING AGENDA
(RCW 34.05.314)

JULY 31, 1999 - JANUARY 31ST 2000

WAC	SUBJECT	MAIN PURPOSE	TIMETABLE
162-04	General provisions	To clarify the definition of disability under the Law Against Discrimination (chapter 49.60 RCW).	Initial development and drafting in the summer and fall of 1999.
162-12	Preemployment inquiries	To adopt improvements to current rules under EO 97-02.	CR 102: 8/99, Public Hearing: 10/99, Commissioner Action: 12/99.
162-18	Corrective employment	To adopt improvements to current rules under EO 97-02.	CR 102: 8/99, Public Hearing: 10/99, Commissioner Action: 12/99.
162-20	Age Discrimination in public employment	To adopt improvements to current rules under EO 97-02.	CR 102: 8/99, Public Hearing: 10/99, Commissioner Action: 12/99.
162-22	Employment—Disability Discrimination	To clarify the definition of disability under chapter 49.60 RCW.	Initial development and drafting in the summer and fall of 1999.
162-26	Public accommodations—Disability discrimination	To clarify the definition of disability under chapter 49.60 RCW and the effects of <i>Fell v. S.T.A.</i>	Initial development and drafting in the summer and fall of 1999.
162-28	Public education	To adopt improvements to current rules under EO 97-02.	CR 102: 8/99, Public Hearing: 10/99, Commissioner Action: 12/99.
162-30	Sex discrimination	To clarify the definition of pregnancy and pregnancy related conditions for purposes of chapter 49.60 RCW.	Initial development and drafting in the summer of 1999. Possible direction from the commissioner in fall/winter 1999 on whether to pursue rule making.
162-38	Real estate transactions—Disability discrimination	To clarify the definition of disability under chapter 49.60 RCW and explore further guidance on permissible inquiries of persons with disabilities.	Initial development and drafting in the summer and fall of 1999.
162-40	Credit transactions	To adopt improvements to current rules under EO 97-02.	CR 102: 8/99, Public Hearing: 10/99, Commissioner Action: 12/99.

For further information, please contact Martin D. Casey, Legislative and Policy Coordinator, P.O. Box 42490, Olympia, WA 98504-2490, phone (360) 586-5765, fax (360) 586-2282.

MISC.

WSR 99-13-123
AGENDA
DEPARTMENT OF TRANSPORTATION

[Filed June 16, 1999, 9:03 a.m.]

Department of Transportation
Semi-Annual Rule Agenda
July 1, 1999 - December 31, 1999

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approx. CR-101 Filing Date
468-30	Procedure for transfer of abandoned state highways to counties	070	The responsibility for provision of notification of proposed transfers becomes that of the region administrator rather than the state aid engineer.	Jim Ward 705-7320	10/99
468-30	Procedure for transfer of abandoned state highways to cities and towns	075	The region will initiate this sending of the notification letter. Other changes are in title of positions, etc. and are housekeeping in nature.	Jim Ward 705-7320	10/99
468-16	Prequalification of contractors	120, 130, 180	This chapter is promulgated to assure that contractors engaged in the improvement and construction of state highways possess the necessary qualifications.	Ken Walker 705-7017	12/1/99
468-66	Highway Advertising Control Act	050, 140	Implement provisions of chapter 276, Laws of 1999, plus housekeeping items.	Lloyd Ensley 705-7288	12/1/99
468-70	Motorist information signs	0020, 050, 070, 080	Implement provisions of chapters 201 and 213, Laws of 1999, plus housekeeping items.	Lloyd Ensley 705-7288	12/1/99
468-95	Traffic control devices	010	Add administrative order number and adoption date inadvertently deleted by Code Reviser's Office.	Lloyd Ensley 705-7288	12/1/99
468-300	State ferries and toll bridges	010, 020, 040, 220	Modification of Washington state ferries tariff and charter rates.	Ray Deardorf (206) 515-3491	12/15/99

WSR 99-13-128

NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE

(Beef Commission)

[Memorandum—June 16, 1999]

Due to circumstances beyond our control and the need to have a quorum, we have found it necessary to reschedule the June 24, 1999, board meeting. It has been rescheduled for Wednesday, June 30, 1999.

If there are questions, please contact (206) 444-2902.

Meeting Date/Location

Time

Wednesday, June 23, 1999

11:30 a.m.

Board Room, 325H

Pierce College at Fort Steilacoom

9401 Farwest Drive S.W.

Lakewood, WA

Action may be taken as necessary at the discretion of the board as a result of any item properly considered in executive or open session.

WSR 99-13-141

NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—June 16, 1999]

At the June 10, 1999, board of trustees meeting, the following schedule was approved by the trustees for the July-December, 1999 meeting dates. All meetings will begin at 5:30 p.m.

1999 Board Meeting Dates

Location

Wednesday, July 7, 1999

Mount Vernon Campus,
Board Room

Monday, September 13, 1999

Mount Vernon Campus,
Board Room

WSR 99-13-129

NOTICE OF PUBLIC MEETINGS

PIERCE COLLEGE

[Memorandum—June 15, 1999]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a **special board meeting**. The time and location are below. The meeting will begin with an open session to consider several action items, followed by a closed executive session to discuss personnel and budget matters.

MISC.

- Monday, October 11, 1999 Mount Vernon Campus, Board Room
- Monday, November 8, 1999 Mount Vernon Campus, Board Room
- Monday, December 13, 1999 Mount Vernon Campus, Board Room

WSR 99-13-143
NOTICE OF PUBLIC MEETINGS
PARKS AND RECREATION
COMMISSION

[Memorandum—June 17, 1999]

As required by RCW 42.30.075, Open Public Meetings Act, the State Parks and Recreation Commission submits for publication in the Washington State Register, revisions to the 1999 Schedule of Regular Meetings as originally published in WSR Issue 99-01.

The commission meeting originally scheduled for September 17, 1999, in Spokane, Washington has been rescheduled for Omak, Washington. The commission meeting originally scheduled for October 29, 1999, in Spokane, Washington has been rescheduled for Omak, Washington.

As revised, the Washington State Parks and Recreation Commission schedule of regular meetings remaining in 1999 is as follows:

Date	Location
July 23	Snoqualmie Pass
September 17	Omak
October 29	Spokane
December 10	Seattle

All commission meetings will begin at 9 a.m. A tour of nearby state parks or other recreation facilities may be held on the preceding or subsequent day of the meetings.

The locations of the meetings are yet to be determined and will be announced at the close of each regular meeting. The meeting locations may be obtained by writing to the Director, Washington State Parks and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650, or by calling (360) 902-8505.

WSR 99-13-147
NOTICE OF PUBLIC MEETINGS
LOTTERY COMMISSION

[Memorandum—June 18, 1999]

The September and November 1999 meetings of the Washington State Lottery Commission will be held as follows:

- September 17, 1999 SeaTac Airport, 10 a.m.
- November 19, 1999 City Center Double Tree, Spokane, Washington, 10 a.m.

WSR 99-13-154
NOTICE OF PUBLIC MEETINGS
WHATCOM COMMUNITY COLLEGE

[Memorandum—June 21, 1999]

You are hereby notified that the board of trustees of Whatcom Community College, District Number Twenty-One, has canceled its regularly scheduled meeting for July 13, 1999, at 2:00 p.m. in the Board Room at 237 West Kellogg Road, Bellingham, WA. The rescheduled meeting will be held on Wednesday, July 7, 1999, at 2:00 p.m., at Whatcom Community College, 237 West Kellogg Road, Bellingham, WA 98226.

WSR 99-13-155
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY

[Memorandum—June 21, 1999]

EASTERN WASHINGTON UNIVERSITY
 BOARD OF TRUSTEES
 June 25, 1999, 10:00 a.m.
 Cheney Campus
 Pence Union Building
 Room 263-65

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 the president's office, (509) 359-2371.

WSR 99-13-160
INSURANCE COMMISSIONER'S OFFICE

[Filed June 21, 1999, 3:20 p.m.]

T99 - 1

Technical Assistance Advisory

Attn: Health-Care Providers.
Subject: Application of RCW 48.43.115.

RCW 48.43.115, otherwise known as the Erin Act, does recognize the role of health-care providers as the appropriate authority to determine and establish the delivery of quality health-care services to maternity patients and their newly born children. RCW 48.43.115 (3)(a) through (e) allows for such decisions on delivery and quality of health-care services to be made by the attending provider, in consultation with the mother.

RCW 48.43.115 (3)(f) provides that when the mother's coverage under the plan has maternity benefits, the newborn will receive three weeks of coverage under the plan whether ultimately enrolled in the plan or not.

Some providers have taken the position that the three weeks of coverage for a newborn was contingent upon enrollment of the child in the plan and the purchase of coverage within sixty days of birth pursuant to RCW 48.44.212(2).

MISC.

While ultimate enrollment of the newborn for future care may be an option available to the mother, the initial three weeks of coverage of the newborn is automatic.

November 4, 1999 The Columbia Theatre
1231 Vandercook Way
Longview, WA 98632
9:00 a.m. - 5:00 p.m.

November 5, 1999 Columbia Arts Center
400 West Evergreen Boulevard
Vancouver, WA 98660
9:00 a.m. - 5:00 p.m.

If you have any questions, please call (360) 586-1266.

WSR 99-13-161

**NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY**

(Library Commission)

[Memorandum—June 21, 1999]

The Washington State Library Commission has scheduled a workshop and a joint meeting with the Library Council of Washington as noted below:

DATE: July 20, 1999
SUBJECT: Commission Workshop
TIME: 8:00 - Noon
LOCATION: Joel Pritchard Building
415 15th Avenue S.W.
Olympia, WA

DATE: July 20, 1999
SUBJECT: Joint Meeting with the Library Council
TIME: 1:00 - 5:00
LOCATION: John Cherberg Building
Conference Room B and C
Olympia, Washington

Future dates for commission meetings are as follows:
September 14, 10:00 - 12:00, John Cherberg Building.

November 2, commission workshop in the morning with joint meeting with Library Council in the afternoon. Location not determined.

December 7, 10:00 - 12:00, John Cherberg Building.

If you need further information, you can contact 753-2914.

WSR 99-13-169

**NOTICE OF PUBLIC MEETINGS
ARTS COMMISSION**

[Memorandum—June 21, 1999]

The following commission meeting dates are to be published for public information for the remainder of 1999:

August 12, 13, 1999 SIRTI
665 North Riverpoint Boulevard
Spokane, WA 99202-1665
9:00 a.m. - 5:00 p.m.

September 23, 1999 John A. Cherberg Building
Senate Hearing Room ABC
Olympia, Washington 98504
1:30 p.m. - 4:30 p.m.

WSR 99-13-171

ATTORNEY GENERAL'S OFFICE

[Filed June 22, 1999, 3:49 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 July 14, 1999. 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 July 14, 1999, 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) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, Washington 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**99-06-04 Request by Bradley Anderson
Skamania County Prosecuting Attorney**

If someone other than the Board of Freeholders of the County of Skamania can submit alternative proposals to the county Charter, please provide answers to the following questions: 1. How would these alternative proposals be submitted, and what deadline for submitting the alternatives should be proposed? 2. If alternatives are permitted, how should the ballot be formatted? 3. How should the votes be tallied?

MISC.

WSR 99-13-172
INTERPRETIVE STATEMENT
DEPARTMENT OF ECOLOGY
 [Filed June 22, 1999, 4:46 p.m.]

INTERPRETIVE STATEMENT FILING TO
 WASHINGTON STATE CODE REVISER

Purpose: In order to comply with RCW 34.05.230(4) of the Administrative Procedure Act, the Department of Ecology submits the following: DRAFT guidance for public comment to assist local governments in the development and implementation of local solid waste management plans.

Document Title: Guidelines for the Development of Local Solid Waste Management Plans and Plan Revisions.

Subject: Local solid waste planning guidance.

Document Description: These guidelines have been developed to assist local governments develop and revise

comprehensive solid waste management plans. Ecology believes that using these guidelines will result in improved plan quality and expedite ecology's review of draft plans.

Effective Date: The comment period will end August 9, 1999. The final document will be published by September 1, 1999.

To receive a copy of the interpretive statement contact Randy Martin, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6136, fax (360) 407-7157, e-mail rama461@ecy.wa.gov.

Responsible Official:
 Cullen D. Stephenson
 Program Manager
 Solid Waste and Financial
 Assistance Program
 June 15, 1999

WSR 99-13-189
AGENDA
OFFICE OF
ADMINISTRATIVE HEARINGS

[Filed June 23, 1999, 9:56 a.m.]

Office of Administrative Hearings
Semi-Annual Rule Development Agenda
(January 1, 1999 - July 1, 1999)

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapter 10-04 WAC	Agency Organization - Public Records	Art Wang, 664-8717	CR-101: 7/7/99 CR-102: 9/1/99 Hearing: 9/21/99 CR-103: 10/6/99 Effective: 11/6/99	To update rules to access OAH public records.
Chapter 10-08 WAC	Model Rules of Procedure	Art Wang, 664-8717	CR-101: 7/7/99 CR-102: 9/1/99 Hearing: 9/21/99 CR-103: 10/6/99 Effective: 11/6/99	To update model procedural rules for other agency's hearings.
Chapter 10-12 WAC	Compliance with SEPA	Art Wang, 664-8717	CR-101: 7/7/99 CR-102: 9/1/99 Hearing: 9/21/99 CR-103: 10/6/99 Effective: 11/6/99	Clerical revisions to OAH rules on SEPA.
New Chapter	Complaints About Administrative Law Judges	Art Wang, 664-8717	CR-101: 7/7/99 CR-102: 9/1/99 Hearing: 9/21/99 CR-103: 10/6/99 Effective: 11/6/99	To publish procedures for making complaints about the conduct of administrative law judges.

MISC.

WSR 99-13-193
DEPARTMENT OF ECOLOGY

[Filed June 23, 1999, 10:12 a.m.]

**Announcement of Issuance of General Permit
 for Sand and Gravel Mining and Related Activities**

Introduction: On June 25, 1999, ecology reissued a wastewater discharge general permit for sand and gravel mining operations and related facilities located in Washington state. This permit will take effect on August 6, 1999. The proposed permit implements the Federal Clean Water Act and State Water Pollution Control Act. The purpose of the permit is to control the discharge of pollutants from sand and gravel mining operations and related facilities into waters of the state.

Those facilities with activities designated by the following standard industrial classification (SIC) codes are subject to coverage under the sand and gravel general permit:

- 0811 Timber Tracts (sand and gravel point source activities)
- 1411 Dimension Stone
- 1422 Crushed and Broken Limestone
- 1423 Crushed and Broken Granite
- 1429 Crushed and Broken Stone, Not Elsewhere Classified
- 1442 Construction Sand and Gravel
- 1446 Industrial Sand
- 1455 Kaolin and Ball Clay
- 1459 Clay, Ceramic, and Refractory Minerals, Not Otherwise Classified
- 1499 Miscellaneous Nonmetallic Minerals, Except Fuels
- 2411 Logging (sand and gravel point source activities)
- 2951 Asphalt Paving Mixtures and Blocks
- 3273 Ready-Mixed Concrete

Summary of Public Involvement Process: Notice of the proposed permit was published in the state register, printed in four newspapers of general circulation around the state on May 5, 1999, mailed to more than 1,300 interested parties, and posted on the Internet. Notice included an invitation to provide public comment on the proposed permit. Public workshops and hearings on the proposed permit were held at ecology's Spokane office on June 7, 1999; ecology's Yakima office on June 8, 1999; ecology's Bellevue office on June 11, 1999; and ecology's Lacey office on June 14, 1999. The public comment period closed June 15, 1999. Minor revisions were made to the permit as a result of the comments received during the formal public comment period. The revisions included the addition of definitions for turbidity and for total dissolved solids, updating the table of contents, and some minor changes to improve clarity of permit language. A summary of the comments and ecology's response is available upon request (see contact list below).

Permit Coverage: Those facilities that have coverage under the current permit, and have submitted their application for coverage as required under the permit, will continue to have coverage under the revised permit unless otherwise notified by ecology. Nonpermitted facilities seeking permit

coverage should request an application for coverage from the ecology regional office serving their site location. Businesses seeking coverage for portable asphalt, portable concrete, and portable rock crushing operations should contact the ecology regional office serving the location of their business office and request an application for coverage of portables.

Anyone with knowledge of why a specific facility should or should not receive coverage under this general permit may also contact the ecology regional office appropriate for the location of the facility.

Appeal Procedures: Pursuant to RCW 43.21B.310 the terms and conditions of the permit may be appealed on or before August 5, 1999. An appeal must be filed with the Pollution Control Hearings Board, P.O. Box 40903, Olympia, WA 98504-0903. In addition, a copy of this appeal must be served on the Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600. The procedures and requirements for the appeal process are contained in RCW 43.21B.310. The terms and conditions of a general permit, as they apply to an individual discharger, can be appealed within thirty days of the effective date of coverage for that discharger, in accordance with chapter 43.21B RCW. This appeal is limited to the general permit's applicability or non-applicability to a specific discharger.

Apply for Coverage or Obtain Additional Information:

Keith Johnson

Water Quality Program
 Washington State Department of Ecology
 P.O. Box 47600
 Olympia, WA 98504-7600
 phone (360) 407-6442
 fax (360) 407-6426
 e-mail KJOH461@ecy.wa.gov

Southwest Regional Office

Water Quality Program
 P.O. Box 47775
 Olympia, WA 98504-7775
 phone (360) 407-6280

Central Regional Office

Water Quality Program
 15 West Yakima Avenue, Suite 200
 Yakima, WA 98902-3401
 phone (509) 454-7869

Northwest Regional Office

Water Quality Program
 3190 160th Avenue S.E.
 Bellevue, WA 98008-5452
 phone (425) 649-7201

Eastern Regional Office

Water Quality Program
 North 4601 Monroe, Suite 202
 Spokane, WA 99205-1295
 phone (509) 456-6310

Ecology is an equal opportunity agency. If you have special accommodation needs, please call Keith Johnson at (360) 407-6442 (voice) or (360) [(360)] 407-6006 (TDD).

MISC.

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
- OBJECT = 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 of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

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4- 25-530	PREP	99-05-025	16- 05-045	REP	99-08-039	16- 20-110	REP-XR	99-12-122
4- 25-530	AMD-P	99-13-061	16- 10	PREP	99-11-056	16- 20-120	REP-XR	99-12-122
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4- 25-750	PREP	99-05-026	16- 19-020	NEW-P	99-07-116	16- 21-020	REP-XR	99-12-122
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4- 25-811	REP-P	99-13-077	16- 19-130	NEW-P	99-07-116	16- 21-070	REP-XR	99-12-122
4- 25-812	REP-P	99-13-077	16- 19-130	NEW	99-12-021	16- 21-075	REP-XR	99-12-122
4- 25-813	REP-P	99-13-078	16- 19-140	NEW-P	99-07-116	16- 21-080	REP-XR	99-12-122
4- 25-830	NEW-P	99-13-071	16- 19-140	NEW	99-12-021	16- 21-085	REP-XR	99-12-122
4- 25-831	NEW-P	99-13-072	16- 19-200	NEW-P	99-07-116	16- 21-090	REP-XR	99-12-122
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16- 05-040	AMD	99-08-039	16- 20-090	REP-XR	99-12-122	16- 22-001	REP-XR	99-12-122

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16-22-080	REP-XR	99-12-122	16-59-030	AMD	99-09-024	16-89-120	NEW	99-09-026
16-22-090	REP-XR	99-12-122	16-59-060	AMD-P	99-03-085	16-101-690	REP-XR	99-13-176
16-23-010	REP-XR	99-12-122	16-59-060	AMD	99-09-024	16-108	PREP	99-03-045
16-23-012	REP-XR	99-12-122	16-59-070	REP-P	99-03-085	16-108-010	AMD-P	99-07-118
16-23-014	REP-XR	99-12-122	16-59-070	REP	99-09-024	16-108-010	AMD	99-12-076
16-23-020	REP-XR	99-12-122	16-86	AMD-P	99-03-087	16-124-001	REP-XR	99-13-175
16-23-025	REP-XR	99-12-122	16-86-005	AMD-P	99-03-087	16-124-010	REP-XR	99-13-175
16-23-030	REP-XR	99-12-122	16-86-005	AMD	99-09-025	16-124-020	REP-XR	99-13-175
16-23-035	REP-XR	99-12-122	16-86-015	AMD-P	99-03-087	16-124-030	REP-XR	99-13-175
16-23-040	REP-XR	99-12-122	16-86-015	AMD	99-09-025	16-124-040	REP-XR	99-13-175
16-23-045	REP-XR	99-12-122	16-86-017	AMD-P	99-03-087	16-124-050	REP-XR	99-13-175
16-23-050	REP-XR	99-12-122	16-86-017	AMD	99-09-025	16-124-060	REP-XR	99-13-175
16-23-060	REP-XR	99-12-122	16-86-020	AMD-P	99-03-087	16-124-070	REP-XR	99-13-175
16-23-070	REP-XR	99-12-122	16-86-020	AMD	99-09-025	16-124-080	REP-XR	99-13-175
16-23-075	REP-XR	99-12-122	16-86-030	AMD-P	99-03-087	16-124-090	REP-XR	99-13-175
16-23-085	REP-XR	99-12-122	16-86-030	AMD	99-09-025	16-124-100	REP-XR	99-13-175
16-23-090	REP-XR	99-12-122	16-86-040	AMD-P	99-03-087	16-124-110	REP-XR	99-13-175
16-23-095	REP-XR	99-12-122	16-86-040	AMD	99-09-025	16-124-120	REP-XR	99-13-175
16-23-100	REP-XR	99-12-122	16-86-055	AMD-P	99-03-087	16-124-130	REP-XR	99-13-175
16-23-105	REP-XR	99-12-122	16-86-055	AMD	99-09-025	16-124-140	REP-XR	99-13-175
16-23-110	REP-XR	99-12-122	16-86-060	AMD-P	99-03-087	16-124-150	REP-XR	99-13-175
16-23-115	REP-XR	99-12-122	16-86-060	AMD	99-09-025	16-124-160	REP-XR	99-13-175
16-23-120	REP-XR	99-12-122	16-86-070	AMD-P	99-03-087	16-124-170	REP-XR	99-13-175
16-23-125	REP-XR	99-12-122	16-86-070	AMD	99-09-025	16-124-180	REP-XR	99-13-175
16-23-150	REP-XR	99-12-122	16-86-080	AMD-P	99-03-087	16-124-190	REP-XR	99-13-175
16-23-160	REP-XR	99-12-122	16-86-080	AMD	99-09-025	16-125	PREP	99-04-066
16-23-165	REP-XR	99-12-122	16-86-090	AMD-P	99-03-087	16-129-050	PREP	99-13-177
16-23-170	REP-XR	99-12-122	16-86-090	AMD	99-09-025	16-142	PREP	99-04-067
16-23-175	REP-XR	99-12-122	16-86-092	AMD-P	99-03-087	16-142-001	REP-P	99-09-095
16-23-180	REP-XR	99-12-122	16-86-092	AMD	99-09-025	16-142-001	REP	99-13-048
16-24	PREP	99-13-180	16-86-093	REP-P	99-03-087	16-142-010	REP-P	99-09-095
16-30	AMD-XA	99-07-115	16-86-093	REP	99-09-025	16-142-010	REP	99-13-048
16-30-001	REP-XA	99-07-115	16-86-095	AMD-P	99-03-087	16-142-020	REP-P	99-09-095
16-30-010	AMD-XA	99-07-115	16-86-095	AMD	99-09-025	16-142-020	REP	99-13-048
16-30-100	REP-XA	99-07-115	16-86-100	REP-P	99-03-087	16-142-030	REP-P	99-09-095
16-54-010	AMD-P	99-03-084	16-86-100	REP	99-09-025	16-142-030	REP	99-13-048
16-54-010	AMD	99-09-023	16-88-010	REP-XR	99-07-114	16-142-040	REP-P	99-09-095
16-54-016	AMD-P	99-03-084	16-88-020	REP-XR	99-07-114	16-142-040	REP	99-13-048
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16-54-018	NEW	99-09-023	16-88-040	REP-XR	99-07-114	16-142-050	REP	99-13-048
16-54-020	AMD-P	99-03-084	16-89-005	NEW-P	99-03-086	16-142-060	REP-P	99-09-095
16-54-020	AMD	99-09-023	16-89-005	NEW	99-09-026	16-142-060	REP	99-13-048
16-54-030	AMD-P	99-03-084	16-89-010	NEW-P	99-03-086	16-142-100	NEW-P	99-09-095
16-54-030	AMD	99-09-023	16-89-010	NEW	99-09-026	16-142-100	NEW	99-13-048
16-54-040	AMD-P	99-03-084	16-89-015	NEW-P	99-03-086	16-142-110	NEW-P	99-09-095
16-54-040	AMD	99-09-023	16-89-015	NEW	99-09-026	16-142-110	NEW	99-13-048
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16-54-071	AMD	99-09-023	16-89-020	NEW	99-09-026	16-142-120	NEW	99-13-048
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16-54-082	AMD	99-09-023	16-89-030	NEW	99-09-026	16-142-130	NEW	99-13-048
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16-54-101	AMD	99-09-023	16-89-040	NEW	99-09-026	16-142-140	NEW	99-13-048
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16-54-120	AMD	99-09-023	16-89-050	NEW	99-09-026	16-142-150	NEW	99-13-048
16-54-135	AMD-P	99-03-084	16-89-060	NEW-P	99-03-086	16-142-160	NEW-P	99-09-095
16-54-135	AMD	99-09-023	16-89-060	NEW	99-09-026	16-142-160	NEW	99-13-048
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16-146	PREP	99-13-182	16-228-340	REP-XR	99-04-007	16-231-900	PREP	99-13-162
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16-160-035	NEW-P	99-13-195	16-230-180	PREP	99-13-163	16-231-925	PREP	99-13-162
16-160-040	AMD-P	99-13-195	16-230-190	PREP	99-13-163	16-231-930	PREP	99-13-162
16-160-060	AMD-P	99-13-195	16-230-400	PREP	99-13-162	16-231-935	PREP	99-13-162
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16-160-110	NEW-P	99-13-195	16-230-440	PREP	99-13-162	16-232-015	PREP	99-13-162
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16-165-100	NEW	99-13-001	16-230-460	PREP	99-13-162	16-232-025	PREP	99-13-162
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16-165-160	NEW	99-13-001	16-231-310	PREP	99-13-162	16-232-210	PREP	99-13-162
16-167-010	AMD-P	99-07-117	16-231-315	PREP	99-13-162	16-232-215	PREP	99-13-162
16-167-010	AMD	99-12-020	16-231-320	PREP	99-13-162	16-232-220	PREP	99-13-162
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16-167-040	AMD-P	99-07-117	16-231-400	PREP	99-13-162	16-232-315	PREP	99-13-162
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16-200-755	AMD-P	99-13-164	16-231-530	PREP	99-13-162	16-401-020	AMD-P	99-07-126
16-200-760	AMD-P	99-13-164	16-231-600	PREP	99-13-162	16-401-020	AMD	99-12-034
16-200-790	AMD-P	99-13-164	16-231-605	PREP	99-13-162	16-401-021	NEW-P	99-07-126
16-200-795	AMD-P	99-13-164	16-231-610	PREP	99-13-162	16-401-021	NEW	99-12-034
16-200-815	AMD-P	99-13-164	16-231-613	PREP	99-13-162	16-401-023	AMD-P	99-07-126
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16-212-030	AMD-P	99-11-095	16-231-705	PREP	99-13-162	16-401-026	NEW-P	99-07-126
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16-212-070	AMD-P	99-11-095	16-231-715	PREP	99-13-162	16-401-030	AMD-P	99-07-126
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16-219-016	PREP	99-07-086	16-231-810	PREP	99-13-162	16-401-040	AMD-P	99-07-126
16-219-100	PREP	99-07-111	16-231-815	PREP	99-13-162	16-401-040	AMD	99-12-034
16-219-105	PREP	99-07-111	16-231-820	PREP	99-13-162	16-401-041	NEW-P	99-07-126
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16-403-141	AMD-P	99-11-096	16-470-900	AMD-P	99-07-125	16-752-145	REP	99-11-087
16-406-001	PREP	99-04-094	16-470-900	AMD	99-12-035	16-752-146	REP-XR	99-07-124
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16-406-020	AMD-P	99-08-108	16-470-905	AMD-P	99-07-125	16-752-147	REP-XR	99-07-124
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16-412-030	REP-XR	99-08-112	16-470-915	AMD-P	99-07-125	16-752-165	REP-XR	99-07-124
16-412-040	REP-XR	99-08-112	16-470-915	AMD	99-12-035	16-752-165	REP	99-11-087
16-412-050	REP-XR	99-08-112	16-470-916	NEW-P	99-07-125	16-752-170	REP-XR	99-07-124
16-412-060	REP-XR	99-08-112	16-470-916	NEW	99-12-035	16-752-170	REP	99-11-087
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16-424-020	REP-XR	99-08-112	16-470-920	AMD-P	99-07-125	25-12-020	REP-P	99-03-098
16-424-030	REP-XR	99-08-112	16-470-920	AMD	99-12-035	25-12-030	REP-P	99-03-098
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16-448	PREP	99-08-110	16-470-921	NEW	99-12-035	25-12-050	REP-P	99-03-098
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16-451-020	REP-XR	99-08-112	16-483	PREP	99-03-091	25-12-070	REP-P	99-03-098
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16-451-040	REP-XR	99-08-112	16-532-020	AMD	99-10-095	25-12-120	NEW-P	99-03-098
16-451-050	REP-XR	99-08-112	16-545-010	NEW	99-02-064	25-12-130	NEW-P	99-03-098
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16-451-070	REP-XR	99-08-112	16-545-020	NEW	99-02-064	25-12-150	NEW-P	99-03-098
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16-458-085	AMD-XA	99-08-113	16-545-080	NEW	99-02-064	36-12-364	NEW-P	99-13-127
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16-460-040	REP-XR	99-08-112	16-561-010	AMD-C	99-12-013	50-16-020	REP	99-08-123
16-460-080	REP-XR	99-08-112	16-561-010	AMD-W	99-13-142	50-16-025	REP-XR	99-04-073
16-460-100	REP-XR	99-08-112	16-561-130	NEW-P	99-07-108	50-16-025	REP	99-08-123
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16-461-010	AMD-P	99-11-096	16-561-130	NEW-C	99-12-013	50-16-030	REP	99-08-123
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16-462	AMD-XA	99-07-127	16-575-015	NEW-P	99-06-070	50-16-035	REP	99-08-123
16-462-010	AMD-XA	99-07-127	16-575-015	NEW	99-12-104	50-16-040	REP-XR	99-04-073
16-462-010	AMD	99-12-025	16-604-010	REP	99-04-069	50-16-040	REP	99-08-123
16-462-015	AMD-XA	99-07-127	16-645-005	NEW-P	99-02-066	50-16-045	REP-XR	99-04-073
16-462-015	AMD	99-12-025	16-645-005	NEW	99-06-072	50-16-045	REP	99-08-123
16-462-020	AMD-XA	99-07-127	16-645-010	NEW-P	99-02-066	50-16-050	REP-XR	99-04-073
16-462-020	AMD	99-12-025	16-662-105	NEW	99-06-072	50-16-050	REP	99-08-123
16-462-021	NEW-XA	99-07-127	16-662-105	AMD-P	99-04-111	50-16-055	REP-XR	99-04-073
16-462-021	NEW	99-12-025	16-662-105	AMD	99-07-056	50-16-055	REP	99-08-123
16-462-022	NEW-XA	99-07-127	16-662-110	AMD-P	99-04-111	50-16-060	REP-XR	99-04-073
16-462-022	NEW	99-12-025	16-662-110	AMD	99-07-056	50-16-060	REP	99-08-123
16-462-025	AMD-XA	99-07-127	16-720	PREP	99-13-178	50-16-065	REP-XR	99-04-073
16-462-025	AMD	99-12-025	16-750	PREP	99-13-039	50-16-065	REP	99-08-123
16-462-030	AMD-XA	99-07-127	16-752	PREP	99-07-123	50-16-070	REP-XR	99-04-073
16-462-030	AMD	99-12-025	16-752-115	REP-XR	99-07-124	50-16-070	REP	99-08-123
16-462-035	AMD-XA	99-07-127	16-752-115	REP	99-11-087	50-16-075	REP-XR	99-04-073
16-462-035	AMD	99-12-025	16-752-120	REP-XR	99-07-124	50-16-075	REP	99-08-123
16-462-045	REP-XA	99-07-127	16-752-120	REP	99-11-087	50-16-080	REP-XR	99-04-073
16-462-045	REP	99-12-025	16-752-125	REP-XR	99-07-124	50-16-080	REP	99-08-123
16-462-050	AMD-XA	99-07-127	16-752-125	REP	99-11-087	50-16-085	REP-XR	99-04-073
16-462-050	AMD	99-12-025	16-752-130	REP-XR	99-07-124	50-16-085	REP	99-08-123
16-462-055	AMD-XA	99-07-127	16-752-130	REP	99-11-087	50-16-090	REP-XR	99-04-073
16-462-055	AMD	99-12-025	16-752-135	REP-XR	99-07-124	50-16-090	REP	99-08-123
16-462-060	REP-XA	99-07-127	16-752-135	REP	99-11-087	50-16-095	REP-XR	99-04-073
16-462-060	REP	99-12-025	16-752-140	REP-XR	99-07-124	50-16-095	REP	99-08-123

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50- 16-100	REP-XR	99-04-073	132A-130-020	NEW-P	99-10-100	132H-168-080	REP	99-10-045
50- 16-100	REP	99-08-123	132A-130-030	NEW-P	99-10-100	132H-168-090	REP-P	99-05-018
50- 16-105	REP-XR	99-04-073	132A-131-010	NEW-P	99-10-100	132H-168-090	REP	99-10-045
50- 16-105	REP	99-08-123	132A-131-020	NEW-P	99-10-100	132H-168-990	REP-P	99-05-018
50- 44-037	NEW-P	99-07-131	132A-133-020	NEW-P	99-10-100	132H-168-990	REP	99-10-045
50- 44-037	NEW	99-10-024	132A-140-001	NEW-P	99-10-100	132H-168-9901	REP-P	99-05-018
50- 44-039	NEW-P	99-07-131	132A-140-006	NEW-P	99-10-100	132H-168-9901	REP	99-10-045
50- 44-039	NEW	99-10-024	132A-140-011	NEW-P	99-10-100	132H-168-9902	REP-P	99-05-018
51- 40-23110	REP-E	99-05-030	132A-140-016	NEW-P	99-10-100	132H-168-9902	REP	99-10-045
67- 55-040	AMD	99-05-005	132A-140-021	NEW-P	99-10-100	132H-168-9903	REP-P	99-05-018
67- 55-060	AMD	99-05-005	132A-140-026	NEW-P	99-10-100	132H-168-9903	REP	99-10-045
67- 75-010	AMD	99-05-005	132A-140-030	NEW-P	99-10-100	132H-169-010	NEW-P	99-05-018
67- 75-020	AMD	99-05-005	132A-150-010	NEW-P	99-10-100	132H-169-010	NEW	99-10-045
67- 75-030	AMD	99-05-005	132A-150-020	NEW-P	99-10-100	132H-169-020	NEW-P	99-05-018
67- 75-040	AMD	99-05-005	132A-156-006	NEW-P	99-10-100	132H-169-020	NEW	99-10-045
67- 75-042	AMD	99-05-005	132A-156-011	NEW-P	99-10-100	132H-169-030	NEW-P	99-05-018
67- 75-044	AMD	99-05-005	132A-156-016	NEW-P	99-10-100	132H-169-030	NEW	99-10-045
67- 75-050	AMD	99-05-005	132A-160-006	NEW-P	99-10-100	132H-169-040	NEW-P	99-05-018
82- 50-021	AMD-XA	99-07-128	132A-168-006	NEW-P	99-10-100	132H-169-040	NEW	99-10-045
82- 50-021	AMD	99-12-081	132A-168-011	NEW-P	99-10-100	132H-169-050	NEW-P	99-05-018
98- 70-010	PREP	99-10-017	132A-168-016	NEW-P	99-10-100	132H-169-050	NEW	99-10-045
98- 70-010	AMD-P	99-13-137	132A-168-021	NEW-P	99-10-100	132H-169-060	NEW-P	99-05-018
130- 16	PREP	99-08-060	132A-168-026	NEW-P	99-10-100	132H-169-060	NEW	99-10-045
131- 16-021	PREP	99-09-017	132A-176-006	NEW-P	99-10-100	132H-169-070	NEW-P	99-05-018
131- 16-021	AMD-P	99-13-043	132A-276-031	NEW-P	99-10-100	132H-169-070	NEW	99-10-045
131- 16-021	AMD-E	99-13-186	132A-276-045	AMD-P	99-10-100	132H-169-080	NEW-P	99-05-018
131- 16-450	PREP	99-04-029	132A-280-006	NEW-P	99-10-100	132H-169-080	NEW	99-10-045
131- 16-450	AMD-E	99-07-057	132A-280-011	NEW-P	99-10-100	132H-169-090	NEW-P	99-05-018
131- 16-450	AMD-P	99-08-013	132A-280-016	NEW-P	99-10-100	132H-169-090	NEW	99-10-045
131- 16-450	AMD	99-13-013	132A-280-021	NEW-P	99-10-100	132H-169-100	NEW-P	99-05-018
131- 28	PREP	99-10-015	132A-280-026	NEW-P	99-10-100	132H-169-100	NEW	99-10-045
131- 46	PREP	99-08-057	132A-280-031	NEW-P	99-10-100	132H-169-110	NEW-P	99-05-018
132A	PREP	99-07-060	132A-280-035	NEW-P	99-10-100	132H-169-110	NEW	99-10-045
132A-104-011	NEW-P	99-10-100	132A-280-040	NEW-P	99-10-100	132H-169-120	NEW-P	99-05-018
132A-104-016	NEW-P	99-10-100	132A-280-045	NEW-P	99-10-100	132H-169-120	NEW	99-10-045
132A-104-021	NEW-P	99-10-100	132A-280-050	NEW-P	99-10-100	132H-169-130	NEW-P	99-05-018
132A-108-010	NEW-P	99-10-100	132A-280-055	NEW-P	99-10-100	132H-169-130	NEW	99-10-045
132A-108-020	NEW-P	99-10-100	132A-280-060	NEW-P	99-10-100	132K- 16	PREP	99-04-028
132A-108-030	NEW-P	99-10-100	132A-280-065	NEW-P	99-10-100	132K- 16-010	REP-P	99-07-109
132A-108-040	NEW-P	99-10-100	132A-280-070	NEW-P	99-10-100	132K- 16-010	REP	99-10-046
132A-108-050	NEW-P	99-10-100	132A-280-075	NEW-P	99-10-100	132K- 16-020	REP-P	99-07-109
132A-108-060	NEW-P	99-10-100	132A-280-080	NEW-P	99-10-100	132K- 16-020	REP	99-10-046
132A-108-070	NEW-P	99-10-100	132A-280-085	NEW-P	99-10-100	132K- 16-030	REP-P	99-07-109
132A-108-080	NEW-P	99-10-100	132A-320-010	NEW-P	99-10-100	132K- 16-030	REP	99-10-046
132A-108-090	NEW-P	99-10-100	132A-320-020	NEW-P	99-10-100	132K- 16-040	REP-P	99-07-109
132A-116-001	NEW-P	99-10-100	132A-320-030	NEW-P	99-10-100	132K- 16-040	REP	99-10-046
132A-116-006	NEW-P	99-10-100	132A-350-015	NEW-P	99-10-100	132K- 16-050	REP-P	99-07-109
132A-116-011	NEW-P	99-10-100	132A-350-020	NEW-P	99-10-100	132K- 16-050	REP	99-10-046
132A-116-016	NEW-P	99-10-100	132A-350-030	NEW-P	99-10-100	132K- 16-060	REP-P	99-07-109
132A-116-021	NEW-P	99-10-100	132A-350-040	NEW-P	99-10-100	132K- 16-060	REP	99-10-046
132A-116-026	NEW-P	99-10-100	132A-350-045	NEW-P	99-10-100	132K- 16-070	REP-P	99-07-109
132A-116-030	NEW-P	99-10-100	132A-350-050	NEW-P	99-10-100	132K- 16-070	REP	99-10-046
132A-120-006	NEW-P	99-10-100	132H-168-010	REP-P	99-05-018	132K- 16-110	REP-P	99-07-109
132A-120-011	NEW-P	99-10-100	132H-168-010	REP	99-10-045	132K- 16-110	REP	99-10-046
132A-120-016	NEW-P	99-10-100	132H-168-020	REP-P	99-05-018	132K- 16-120	REP-P	99-07-109
132A-120-021	NEW-P	99-10-100	132H-168-020	REP	99-10-045	132K- 16-120	REP	99-10-046
132A-120-026	NEW-P	99-10-100	132H-168-030	REP-P	99-05-018	132K- 16-130	REP-P	99-07-109
132A-120-031	NEW-P	99-10-100	132H-168-030	REP	99-10-045	132K- 16-130	REP	99-10-046
132A-120-036	NEW-P	99-10-100	132H-168-040	REP-P	99-05-018	132K- 16-140	REP-P	99-07-109
132A-120-041	NEW-P	99-10-100	132H-168-040	REP	99-10-045	132K- 16-140	REP	99-10-046
132A-120-046	NEW-P	99-10-100	132H-168-050	REP-P	99-05-018	132K- 16-150	REP-P	99-07-109
132A-120-051	NEW-P	99-10-100	132H-168-050	REP	99-10-045	132K- 16-150	REP	99-10-046
132A-120-056	NEW-P	99-10-100	132H-168-060	REP-P	99-05-018	132K- 16-160	REP-P	99-07-109
132A-120-061	NEW-P	99-10-100	132H-168-060	REP	99-10-045	132K- 16-160	REP	99-10-046
132A-122-011	NEW-P	99-10-100	132H-168-070	REP-P	99-05-018	132K- 16-170	REP-P	99-07-109
132A-122-021	NEW-P	99-10-100	132H-168-070	REP	99-10-045	132K- 16-170	REP	99-10-046
132A-130-010	NEW-P	99-10-100	132H-168-080	REP-P	99-05-018	132K- 16-180	REP-P	99-07-109

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132K-16-180	REP	99-10-046	132K-125-040	NEW-P	99-07-109	132K-125-370	NEW	99-10-046
132K-16-190	REP-P	99-07-109	132K-125-040	NEW	99-10-046	132K-125-380	NEW-P	99-07-109
132K-16-190	REP	99-10-046	132K-125-050	NEW-P	99-07-109	132K-125-380	NEW	99-10-046
132K-16-200	REP-P	99-07-109	132K-125-050	NEW	99-10-046	132K-125-390	NEW-P	99-07-109
132K-16-200	REP	99-10-046	132K-125-060	NEW-P	99-07-109	132K-125-390	NEW	99-10-046
132K-16-210	REP-P	99-07-109	132K-125-060	NEW	99-10-046	132K-125-400	NEW-P	99-07-109
132K-16-210	REP	99-10-046	132K-125-070	NEW-P	99-07-109	132K-125-400	NEW	99-10-046
132K-16-220	REP-P	99-07-109	132K-125-070	NEW	99-10-046	132K-125-410	NEW-P	99-07-109
132K-16-220	REP	99-10-046	132K-125-080	NEW-P	99-07-109	132K-125-410	NEW	99-10-046
132K-16-230	REP-P	99-07-109	132K-125-080	NEW	99-10-046	132K-125-420	NEW-P	99-07-109
132K-16-230	REP	99-10-046	132K-125-090	NEW-P	99-07-109	132K-125-420	NEW	99-10-046
132K-16-240	REP-P	99-07-109	132K-125-090	NEW	99-10-046	132K-125-430	NEW-P	99-07-109
132K-16-240	REP	99-10-046	132K-125-100	NEW-P	99-07-109	132K-125-430	NEW	99-10-046
132K-16-250	REP-P	99-07-109	132K-125-100	NEW	99-10-046	132N-160	PREP	99-06-011
132K-16-250	REP	99-10-046	132K-125-110	NEW-P	99-07-109	132N-160-010	NEW-P	99-10-044
132K-16-260	REP-P	99-07-109	132K-125-110	NEW	99-10-046	132N-160-020	NEW-P	99-10-044
132K-16-260	REP	99-10-046	132K-125-120	NEW-P	99-07-109	132N-160-030	NEW-P	99-10-044
132K-16-270	REP-P	99-07-109	132K-125-120	NEW	99-10-046	132N-160-040	NEW-P	99-10-044
132K-16-270	REP	99-10-046	132K-125-130	NEW-P	99-07-109	132N-160-050	NEW-P	99-10-044
132K-16-280	REP-P	99-07-109	132K-125-130	NEW	99-10-046	132N-160-060	NEW-P	99-10-044
132K-16-280	REP	99-10-046	132K-125-140	NEW-P	99-07-109	132N-160-070	NEW-P	99-10-044
132K-16-290	REP-P	99-07-109	132K-125-140	NEW	99-10-046	132N-160-080	NEW-P	99-10-044
132K-16-290	REP	99-10-046	132K-125-150	NEW-P	99-07-109	132N-160-090	NEW-P	99-10-044
132K-16-300	REP-P	99-07-109	132K-125-150	NEW	99-10-046	132P-33-010	AMD-P	99-08-019
132K-16-300	REP	99-10-046	132K-125-160	NEW-P	99-07-109	132P-33-010	AMD	99-13-140
132K-16-310	REP-P	99-07-109	132K-125-160	NEW	99-10-046	132P-33-020	AMD-P	99-08-019
132K-16-310	REP	99-10-046	132K-125-170	NEW-P	99-07-109	132P-33-020	AMD	99-13-140
132K-16-320	REP-P	99-07-109	132K-125-170	NEW	99-10-046	132P-33-080	AMD-P	99-08-019
132K-16-320	REP	99-10-046	132K-125-180	NEW-P	99-07-109	132P-33-080	AMD	99-13-140
132K-16-330	REP-P	99-07-109	132K-125-180	NEW	99-10-046	132P-33-100	AMD-P	99-08-019
132K-16-330	REP	99-10-046	132K-125-190	NEW-P	99-07-109	132P-33-100	AMD	99-13-140
132K-16-340	REP-P	99-07-109	132K-125-190	NEW	99-10-046	132P-33-120	AMD-P	99-08-019
132K-16-340	REP	99-10-046	132K-125-200	NEW-P	99-07-109	132P-33-120	AMD	99-13-140
132K-16-350	REP-P	99-07-109	132K-125-200	NEW	99-10-046	132P-33-123	NEW-P	99-08-019
132K-16-350	REP	99-10-046	132K-125-210	NEW-P	99-07-109	132P-33-123	NEW	99-13-140
132K-16-360	REP-P	99-07-109	132K-125-210	NEW	99-10-046	132P-33-125	NEW-P	99-08-019
132K-16-360	REP	99-10-046	132K-125-220	NEW-P	99-07-109	132P-33-125	NEW	99-13-140
132K-16-370	REP-P	99-07-109	132K-125-220	NEW	99-10-046	132P-33-130	AMD-P	99-08-019
132K-16-370	REP	99-10-046	132K-125-230	NEW-P	99-07-109	132P-33-130	AMD	99-13-140
132K-16-380	REP-P	99-07-109	132K-125-230	NEW	99-10-046	132P-33-150	AMD-P	99-08-019
132K-16-380	REP	99-10-046	132K-125-240	NEW-P	99-07-109	132P-33-150	AMD	99-13-140
132K-16-390	REP-P	99-07-109	132K-125-240	NEW	99-10-046	132P-33-155	NEW-P	99-08-019
132K-16-390	REP	99-10-046	132K-125-250	NEW-P	99-07-109	132P-33-155	NEW	99-13-140
132K-16-400	REP-P	99-07-109	132K-125-250	NEW	99-10-046	132P-33-160	AMD-P	99-08-019
132K-16-400	REP	99-10-046	132K-125-260	NEW-P	99-07-109	132P-33-160	AMD	99-13-140
132K-16-410	REP-P	99-07-109	132K-125-260	NEW	99-10-046	132P-33-170	AMD-P	99-08-019
132K-16-410	REP	99-10-046	132K-125-270	NEW-P	99-07-109	132P-33-170	AMD	99-13-140
132K-16-420	REP-P	99-07-109	132K-125-270	NEW	99-10-046	132P-33-210	AMD-P	99-08-019
132K-16-420	REP	99-10-046	132K-125-280	NEW-P	99-07-109	132P-33-210	AMD	99-13-140
132K-16-430	REP-P	99-07-109	132K-125-280	NEW	99-10-046	132P-33-220	AMD-P	99-08-019
132K-16-430	REP	99-10-046	132K-125-290	NEW-P	99-07-109	132P-33-220	AMD	99-13-140
132K-16-440	REP-P	99-07-109	132K-125-290	NEW	99-10-046	132P-33-230	AMD-P	99-08-019
132K-16-440	REP	99-10-046	132K-125-300	NEW-P	99-07-109	132P-33-230	AMD	99-13-140
132K-16-450	REP-P	99-07-109	132K-125-300	NEW	99-10-046	132P-33-260	AMD-P	99-08-019
132K-16-450	REP	99-10-046	132K-125-310	NEW-P	99-07-109	132P-33-260	AMD	99-13-140
132K-16-460	REP-P	99-07-109	132K-125-310	NEW	99-10-046	132P-33-270	AMD-P	99-08-019
132K-16-460	REP	99-10-046	132K-125-320	NEW-P	99-07-109	132P-33-270	AMD	99-13-140
132K-16-470	REP-P	99-07-109	132K-125-320	NEW	99-10-046	132P-276	PREP	99-05-041
132K-16-470	REP	99-10-046	132K-125-330	NEW-P	99-07-109	132Q-12-010	REP-C	99-05-040
132K-16-480	REP-P	99-07-109	132K-125-330	NEW	99-10-046	132Q-12-010	REP	99-10-012
132K-16-480	REP	99-10-046	132K-125-340	NEW-P	99-07-109	132X-10	PREP	99-06-032
132K-125-010	NEW-P	99-07-109	132K-125-340	NEW	99-10-046	132X-20	PREP	99-06-032
132K-125-010	NEW	99-10-046	132K-125-350	NEW-P	99-07-109	132X-30	PREP	99-06-032
132K-125-020	NEW-P	99-07-109	132K-125-350	NEW	99-10-046	132X-40	PREP	99-06-032
132K-125-020	NEW	99-10-046	132K-125-360	NEW-P	99-07-109	132X-50	PREP	99-06-032
132K-125-030	NEW-P	99-07-109	132K-125-360	NEW	99-10-046	132X-60	PREP	99-06-032
132K-125-030	NEW	99-10-046	132K-125-370	NEW-P	99-07-109	136-130-050	AMD-P	99-09-084

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162- 04	PREP	99-12-100	162- 38	PREP	99-12-100	173-230-090	AMD-P	99-12-038
162- 12	PREP	99-12-098	162- 38-040	AMD-P	99-04-108	173-230-100	AMD-P	99-12-038
162- 16-020	REP-P	99-04-108	162- 38-100	AMD-P	99-04-108	173-230-110	AMD-P	99-12-038
162- 16-030	REP-P	99-04-108	162- 38-105	NEW-P	99-04-108	173-230-120	AMD-P	99-12-038
162- 16-040	REP-P	99-04-108	162- 38-110	AMD-P	99-04-108	173-230-130	AMD-P	99-12-038
162- 16-050	REP-P	99-04-108	162- 38-130	REP-P	99-04-108	173-230-140	AMD-P	99-12-038
162- 16-060	REP-P	99-04-108	162- 40	PREP	99-12-098	173-303	PREP	99-10-041
162- 16-070	REP-P	99-04-108	173- 16-010	REP-P	99-08-124	173-400	PREP	99-07-093
162- 16-080	REP-P	99-04-108	173- 16-020	REP-P	99-08-124	173-400	PREP	99-09-093
162- 16-090	REP-P	99-04-108	173- 16-030	REP-P	99-08-124	173-400	PREP	99-10-042
162- 16-100	REP-P	99-04-108	173- 16-040	REP-P	99-08-124	173-400-030	AMD-XA	99-04-097
162- 16-110	REP-P	99-04-108	173- 16-050	REP-P	99-08-124	173-400-030	AMD-P	99-12-096
162- 16-120	REP-P	99-04-108	173- 16-060	REP-P	99-08-124	173-400-040	AMD-XA	99-04-097
162- 16-130	REP-P	99-04-108	173- 16-064	REP-P	99-08-124	173-400-040	AMD-P	99-12-096
162- 16-140	REP-P	99-04-108	173- 16-070	REP-P	99-08-124	173-400-060	AMD-XA	99-04-097
162- 16-150	REP-P	99-04-108	173- 16-200	REP-P	99-08-124	173-400-060	AMD-P	99-12-096
162- 16-160	REP-P	99-04-108	173- 26	AMD-C	99-12-094	173-400-070	AMD-XA	99-04-097
162- 16-170	REP-P	99-04-108	173- 26-020	AMD-P	99-08-124	173-400-070	AMD-P	99-12-096
162- 16-200	NEW-P	99-04-108	173- 26-095	NEW-P	99-08-124	173-400-075	AMD-XA	99-04-097
162- 16-210	NEW-P	99-04-108	173- 26-100	AMD-P	99-08-124	173-400-075	AMD-P	99-12-096
162- 16-220	NEW-P	99-04-108	173- 26-110	AMD-P	99-08-124	173-400-104	AMD-XA	99-04-097
162- 16-230	NEW-P	99-04-108	173- 26-120	AMD-P	99-08-124	173-400-104	AMD-P	99-12-096
162- 16-240	NEW-P	99-04-108	173- 26-170	NEW-P	99-08-124	173-400-115	AMD-XA	99-04-097
162- 16-250	NEW-P	99-04-108	173- 26-180	NEW-P	99-08-124	173-400-115	AMD-P	99-12-096
162- 16-260	NEW-P	99-04-108	173- 26-190	NEW-P	99-08-124	173-405	PREP	99-07-093
162- 16-270	NEW-P	99-04-108	173- 26-200	NEW-P	99-08-124	173-406	PREP	99-13-173
162- 16-280	NEW-P	99-04-108	173- 26-210	NEW-P	99-08-124	173-409	PREP	99-12-093
162- 16-290	NEW-P	99-04-108	173- 26-220	NEW-P	99-08-124	173-410	PREP	99-07-093
162- 18	PREP	99-12-098	173- 26-230	NEW-P	99-08-124	173-415	PREP	99-10-042
162- 20	PREP	99-12-098	173- 26-240	NEW-P	99-08-124	173-425	AMD-P	99-07-110
162- 22	PREP	99-12-100	173- 26-250	NEW-P	99-08-124	173-425-010	AMD-P	99-07-110
162- 22-010	AMD-P	99-04-108	173- 26-260	NEW-P	99-08-124	173-425-020	AMD-P	99-07-110
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162- 22-025	NEW-P	99-04-108	173-153-020	NEW-P	99-12-109	173-425-040	AMD-P	99-07-110
162- 22-030	REP-P	99-04-108	173-153-030	NEW-P	99-12-109	173-425-050	AMD-P	99-07-110
162- 22-035	NEW-P	99-04-108	173-153-040	NEW-P	99-12-109	173-425-060	AMD-P	99-07-110
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162- 22-045	NEW-P	99-04-108	173-153-060	NEW-P	99-12-109	173-425-080	AMD-P	99-07-110
162- 22-050	REP-P	99-04-108	173-153-070	NEW-P	99-12-109	173-425-090	REP-P	99-07-110
162- 22-060	REP-P	99-04-108	173-153-080	NEW-P	99-12-109	173-425-100	REP-P	99-07-110
162- 22-065	NEW-P	99-04-108	173-153-090	NEW-P	99-12-109	173-425-110	REP-P	99-07-110
162- 22-070	REP-P	99-04-108	173-153-100	NEW-P	99-12-109	173-433	PREP	99-07-093
162- 22-075	NEW-P	99-04-108	173-153-110	NEW-P	99-12-109	173-434	PREP	99-07-093
162- 22-080	REP-P	99-04-108	173-153-120	NEW-P	99-12-109	173-481	PREP	99-10-042
162- 22-090	AMD-P	99-04-108	173-153-130	NEW-P	99-12-109	173-495-010	AMD-XA	99-13-174
162- 22-100	AMD-P	99-04-108	173-153-140	NEW-P	99-12-109	173-495-020	AMD-XA	99-13-174
162- 26	PREP	99-12-100	173-153-150	NEW-P	99-12-109	173-495-040	AMD-XA	99-13-174
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162- 26-040	AMD-P	99-04-108	173-201A	PREP	99-05-060	173-495-100	AMD-XA	99-13-174
162- 26-050	REP-P	99-04-108	173-202-020	AMD-E	99-07-077	173-495-120	AMD-XA	99-13-174
162- 26-060	AMD-P	99-04-108	173-202-020	AMD-E	99-09-001	173-532-085	NEW-S	99-08-125
162- 26-070	AMD-P	99-04-108	173-202-020	AMD-C	99-09-094	173-532-085	NEW	99-13-093
162- 26-080	AMD-P	99-04-108	173-224	PREP	99-11-055	173-548	AMD-P	99-09-092
162- 26-090	REP-P	99-04-108	173-230	AMD-C	99-13-101	173-548-001	NEW-P	99-09-092
162- 26-100	AMD-P	99-04-108	173-230-010	AMD-P	99-12-038	173-548-002	NEW-P	99-09-092
162- 26-110	AMD-P	99-04-108	173-230-020	AMD-P	99-12-038	173-548-005	NEW-P	99-09-092
162- 26-120	AMD-P	99-04-108	173-230-030	REP-P	99-12-038	173-548-010	AMD-P	99-09-092
162- 26-135	NEW-P	99-04-108	173-230-040	AMD-P	99-12-038	173-548-015	NEW-P	99-09-092
162- 26-140	AMD-P	99-04-108	173-230-050	REP-P	99-12-038	173-548-020	AMD-P	99-09-092
162- 28	PREP	99-12-098	173-230-061	AMD-P	99-12-038	173-548-030	AMD-P	99-09-092
162- 30	PREP	99-12-099	173-230-065	NEW-P	99-12-038	173-548-031	NEW-P	99-09-092
162- 30-010	AMD-P	99-04-108	173-230-070	AMD-P	99-12-038	173-548-032	NEW-P	99-09-092
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173-548-036	NEW-P	99-09-092	180- 40-215	AMD-P	99-07-064	180- 82-320	NEW	99-04-008
173-548-037	NEW-P	99-09-092	180- 40-305	PREP	99-12-016	180- 82-321	NEW-P	99-04-110
173-548-040	AMD-P	99-09-092	180- 41-035	PREP	99-04-090	180- 82-321	NEW	99-07-102
173-548-050	AMD-P	99-09-092	180- 41-035	AMD-P	99-07-073	180- 82-322	NEW	99-04-008
173-548-060	AMD-P	99-09-092	180- 51	PREP	99-10-089	180- 82-324	NEW	99-04-008
173-548-070	AMD-P	99-09-092	180- 51-050	AMD-P	99-04-081	180- 82-326	NEW	99-04-008
173-548-075	NEW-P	99-09-092	180- 51-050	AMD	99-10-093	180- 82-328	NEW	99-04-008
173-548-076	NEW-P	99-09-092	180- 51-107	NEW-P	99-04-082	180- 82-330	NEW	99-04-008
174-280-015	AMD-P	99-08-030	180- 51-107	NEW-P	99-06-089	180- 82-331	NEW	99-06-005
174-280-015	AMD	99-12-024	180- 51-107	NEW	99-10-094	180- 82-332	NEW	99-04-008
174-280-030	AMD-P	99-08-030	180- 51-110	PREP	99-04-091	180- 82-334	NEW	99-04-008
174-280-030	AMD	99-12-024	180- 51-110	AMD-P	99-07-072	180- 82-336	NEW	99-04-008
180- 08-015	NEW-P	99-04-079	180- 52	PREP	99-10-090	180- 82-338	NEW-W	99-08-081
180- 08-015	NEW	99-10-092	180- 55-085	PREP	99-04-089	180- 82-339	NEW	99-04-008
180- 16-195	AMD-P	99-04-080	180- 55-085	AMD-P	99-07-068	180- 82-340	NEW-W	99-08-081
180- 16-195	AMD	99-10-091	180- 56-245	PREP	99-04-092	180- 82-342	NEW	99-04-008
180- 16-215	PREP	99-04-088	180- 56-245	AMD-P	99-07-071	180- 82-343	NEW	99-04-008
180- 16-215	AMD-P	99-07-069	180- 77A	PREP	99-04-046	180- 82-344	NEW	99-04-008
180- 16-220	AMD-P	99-04-080	180- 77A-028	AMD-P	99-07-049	180- 82-346	NEW	99-04-008
180- 16-220	AMD	99-10-091	180- 77A-028	AMD	99-12-014	180- 82-348	NEW	99-04-008
180- 16-221	REP-XR	99-03-001	180- 77A-029	AMD-P	99-07-049	180- 82-349	NEW-P	99-04-110
180- 16-221	REP	99-07-054	180- 77A-029	AMD	99-12-014	180- 82-349	NEW	99-07-102
180- 16-222	REP-XR	99-03-001	180- 77A-080	NEW-P	99-07-049	180- 82-350	NEW	99-04-008
180- 16-222	REP	99-07-054	180- 77A-080	NEW	99-12-014	180- 82-352	NEW	99-04-008
180- 16-226	REP-XR	99-03-001	180- 78-155	PREP	99-04-087	180- 82-354	NEW	99-04-008
180- 16-226	REP	99-07-054	180- 78-155	AMD-P	99-07-070	180- 82-355	NEW	99-04-008
180- 16-231	REP-XR	99-03-001	180- 78-207	PREP	99-04-087	180- 82-356	NEW	99-04-008
180- 16-231	REP	99-07-054	180- 78-207	AMD-P	99-07-070	180- 82-360	NEW	99-04-008
180- 16-236	REP-XR	99-03-001	180- 78-210	PREP	99-04-087	180- 82-362	NEW-W	99-08-081
180- 16-236	REP	99-07-054	180- 78-210	AMD-P	99-07-070	180- 85-075	AMD-E	99-05-002
180- 16-238	REP-XR	99-03-001	180- 79A-223	PREP	99-06-038	180- 85-075	PREP	99-06-039
180- 16-238	REP	99-07-054	180- 79A-223	AMD-P	99-10-003	180- 85-075	AMD-P	99-10-002
180- 16-240	REP-P	99-04-080	180- 79A-300	AMD	99-06-006	182- 08-095	PREP	99-11-100
180- 16-240	REP	99-10-091	180- 79A-380	PREP	99-04-085	182- 12-111	PREP	99-11-099
180- 18-055	NEW-P	99-04-082	180- 79A-380	AMD-P	99-07-066	182- 12-119	PREP	99-11-099
180- 18-055	NEW-P	99-06-089	180- 82	PREP	99-04-109	182- 25-030	PREP	99-08-107
180- 18-055	NEW	99-10-094	180- 82	PREP	99-12-040	182- 25-030	AMD-P	99-12-032
180- 20-011	NEW	99-08-004	180- 82-002	NEW	99-04-008	182- 25-040	PREP	99-05-077
180- 20-034	AMD	99-08-004	180- 82-004	NEW	99-04-008	182- 25-040	AMD-P	99-12-032
180- 20-035	REP	99-08-004	180- 82-105	NEW	99-04-008	182- 25-085	PREP	99-05-077
180- 20-040	REP	99-08-004	180- 82-110	NEW	99-04-008	182- 25-085	NEW-P	99-08-106
180- 20-055	REP	99-08-004	180- 82-115	NEW	99-04-008	182- 25-085	NEW	99-12-033
180- 20-060	REP	99-08-004	180- 82-120	NEW	99-04-008	182- 25-090	PREP	99-05-077
180- 20-070	REP	99-08-004	180- 82-125	NEW	99-04-008	182- 25-090	AMD-P	99-08-106
180- 20-075	REP	99-08-004	180- 82-130	NEW	99-04-008	182- 25-090	AMD	99-12-033
180- 20-080	REP	99-08-004	180- 82-200	NEW	99-04-008	182- 25-100	AMD	99-07-078
180- 20-101	AMD	99-08-004	180- 82-201	NEW	99-04-008	182- 25-105	AMD	99-07-078
180- 20-111	AMD	99-08-004	180- 82-202	NEW	99-04-008	182- 25-110	AMD	99-07-078
180- 20-115	AMD	99-08-004	180- 82-204	NEW	99-04-008	192- 04-170	AMD	99-08-073
180- 20-120	AMD	99-08-004	180- 82-210	NEW	99-04-008	192- 04-190	AMD	99-08-073
180- 20-150	REP	99-08-004	180- 82-215	NEW	99-04-008	192- 12-005	REP	99-08-073
180- 22-150	PREP	99-04-083	180- 82-300	NEW	99-04-008	192- 12-010	REP-XA	99-13-110
180- 22-150	AMD-P	99-07-065	180- 82-302	NEW-W	99-08-081	192- 12-015	REP-XA	99-13-113
180- 25	PREP	99-06-074	180- 82-304	NEW	99-04-008	192- 12-035	REP-XR	99-10-005
180- 26	PREP	99-06-080	180- 82-306	NEW-W	99-08-081	192- 12-050	PREP	99-11-088
180- 27	PREP	99-06-079	180- 82-308	NEW	99-04-008	192- 12-060	REP-XA	99-13-112
180- 27-082	NEW-W	99-03-026	180- 82-310	NEW	99-04-008	192- 12-066	REP-XA	99-13-114
180- 27-083	NEW-W	99-03-026	180- 82-312	NEW	99-04-008	192- 12-070	REP-XA	99-13-115
180- 29	PREP	99-06-078	180- 82-314	NEW	99-04-008	192- 12-072	REP-P	99-05-068
180- 29-040	AMD-P	99-10-001	180- 82-315	NEW-P	99-04-110	192- 12-074	REP-XA	99-11-091
180- 29-095	PREP	99-04-086	180- 82-315	NEW	99-07-102	192- 12-076	REP-XA	99-11-090
180- 29-095	AMD-P	99-07-067	180- 82-316	NEW	99-04-008	192- 12-080	REP-XR	99-10-006
180- 31	PREP	99-06-077	180- 82-317	NEW-P	99-04-110	192- 12-090	REP-XA	99-11-094
180- 32	PREP	99-06-076	180- 82-317	NEW	99-07-102	192- 12-100	REP-XA	99-13-116
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192-12-150	REP	99-08-073	192-300-050	NEW-P	99-05-068	208-464-080	REP	99-03-009
192-12-182	REP	99-08-073	192-300-100	NEW-XA	99-13-111	208-464-090	REP	99-03-009
192-12-330	AMD	99-08-073	192-300-150	NEW-XA	99-11-094	208-480-010	REP	99-03-009
192-12-350	REP-XR	99-13-107	192-300-180	NEW-XA	99-13-112	208-480-020	REP	99-03-009
192-12-355	REP-XR	99-13-108	192-310-035	NEW-XA	99-11-092	208-480-030	REP	99-03-009
192-12-360	REP-XA	99-13-111	192-310-040	NEW-XA	99-11-093	208-480-040	REP	99-03-009
192-12-380	REP-XR	99-13-109	192-310-050	PREP	99-11-088	208-480-050	REP	99-03-009
192-15-150	AMD	99-08-073	192-310-055	PREP	99-11-089	208-480-060	REP	99-03-009
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192-16-002	REP-XR	99-12-108	192-310-070	NEW-XA	99-13-115	220-16-225	AMD	99-08-029
192-16-051	REP-E	99-05-003	192-310-100	NEW-XA	99-13-116	220-16-32000A	NEW-E	99-13-009
192-16-051	REP-E	99-13-003	192-320-050	NEW-P	99-05-068	220-16-550	AMD-XA	99-11-098
192-16-051	REP-P	99-13-183	192-320-055	NEW-XA	99-11-091	220-16-55000A	REP-E	99-10-049
192-16-052	REP-E	99-05-003	192-320-060	NEW-XA	99-11-090	220-16-55000A	NEW-E	99-10-049
192-16-052	REP-E	99-13-003	194-22	PREP	99-07-005	220-20-016	AMD-XA	99-12-097
192-16-052	REP-P	99-13-183	196-23	PREP	99-07-135	220-20-016	AMD-W	99-13-007
192-16-057	REP-E	99-05-003	196-23	PREP	99-07-136	220-20-016	AMD-XA	99-13-008
192-16-057	REP-E	99-13-003	196-23-010	NEW-P	99-10-084	220-20-070	AMD-P	99-13-054
192-16-057	REP-P	99-13-183	196-23-020	NEW-P	99-10-085	220-24-02000H	NEW-E	99-10-037
192-23-002	REP	99-08-073	196-23-030	NEW-P	99-10-086	220-32-05100J	NEW-E	99-04-059
192-23-013	REP	99-08-073	196-23-050	NEW-P	99-10-087	220-32-05100J	REP-E	99-04-059
192-23-018	REP	99-08-073	196-24-058	PREP	99-07-134	220-32-05100K	NEW-E	99-07-009
192-24-001	REP	99-08-073	196-24-058	REP-P	99-10-081	220-32-05100K	REP-E	99-07-009
192-24-010	REP	99-08-073	196-24-060	PREP	99-02-073	220-32-05500T	NEW-E	99-09-016
192-24-020	REP	99-08-073	196-24-060	REP-P	99-10-088	220-32-05500T	REP-E	99-09-016
192-24-030	REP-P	99-09-097	196-24-085	PREP	99-02-071	220-32-05500U	REP-E	99-11-001
192-24-030	REP	99-13-002	196-24-090	PREP	99-02-075	220-32-05500U	NEW-E	99-11-001
192-100-500	NEW-XA	99-13-110	196-24-090	REP-P	99-10-082	220-32-05500U	REP-E	99-12-045
192-100-510	NEW-XA	99-13-113	196-24-092	PREP	99-02-076	220-32-05500V	NEW-E	99-12-045
192-110-005	NEW	99-08-073	196-24-092	REP-P	99-10-083	220-32-05500V	REP-E	99-13-079
192-110-015	NEW	99-08-073	196-24-095	PREP	99-02-077	220-32-05500W	NEW-E	99-13-079
192-110-020	NEW	99-08-073	196-24-095	REP-P	99-10-084	220-32-05500W	REP-E	99-13-146
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192-180-020	NEW-P	99-09-097	204-32-040	PREP	99-09-021	220-47-302	AMD-W	99-12-086
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236- 48-254	REP-XR	99-10-068	246- 25-155	RECOD	99-04-049	246-231-050	NEW-P	99-12-130
236- 48-254	REP	99-13-138	246- 25-160	RECOD	99-04-049	246-231-060	NEW-P	99-12-130
236- 48-300	REP-XR	99-10-068	246- 25-165	RECOD	99-04-049	246-231-070	NEW-P	99-12-130
236- 48-300	REP	99-13-138	246- 25-170	RECOD	99-04-049	246-231-080	NEW-P	99-12-130
236- 49-001	AMD-XA	99-10-069	246- 25-175	RECOD	99-04-049	246-231-090	NEW-P	99-12-130
236- 49-010	AMD-XA	99-10-069	246- 25-180	RECOD	99-04-049	246-231-100	NEW-P	99-12-130
236- 49-020	AMD-XA	99-10-069	246-100-016	AMD-P	99-12-083	246-231-110	NEW-P	99-12-130
236- 49-030	REP-XR	99-10-068	246-100-036	AMD-P	99-12-083	246-231-120	NEW-P	99-12-130
236- 49-030	REP	99-13-138	246-100-041	AMD-P	99-12-083	246-231-130	NEW-P	99-12-130
236- 49-040	REP-XR	99-10-068	246-100-042	AMD-XA	99-06-091	246-231-140	NEW-P	99-12-130
236- 49-040	REP	99-13-138	246-100-042	AMD	99-11-037	246-231-200	NEW-P	99-12-130
236- 49-055	AMD-XA	99-10-069	246-100-043	NEW-P	99-12-083	246-232-001	AMD-P	99-12-130
236- 49-060	AMD-XA	99-10-069	246-100-072	AMD-P	99-12-083	246-232-040	AMD-P	99-12-130
236- 49-061	REP-XR	99-10-068	246-100-076	AMD-P	99-12-083	246-232-060	AMD-P	99-12-130
236- 49-061	REP	99-13-138	246-100-206	AMD-P	99-12-083	246-232-090	AMD-P	99-12-130
240- 10-030	AMD-P	99-08-109	246-100-207	AMD-P	99-12-083	246-235-075	AMD-P	99-12-130
245- 02-010	DECOD	99-04-049	246-100-208	AMD-P	99-12-083	246-243-040	AMD	99-05-012
245- 02-020	DECOD	99-04-049	246-100-209	AMD-P	99-12-083	246-243-090	AMD	99-05-012
245- 02-025	DECOD	99-04-049	246-100-236	AMD-P	99-12-083	246-244-040	AMD-P	99-12-130
245- 02-030	DECOD	99-04-049	246-205-990	AMD-P	99-07-120	246-244-060	AMD-P	99-12-130
245- 02-035	DECOD	99-04-049	246-205-990	AMD	99-12-022	246-254-053	AMD-P	99-09-099
245- 02-040	DECOD	99-04-049	246-217	AMD	99-13-019	246-254-053	AMD	99-13-085
245- 02-045	DECOD	99-04-049	246-217-001	REP-P	99-08-097	246-254-070	AMD-P	99-07-120
245- 02-050	DECOD	99-04-049	246-217-001	REP	99-13-019	246-254-070	AMD	99-12-022
245- 02-100	DECOD	99-04-049	246-217-002	REP-P	99-08-097	246-254-080	AMD-P	99-07-120
245- 02-110	DECOD	99-04-049	246-217-002	REP	99-13-019	246-254-080	AMD	99-12-022
245- 02-115	DECOD	99-04-049	246-217-005	NEW-P	99-08-097	246-254-090	AMD-P	99-07-120
245- 02-120	DECOD	99-04-049	246-217-005	NEW	99-13-019	246-254-090	AMD	99-12-022
245- 02-125	DECOD	99-04-049	246-217-010	AMD-P	99-08-097	246-254-100	AMD-P	99-07-120
245- 02-130	DECOD	99-04-049	246-217-010	AMD	99-13-019	246-254-100	AMD	99-12-022
245- 02-131	DECOD	99-04-049	246-217-011	REP-P	99-08-097	246-282-990	AMD-P	99-07-120
245- 02-135	DECOD	99-04-049	246-217-011	REP	99-13-019	246-282-990	AMD	99-12-022
245- 02-140	DECOD	99-04-049	246-217-015	NEW-P	99-08-097	246-290-001	AMD	99-07-021
245- 02-145	DECOD	99-04-049	246-217-015	NEW	99-13-019	246-290-002	NEW	99-07-021
245- 02-150	DECOD	99-04-049	246-217-020	REP-P	99-08-097	246-290-010	AMD	99-07-021
245- 02-155	DECOD	99-04-049	246-217-020	REP	99-13-019	246-290-020	AMD	99-07-021
245- 02-160	DECOD	99-04-049	246-217-025	NEW-P	99-08-097	246-290-025	AMD	99-07-021
245- 02-165	DECOD	99-04-049	246-217-025	NEW	99-13-019	246-290-030	AMD	99-07-021
245- 02-170	DECOD	99-04-049	246-217-030	REP-P	99-08-097	246-290-035	NEW	99-07-021
245- 02-175	DECOD	99-04-049	246-217-030	REP	99-13-019	246-290-040	AMD	99-07-021
245- 02-180	DECOD	99-04-049	246-217-035	NEW-P	99-08-097	246-290-050	AMD	99-07-021
246- 05-001	REP	99-03-062	246-217-035	NEW	99-13-019	246-290-060	AMD	99-07-021
246- 05-010	REP	99-03-062	246-217-040	REP-P	99-08-097	246-290-100	AMD	99-07-021
246- 05-020	REP	99-03-063	246-217-040	REP	99-13-019	246-290-105	NEW	99-07-021
246- 05-030	REP	99-03-062	246-217-045	NEW-P	99-08-097	246-290-110	AMD	99-07-021
246- 08-400	AMD-P	99-10-078	246-217-045	NEW	99-13-019	246-290-115	REP	99-07-021
246- 08-400	AMD	99-13-083	246-217-050	REP-P	99-08-097	246-290-120	AMD	99-07-021
246- 25	PREP	99-04-050	246-217-050	REP	99-13-019	246-290-125	NEW	99-07-021
246- 25-010	RECOD	99-04-049	246-217-060	AMD-P	99-08-097	246-290-130	AMD	99-07-021
246- 25-020	RECOD	99-04-049	246-217-060	AMD	99-13-019	246-290-132	NEW	99-07-021
246- 25-025	RECOD	99-04-049	246-217-070	AMD-P	99-08-097	246-290-135	AMD	99-07-021
246- 25-030	RECOD	99-04-049	246-217-070	AMD	99-13-019	246-290-140	AMD	99-07-021
246- 25-035	RECOD	99-04-049	246-220-010	AMD-P	99-12-130	246-290-200	AMD	99-07-021

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246-290-220	AMD	99-07-021	246-318-035	REP	99-04-052	246-318-860	REP	99-04-052
246-290-221	NEW	99-07-021	246-318-040	REP	99-04-052	246-318-870	REP	99-04-052
246-290-222	NEW	99-07-021	246-318-042	REP	99-04-052	246-318-990	REP	99-04-052
246-290-230	AMD	99-07-021	246-318-150	REP	99-04-052	246-318-99902	REP	99-04-052
246-290-235	NEW	99-07-021	246-318-155	REP	99-04-052	246-318-99910	REP	99-04-052
246-290-240	REP	99-07-021	246-318-160	REP	99-04-052	246-320-001	NEW	99-04-052
246-290-250	AMD	99-07-021	246-318-170	REP	99-04-052	246-320-010	NEW	99-04-052
246-290-300	AMD	99-07-021	246-318-180	REP	99-04-052	246-320-025	NEW	99-04-052
246-290-310	AMD	99-07-021	246-318-190	REP	99-04-052	246-320-045	NEW	99-04-052
246-290-320	AMD	99-07-021	246-318-200	REP	99-04-052	246-320-065	NEW	99-04-052
246-290-330	REP	99-07-021	246-318-210	REP	99-04-052	246-320-085	NEW	99-04-052
246-290-410	REP	99-07-021	246-318-220	REP	99-04-052	246-320-105	NEW	99-04-052
246-290-415	NEW	99-07-021	246-318-230	REP	99-04-052	246-320-125	NEW	99-04-052
246-290-416	NEW	99-07-021	246-318-240	REP	99-04-052	246-320-145	NEW	99-04-052
246-290-420	AMD	99-07-021	246-318-250	REP	99-04-052	246-320-165	NEW	99-04-052
246-290-430	REP	99-07-021	246-318-260	REP	99-04-052	246-320-185	NEW	99-04-052
246-290-440	REP	99-07-021	246-318-270	REP	99-04-052	246-320-205	NEW	99-04-052
246-290-451	NEW	99-07-021	246-318-280	REP	99-04-052	246-320-225	NEW	99-04-052
246-290-455	NEW	99-07-021	246-318-290	REP	99-04-052	246-320-245	NEW	99-04-052
246-290-460	AMD	99-07-021	246-318-300	REP	99-04-052	246-320-265	NEW	99-04-052
246-290-470	AMD	99-07-021	246-318-310	REP	99-04-052	246-320-285	NEW	99-04-052
246-290-480	AMD	99-07-021	246-318-320	REP	99-04-052	246-320-305	NEW	99-04-052
246-290-490	AMD	99-07-021	246-318-330	REP	99-04-052	246-320-325	NEW	99-04-052
246-290-495	NEW	99-07-021	246-318-350	REP	99-04-052	246-320-345	NEW	99-04-052
246-290-601	AMD	99-07-021	246-318-370	REP	99-04-052	246-320-365	NEW	99-04-052
246-290-610	REP	99-07-021	246-318-380	REP	99-04-052	246-320-385	NEW	99-04-052
246-290-620	AMD	99-07-021	246-318-390	REP	99-04-052	246-320-405	NEW	99-04-052
246-290-630	AMD	99-07-021	246-318-400	REP	99-04-052	246-320-500	NEW	99-04-052
246-290-630	AMD	99-10-076	246-318-420	REP	99-04-052	246-320-505	NEW	99-04-052
246-290-632	AMD	99-07-021	246-318-440	REP	99-04-052	246-320-515	NEW	99-04-052
246-290-634	AMD	99-07-021	246-318-450	REP	99-04-052	246-320-525	NEW	99-04-052
246-290-636	AMD	99-07-021	246-318-500	REP	99-04-052	246-320-535	NEW	99-04-052
246-290-638	AMD	99-07-021	246-318-510	REP	99-04-052	246-320-545	NEW	99-04-052
246-290-640	AMD	99-07-021	246-318-520	REP	99-04-052	246-320-555	NEW	99-04-052
246-290-650	AMD	99-07-021	246-318-530	REP	99-04-052	246-320-565	NEW	99-04-052
246-290-652	AMD	99-07-021	246-318-540	REP	99-04-052	246-320-575	NEW	99-04-052
246-290-654	AMD	99-07-021	246-318-550	REP	99-04-052	246-320-585	NEW	99-04-052
246-290-660	AMD	99-07-021	246-318-560	REP	99-04-052	246-320-595	NEW	99-04-052
246-290-662	AMD	99-07-021	246-318-570	REP	99-04-052	246-320-605	NEW	99-04-052
246-290-664	AMD	99-07-021	246-318-580	REP	99-04-052	246-320-615	NEW	99-04-052
246-290-666	AMD	99-07-021	246-318-590	REP	99-04-052	246-320-625	NEW	99-04-052
246-290-668	AMD	99-07-021	246-318-600	REP	99-04-052	246-320-635	NEW	99-04-052
246-290-670	AMD	99-07-021	246-318-610	REP	99-04-052	246-320-645	NEW	99-04-052
246-290-672	AMD	99-07-021	246-318-620	REP	99-04-052	246-320-655	NEW	99-04-052
246-290-674	AMD	99-07-021	246-318-630	REP	99-04-052	246-320-665	NEW	99-04-052
246-290-676	AMD	99-07-021	246-318-640	REP	99-04-052	246-320-675	NEW	99-04-052
246-290-678	AMD	99-07-021	246-318-650	REP	99-04-052	246-320-685	NEW	99-04-052
246-290-686	AMD	99-07-021	246-318-660	REP	99-04-052	246-320-695	NEW	99-04-052
246-290-690	AMD	99-07-021	246-318-670	REP	99-04-052	246-320-705	NEW	99-04-052
246-290-691	NEW	99-07-021	246-318-680	REP	99-04-052	246-320-715	NEW	99-04-052
246-290-692	AMD	99-07-021	246-318-690	REP	99-04-052	246-320-725	NEW	99-04-052
246-290-694	AMD	99-07-021	246-318-700	REP	99-04-052	246-320-735	NEW	99-04-052
246-290-696	AMD	99-07-021	246-318-710	REP	99-04-052	246-320-745	NEW	99-04-052
246-290-990	AMD-P	99-07-120	246-318-720	REP	99-04-052	246-320-755	NEW	99-04-052
246-290-990	AMD	99-12-022	246-318-730	REP	99-04-052	246-320-765	NEW	99-04-052
246-292-160	AMD-P	99-07-120	246-318-740	REP	99-04-052	246-320-775	NEW	99-04-052
246-292-160	AMD	99-12-022	246-318-750	REP	99-04-052	246-320-785	NEW	99-04-052
246-310-990	PREP	99-05-011	246-318-760	REP	99-04-052	246-320-795	NEW	99-04-052
246-316-990	PREP-W	99-04-048	246-318-770	REP	99-04-052	246-320-805	NEW	99-04-052
246-318-010	REP	99-04-052	246-318-780	REP	99-04-052	246-320-815	NEW	99-04-052
246-318-013	REP	99-04-052	246-318-790	REP	99-04-052	246-320-990	NEW	99-04-052
246-318-015	REP	99-04-052	246-318-800	REP	99-04-052	246-320-99902	NEW	99-04-052
246-318-017	REP	99-04-052	246-318-810	REP	99-04-052	246-358-025	AMD-E	99-10-096
246-318-020	REP	99-04-052	246-318-820	REP	99-04-052	246-358-600	NEW-P	99-08-098
246-318-025	REP	99-04-052	246-318-830	REP	99-04-052	246-358-600	NEW	99-12-006
246-318-030	REP	99-04-052	246-318-840	REP	99-04-052	246-358-610	NEW-P	99-08-098
246-318-033	REP	99-04-052	246-318-850	REP	99-04-052	246-358-610	NEW	99-12-006

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246-358-620	NEW-P	99-08-098	246-359-720	NEW	99-03-065	246-822-990	AMD-P	99-02-057
246-358-620	NEW	99-12-006	246-359-730	NEW	99-03-065	246-822-990	AMD	99-08-101
246-358-630	NEW-P	99-08-098	246-359-740	NEW	99-03-065	246-828-045	NEW	99-08-102
246-358-630	NEW	99-12-006	246-359-750	NEW	99-03-065	246-828-061	NEW-P	99-11-036
246-358-640	NEW-P	99-08-098	246-359-760	NEW	99-03-065	246-828-105	AMD-XA	99-08-096
246-358-640	NEW	99-12-006	246-359-800	NEW	99-03-065	246-828-110	REP	99-07-020
246-358-650	NEW-P	99-08-098	246-359-990	NEW	99-03-065	246-828-120	REP	99-07-020
246-358-650	NEW	99-12-006	246-360-990	PREP	99-10-077	246-828-130	REP	99-07-020
246-358-660	NEW-P	99-08-098	246-560-001	AMD	99-03-043	246-828-140	REP	99-07-020
246-358-660	NEW	99-12-006	246-560-002	NEW	99-03-043	246-828-150	REP	99-07-020
246-358-670	NEW-P	99-08-098	246-560-010	AMD	99-03-043	246-828-160	REP	99-07-020
246-358-670	NEW	99-12-006	246-560-011	NEW	99-03-043	246-828-170	REP	99-07-020
246-358-680	NEW-P	99-08-098	246-560-025	NEW	99-03-043	246-828-180	REP	99-07-020
246-358-680	NEW	99-12-006	246-560-035	NEW	99-03-043	246-828-190	REP	99-07-020
246-359-001	NEW	99-03-065	246-560-040	AMD	99-03-043	246-828-200	REP	99-07-020
246-359-005	NEW	99-03-065	246-560-045	NEW	99-03-043	246-828-210	REP	99-07-020
246-359-010	NEW	99-03-065	246-560-050	AMD	99-03-043	246-828-230	REP	99-07-020
246-359-020	NEW	99-03-065	246-560-060	AMD	99-03-043	246-828-240	REP	99-07-020
246-359-030	NEW	99-03-065	246-560-065	NEW	99-03-043	246-828-250	REP	99-07-020
246-359-040	NEW	99-03-065	246-560-070	REP	99-03-043	246-828-260	REP	99-07-020
246-359-050	NEW	99-03-065	246-560-075	NEW	99-03-043	246-828-290	AMD	99-08-103
246-359-060	NEW	99-03-065	246-560-077	NEW	99-03-043	246-828-310	REP	99-07-020
246-359-070	NEW	99-03-065	246-560-085	NEW	99-03-043	246-828-340	REP	99-07-019
246-359-080	NEW	99-03-065	246-760	PREP	99-11-030	246-830-990	AMD-P	99-02-057
246-359-090	NEW	99-03-065	246-762	PREP	99-11-031	246-830-990	AMD	99-08-101
246-359-100	NEW	99-03-065	246-790	PREP	99-13-082	246-834-050	NEW	99-03-064
246-359-110	NEW	99-03-065	246-802-990	AMD-P	99-02-057	246-834-060	AMD	99-03-064
246-359-120	NEW	99-03-065	246-802-990	AMD	99-08-101	246-834-070	AMD	99-03-064
246-359-130	NEW	99-03-065	246-808-101	REP-XR	99-03-061	246-834-080	AMD	99-03-064
246-359-140	NEW	99-03-065	246-808-301	REP-XR	99-03-061	246-834-990	PREP	99-06-090
246-359-150	NEW	99-03-065	246-808-320	REP-XR	99-03-061	246-838-040	REP	99-08-104
246-359-160	NEW	99-03-065	246-808-330	REP-XR	99-03-061	246-840	PREP	99-11-033
246-359-170	NEW	99-03-065	246-808-340	REP-XR	99-03-061	246-840-010	PREP	99-11-032
246-359-180	NEW	99-03-065	246-808-350	REP-XR	99-03-061	246-840-020	AMD-P	99-06-092
246-359-200	NEW	99-03-065	246-808-360	REP-XR	99-03-061	246-840-020	AMD	99-10-079
246-359-210	NEW	99-03-065	246-808-370	REP-XR	99-03-061	246-840-020	PREP	99-11-032
246-359-220	NEW	99-03-065	246-808-380	REP-XR	99-03-061	246-840-050	AMD-P	99-08-099
246-359-230	NEW	99-03-065	246-808-390	REP-XR	99-03-061	246-840-050	AMD	99-13-086
246-359-240	NEW	99-03-065	246-808-640	REP-XR	99-03-061	246-840-070	AMD-P	99-08-099
246-359-250	NEW	99-03-065	246-808-990	AMD-P	99-02-057	246-840-070	AMD	99-13-086
246-359-300	NEW	99-03-065	246-808-990	AMD	99-08-101	246-840-090	AMD-P	99-08-099
246-359-310	NEW	99-03-065	246-810-990	AMD-P	99-02-057	246-840-090	AMD	99-13-086
246-359-320	NEW	99-03-065	246-810-990	AMD	99-08-101	246-840-125	PREP	99-03-066
246-359-330	NEW	99-03-065	246-811-010	NEW-P	99-09-100	246-840-565	PREP	99-11-032
246-359-340	NEW	99-03-065	246-811-010	NEW	99-13-084	246-840-740	NEW	99-04-051
246-359-350	NEW	99-03-065	246-811-030	NEW-P	99-09-100	246-840-760	PREP	99-11-032
246-359-400	NEW	99-03-065	246-811-030	NEW	99-13-084	246-840-920	PREP	99-11-032
246-359-405	NEW	99-03-065	246-811-045	NEW-P	99-09-100	246-843-060	REP	99-03-069
246-359-410	NEW	99-03-065	246-811-045	NEW	99-13-084	246-843-200	REP	99-03-068
246-359-420	NEW	99-03-065	246-811-046	NEW-P	99-09-100	246-843-220	REP	99-03-067
246-359-430	NEW	99-03-065	246-811-046	NEW	99-13-084	246-843-225	REP	99-03-067
246-359-440	NEW	99-03-065	246-811-047	NEW-P	99-09-100	246-845-990	AMD-P	99-02-057
246-359-500	NEW	99-03-065	246-811-047	NEW	99-13-084	246-845-990	AMD	99-08-101
246-359-510	NEW	99-03-065	246-811-048	NEW-P	99-09-100	246-847-990	AMD-P	99-02-057
246-359-520	NEW	99-03-065	246-811-048	NEW	99-13-084	246-847-990	AMD	99-08-101
246-359-530	NEW	99-03-065	246-811-049	NEW-P	99-09-100	246-849-990	AMD-P	99-02-057
246-359-540	NEW	99-03-065	246-811-049	NEW	99-13-084	246-849-990	AMD	99-08-101
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246-359-570	NEW	99-03-065	246-811-075	NEW	99-13-084	246-851-990	AMD	99-08-101
246-359-575	NEW	99-03-065	246-811-080	NEW-P	99-09-100	246-915-990	AMD-P	99-02-057
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296- 54-517	AMD-P	99-08-072	296- 54-58950	NEW-P	99-08-072	296- 62-07153	NEW	99-10-071
296- 54-519	AMD-P	99-08-072	296- 54-58960	NEW-P	99-08-072	296- 62-07154	NEW	99-10-071
296- 54-521	AMD-P	99-08-072	296- 54-58970	NEW-P	99-08-072	296- 62-07155	NEW	99-10-071
296- 54-523	AMD-P	99-08-072	296- 54-591	AMD-P	99-08-072	296- 62-07156	NEW	99-10-071
296- 54-525	REP-P	99-08-072	296- 54-593	AMD-P	99-08-072	296- 62-07160	NEW	99-10-071
296- 54-527	AMD-P	99-08-072	296- 54-59310	NEW-P	99-08-072	296- 62-07161	NEW	99-10-071
296- 54-529	AMD-P	99-08-072	296- 54-59320	NEW-P	99-08-072	296- 62-07162	NEW	99-10-071
296- 54-531	AMD-P	99-08-072	296- 54-59330	NEW-P	99-08-072	296- 62-07170	NEW	99-10-071
296- 54-533	AMD-P	99-08-072	296- 54-59340	NEW-P	99-08-072	296- 62-07171	NEW	99-10-071
296- 54-535	AMD-P	99-08-072	296- 54-595	AMD-P	99-08-072	296- 62-07172	NEW	99-10-071
296- 54-537	AMD-P	99-08-072	296- 54-59510	NEW-P	99-08-072	296- 62-07175	NEW	99-10-071
296- 54-539	AMD-P	99-08-072	296- 54-59520	NEW-P	99-08-072	296- 62-07176	NEW	99-10-071
296- 54-53910	NEW-P	99-08-072	296- 54-597	AMD-P	99-08-072	296- 62-07177	NEW	99-10-071
296- 54-53920	NEW-P	99-08-072	296- 54-59710	NEW-P	99-08-072	296- 62-07178	NEW	99-10-071
296- 54-53930	NEW-P	99-08-072	296- 54-59720	NEW-P	99-08-072	296- 62-07179	NEW	99-10-071
296- 54-53940	NEW-P	99-08-072	296- 54-59730	NEW-P	99-08-072	296- 62-07182	NEW	99-10-071
296- 54-541	AMD-P	99-08-072	296- 54-599	REP-P	99-08-072	296- 62-07184	NEW	99-10-071
296- 54-543	AMD-P	99-08-072	296- 54-601	AMD-P	99-08-072	296- 62-07186	NEW	99-10-071
296- 54-545	AMD-P	99-08-072	296- 54-603	AMD-P	99-08-072	296- 62-07188	NEW	99-10-071
296- 54-547	AMD-P	99-08-072	296- 54-604	NEW-P	99-08-072	296- 62-07190	NEW	99-10-071
296- 54-54710	NEW-P	99-08-072	296- 54-605	AMD-P	99-08-072	296- 62-07192	NEW	99-10-071
296- 54-54720	NEW-P	99-08-072	296- 54-607	AMD-P	99-08-072	296- 62-07194	NEW	99-10-071
296- 54-54730	NEW-P	99-08-072	296- 54-701	NEW-P	99-08-072	296- 62-07201	NEW	99-10-071
296- 54-54740	NEW-P	99-08-072	296- 54-70110	NEW-P	99-08-072	296- 62-07202	NEW	99-10-071
296- 54-54750	NEW-P	99-08-072	296- 54-70120	NEW-P	99-08-072	296- 62-07203	NEW	99-10-071
296- 54-54760	NEW-P	99-08-072	296- 54-70130	NEW-P	99-08-072	296- 62-07205	NEW	99-10-071
296- 54-549	AMD-P	99-08-072	296- 54-703	NEW-P	99-08-072	296- 62-07206	NEW	99-10-071
296- 54-551	AMD-P	99-08-072	296- 54-705	NEW-P	99-08-072	296- 62-07208	NEW	99-10-071
296- 54-553	AMD-P	99-08-072	296- 54-707	NEW-P	99-08-072	296- 62-07209	NEW	99-10-071
296- 54-555	AMD-P	99-08-072	296- 54-99002	AMD-P	99-08-072	296- 62-07210	NEW	99-10-071
296- 54-557	AMD-P	99-08-072	296- 54-99003	AMD-P	99-08-072	296- 62-07212	NEW	99-10-071
296- 54-55710	NEW-P	99-08-072	296- 54-99004	AMD-P	99-08-072	296- 62-07213	NEW	99-10-071
296- 54-55720	NEW-P	99-08-072	296- 54-99007	REP-P	99-08-072	296- 62-07214	NEW	99-10-071
296- 54-55730	NEW-P	99-08-072	296- 54-99008	REP-P	99-08-072	296- 62-07217	NEW	99-10-071
296- 54-559	AMD-P	99-08-072	296- 54-99009	REP-P	99-08-072	296- 62-07218	NEW	99-10-071
296- 54-561	AMD-P	99-08-072	296- 54-99010	REP-P	99-08-072	296- 62-07219	NEW	99-10-071
296- 54-563	AMD-P	99-08-072	296- 54-99013	NEW-P	99-08-072	296- 62-07222	NEW	99-10-071
296- 54-565	AMD-P	99-08-072	296- 54-99014	NEW-P	99-08-072	296- 62-07223	NEW	99-10-071
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296- 54-569	AMD-P	99-08-072	296- 56	PREP	99-12-037	296- 62-07225	NEW	99-10-071
296- 54-571	AMD-P	99-08-072	296- 56-60053	AMD	99-10-071	296- 62-07230	NEW	99-10-071
296- 54-573	AMD-P	99-08-072	296- 56-60235	AMD	99-10-071	296- 62-07231	NEW	99-10-071
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296-62-07235	NEW	99-10-071	296-62-07666	REP	99-10-071	296-62-3010	AMD	99-07-097
296-62-07236	NEW	99-10-071	296-62-07668	REP	99-10-071	296-62-30105	NEW	99-07-097
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296-62-07240	NEW	99-10-071	296-62-07701	AMD-P	99-08-071	296-62-30120	NEW	99-07-097
296-62-07242	NEW	99-10-071	296-62-07703	AMD-P	99-08-071	296-62-30125	NEW	99-07-097
296-62-07243	NEW	99-10-071	296-62-07709	AMD-P	99-08-071	296-62-30130	NEW	99-07-097
296-62-07245	NEW	99-10-071	296-62-07712	AMD-P	99-08-071	296-62-30135	NEW	99-07-097
296-62-07246	NEW	99-10-071	296-62-07713	AMD-P	99-08-071	296-62-30140	NEW	99-07-097
296-62-07247	NEW	99-10-071	296-62-07715	AMD	99-10-071	296-62-30145	NEW	99-07-097
296-62-07248	NEW	99-10-071	296-62-07721	AMD-P	99-08-071	296-62-3020	AMD	99-07-097
296-62-07251	NEW	99-10-071	296-62-07722	AMD-P	99-08-071	296-62-30205	NEW	99-07-097
296-62-07253	NEW	99-10-071	296-62-07722	AMD	99-10-071	296-62-30210	NEW	99-07-097
296-62-07255	NEW	99-10-071	296-62-07728	AMD-P	99-08-071	296-62-30215	NEW	99-07-097
296-62-07257	NEW	99-10-071	296-62-07733	AMD	99-10-071	296-62-30220	NEW	99-07-097
296-62-07260	NEW	99-10-071	296-62-07735	AMD-P	99-08-071	296-62-30225	NEW	99-07-097
296-62-07261	NEW	99-10-071	296-62-07737	AMD-P	99-08-071	296-62-30230	NEW	99-07-097
296-62-07263	NEW	99-10-071	296-62-07739	REP	99-10-071	296-62-30235	NEW	99-07-097
296-62-07265	NEW	99-10-071	296-62-11019	AMD	99-10-071	296-62-3030	AMD	99-07-097
296-62-07267	NEW	99-10-071	296-62-11021	AMD	99-10-071	296-62-30305	NEW	99-07-097
296-62-07269	NEW	99-10-071	296-62-130	AMD	99-07-063	296-62-30310	NEW	99-07-097
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296-62-07279	NEW	99-10-071	296-62-14120	NEW-P	99-13-144	296-62-30415	NEW	99-07-097
296-62-07281	NEW	99-10-071	296-62-14125	NEW-P	99-13-144	296-62-30420	NEW	99-07-097
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296-62-07291	NEW	99-10-071	296-62-14150	NEW-P	99-13-144	296-62-30445	NEW	99-07-097
296-62-07293	NEW	99-10-071	296-62-14155	NEW-P	99-13-144	296-62-30450	NEW	99-07-097
296-62-07295	NEW	99-10-071	296-62-14170	NEW-P	99-13-144	296-62-30455	NEW	99-07-097
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296-62-07540	AMD	99-10-071	296-62-20017	AMD-XA	99-12-089	296-62-30930	NEW	99-07-097
296-62-07542	AMD-XA	99-12-089	296-62-20019	AMD	99-10-071	296-62-30935	NEW	99-07-097
296-62-07550	REP	99-10-071	296-62-20027	AMD	99-10-071	296-62-30940	NEW	99-07-097
296-62-07615	AMD	99-10-071	296-62-20027	AMD-XA	99-12-089	296-62-3100	AMD	99-07-097
296-62-07635	REP	99-10-071	296-62-20029	AMD-XA	99-12-089	296-62-31005	NEW	99-07-097
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296-62-31105	NEW	99-07-097	296-62-41086	NEW	99-07-097	296-79-29025	REP-P	99-06-071
296-62-31110	NEW	99-07-097	296-63	PREP	99-02-083	296-79-29027	AMD-P	99-06-071
296-62-3112	REP	99-07-097	296-65	PREP	99-02-083	296-79-29029	AMD-P	99-06-071
296-62-3120	AMD	99-07-097	296-65-003	AMD-P	99-08-071	296-79-29031	AMD-P	99-06-071
296-62-3130	AMD	99-07-097	296-65-010	AMD-P	99-08-071	296-79-29033	AMD-P	99-06-071
296-62-31305	NEW	99-07-097	296-65-012	AMD-P	99-08-071	296-79-29035	AMD-P	99-06-071
296-62-31310	NEW	99-07-097	296-65-020	AMD-P	99-08-071	296-79-29037	AMD-P	99-06-071
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296-62-31325	NEW	99-07-097	296-67	PREP	99-02-083	296-79-31001	AMD-P	99-06-071
296-62-31330	NEW	99-07-097	296-78	PREP	99-02-083	296-79-31003	AMD-P	99-06-071
296-62-31335	NEW	99-07-097	296-78	PREP	99-06-040	296-79-31005	REP-P	99-06-071
296-62-3138	AMD	99-07-097	296-78	PREP	99-12-037	296-79-31007	REP-P	99-06-071
296-62-3140	AMD	99-07-097	296-78-665	AMD	99-10-071	296-79-31009	AMD-P	99-06-071
296-62-31405	NEW	99-07-097	296-78-71019	AMD	99-10-071	296-79-31011	REP-P	99-06-071
296-62-31410	NEW	99-07-097	296-79	PREP	99-02-083	296-79-31013	REP-P	99-06-071
296-62-31415	NEW	99-07-097	296-79-010	AMD-P	99-06-071	296-79-320	AMD-P	99-06-071
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296-62-31425	NEW	99-07-097	296-79-020	AMD-P	99-06-071	296-86A-020	AMD	99-12-080
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296-62-3160	AMD	99-07-097	296-79-130	AMD-P	99-06-071	296-86A-070	AMD-P	99-08-128
296-62-3180	AMD	99-07-097	296-79-140	AMD-P	99-06-071	296-86A-070	AMD	99-12-080
296-62-3190	AMD	99-07-097	296-79-150	AMD-P	99-06-071	296-86A-073	AMD-P	99-08-128
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296-62-41021	NEW	99-07-097	296-79-260	AMD-P	99-06-071	296-104-015	PREP	99-05-021
296-62-41023	NEW	99-07-097	296-79-270	AMD-P	99-06-071	296-104-017	PREP	99-05-021
296-62-41025	NEW	99-07-097	296-79-27001	REP-P	99-06-071	296-104-018	PREP	99-05-021
296-62-41025	AMD-XA	99-12-089	296-79-27003	AMD-P	99-06-071	296-104-020	PREP	99-05-021
296-62-41030	NEW	99-07-097	296-79-27005	AMD-P	99-06-071	296-104-025	PREP	99-05-021
296-62-41031	NEW	99-07-097	296-79-27007	AMD-P	99-06-071	296-104-030	PREP	99-05-021
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296-62-41041	NEW	99-07-097	296-79-27015	AMD-P	99-06-071	296-104-050	PREP	99-05-021
296-62-41042	NEW	99-07-097	296-79-280	AMD-P	99-06-071	296-104-055	PREP	99-05-021
296-62-41043	NEW	99-07-097	296-79-290	AMD-P	99-06-071	296-104-060	PREP	99-05-021
296-62-41044	NEW	99-07-097	296-79-29001	AMD-P	99-06-071	296-104-065	PREP	99-05-021
296-62-41045	NEW	99-07-097	296-79-29003	AMD-P	99-06-071	296-104-100	PREP	99-05-021
296-62-41046	NEW	99-07-097	296-79-29005	AMD-P	99-06-071	296-104-102	PREP	99-05-021
296-62-41047	NEW	99-07-097	296-79-29007	AMD-P	99-06-071	296-104-105	PREP	99-05-021
296-62-41060	NEW	99-07-097	296-79-29009	AMD-P	99-06-071	296-104-107	PREP	99-05-021
296-62-41061	NEW	99-07-097	296-79-29011	AMD-P	99-06-071	296-104-110	PREP	99-05-021
296-62-41063	NEW	99-07-097	296-79-29013	AMD-P	99-06-071	296-104-115	PREP	99-05-021
296-62-41080	NEW	99-07-097	296-79-29015	AMD-P	99-06-071	296-104-125	PREP	99-05-021
296-62-41081	NEW	99-07-097	296-79-29017	AMD-P	99-06-071	296-104-130	PREP	99-05-021
296-62-41082	NEW	99-07-097	296-79-29019	REP-P	99-06-071	296-104-135	PREP	99-05-021

TABLE

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-104-140	PREP	99-05-021	296-150M-0309	NEW-P	99-08-129	296-150T-0230	NEW	99-12-079
296-104-145	PREP	99-05-021	296-150M-0309	NEW	99-13-010	296-150T-0250	NEW-P	99-08-130
296-104-150	PREP	99-05-021	296-150M-0400	REP-P	99-08-129	296-150T-0250	NEW	99-12-079
296-104-151	PREP	99-05-021	296-150M-0400	REP	99-13-010	296-150T-0300	NEW-P	99-08-130
296-104-155	PREP	99-05-021	296-150M-0600	AMD-P	99-08-129	296-150T-0300	NEW	99-12-079
296-104-160	PREP	99-05-021	296-150M-0600	AMD	99-13-010	296-150T-0320	NEW-P	99-08-130
296-104-165	PREP	99-05-021	296-150M-0610	AMD-P	99-08-129	296-150T-0320	NEW	99-12-079
296-104-170	PREP	99-05-021	296-150M-0610	AMD	99-13-010	296-150T-0340	NEW-P	99-08-130
296-104-285	REP-P	99-04-036	296-150M-0614	NEW-P	99-08-129	296-150T-0340	NEW	99-12-079
296-104-285	REP	99-08-049	296-150M-0614	NEW	99-13-010	296-150T-0350	NEW-P	99-08-130
296-104-502	PREP	99-05-021	296-150M-0615	NEW-P	99-08-129	296-150T-0350	NEW	99-12-079
296-104-700	AMD-P	99-04-036	296-150M-0615	NEW	99-13-010	296-150T-0380	NEW-P	99-08-130
296-104-700	AMD	99-08-049	296-150M-0640	AMD-P	99-08-129	296-150T-0380	NEW	99-12-079
296-115	PREP	99-02-083	296-150M-0640	AMD	99-13-010	296-150T-0390	NEW-P	99-08-130
296-125-019	REP-XR	99-12-113	296-150M-0655	NEW-P	99-08-129	296-150T-0390	NEW	99-12-079
296-125-0212	NEW-W	99-09-081	296-150M-0655	NEW	99-13-010	296-150T-0400	NEW-P	99-08-130
296-125-0630	NEW-W	99-09-081	296-150M-3000	AMD-P	99-08-128	296-150T-0400	NEW	99-12-079
296-125-0725	NEW-W	99-09-081	296-150M-3000	AMD	99-12-080	296-150T-0410	NEW-P	99-08-130
296-150C	PREP	99-05-078	296-150P	PREP	99-05-078	296-150T-0410	NEW	99-12-079
296-150C-0140	NEW-P	99-08-129	296-150P-0020	AMD-P	99-08-129	296-150T-0500	NEW-P	99-08-130
296-150C-0140	NEW	99-13-010	296-150P-0020	AMD	99-13-010	296-150T-0500	NEW	99-12-079
296-150C-0320	AMD-P	99-08-129	296-150P-0050	NEW-P	99-08-129	296-150T-0510	NEW-P	99-08-130
296-150C-0320	AMD	99-13-010	296-150P-0050	NEW	99-13-010	296-150T-0510	NEW	99-12-079
296-150C-0805	NEW-P	99-08-129	296-150P-0140	NEW-P	99-08-129	296-150T-0520	NEW-P	99-08-130
296-150C-0805	NEW	99-13-010	296-150P-0140	NEW	99-13-010	296-150T-0520	NEW	99-12-079
296-150C-0810	AMD-P	99-08-129	296-150P-3000	AMD-P	99-08-128	296-150T-0530	NEW-P	99-08-130
296-150C-0810	AMD	99-13-010	296-150P-3000	AMD	99-12-080	296-150T-0530	NEW	99-12-079
296-150C-0960	AMD-P	99-08-129	296-150R	PREP	99-05-078	296-150T-0540	NEW-P	99-08-130
296-150C-0960	AMD	99-13-010	296-150R-0020	AMD-P	99-08-129	296-150T-0540	NEW	99-12-079
296-150C-1080	AMD-P	99-08-129	296-150R-0020	AMD	99-13-010	296-150T-0550	NEW-P	99-08-130
296-150C-1080	AMD	99-13-010	296-150R-0050	NEW-P	99-08-129	296-150T-0550	NEW	99-12-079
296-150C-1345	NEW-P	99-08-129	296-150R-0050	NEW	99-13-010	296-150T-0580	NEW-P	99-08-130
296-150C-1345	NEW	99-13-010	296-150R-0140	NEW-P	99-08-129	296-150T-0580	NEW	99-12-079
296-150C-1545	NEW-P	99-08-129	296-150R-0140	NEW	99-13-010	296-150T-0590	NEW-P	99-08-130
296-150C-1545	NEW	99-13-010	296-150R-3000	AMD-P	99-08-128	296-150T-0590	NEW	99-12-079
296-150C-1580	AMD-P	99-08-129	296-150R-3000	AMD	99-12-080	296-150T-0600	NEW-P	99-08-130
296-150C-1580	AMD-W	99-13-011	296-150T-0010	NEW-P	99-08-130	296-150T-0600	NEW	99-12-079
296-150C-3000	AMD-P	99-08-128	296-150T-0010	NEW	99-12-079	296-150T-0700	NEW-P	99-08-130
296-150C-3000	AMD	99-12-080	296-150T-0020	NEW-P	99-08-130	296-150T-0700	NEW	99-12-079
296-150F	PREP	99-05-078	296-150T-0020	NEW	99-12-079	296-150T-0710	NEW-P	99-08-130
296-150F-0050	NEW-P	99-08-129	296-150T-0030	NEW-P	99-08-130	296-150T-0710	NEW	99-12-079
296-150F-0050	NEW	99-13-010	296-150T-0030	NEW	99-12-079	296-150T-0720	NEW-P	99-08-130
296-150F-0140	NEW-P	99-08-129	296-150T-0040	NEW-P	99-08-130	296-150T-0720	NEW	99-12-079
296-150F-0140	NEW	99-13-010	296-150T-0040	NEW	99-12-079	296-150T-3000	NEW-P	99-08-130
296-150F-0320	AMD-P	99-08-129	296-150T-0050	NEW-P	99-08-130	296-150T-3000	NEW	99-12-079
296-150F-0320	AMD	99-13-010	296-150T-0050	NEW	99-12-079	296-150V-0010	NEW-P	99-13-200
296-150F-0605	NEW-P	99-08-129	296-150T-0070	NEW-P	99-08-130	296-150V-0020	NEW-P	99-13-200
296-150F-0605	NEW	99-13-010	296-150T-0070	NEW	99-12-079	296-150V-0030	NEW-P	99-13-200
296-150F-0610	NEW-P	99-08-129	296-150T-0080	NEW-P	99-08-130	296-150V-0040	NEW-P	99-13-200
296-150F-0610	NEW	99-13-010	296-150T-0080	NEW	99-12-079	296-150V-0050	NEW-P	99-13-200
296-150F-0615	NEW-P	99-08-129	296-150T-0100	NEW-P	99-08-130	296-150V-0060	NEW-P	99-13-200
296-150F-0615	NEW	99-13-010	296-150T-0100	NEW	99-12-079	296-150V-0070	NEW-P	99-13-200
296-150F-0620	NEW-P	99-08-129	296-150T-0110	NEW-P	99-08-130	296-150V-0080	NEW-P	99-13-200
296-150F-0620	NEW	99-13-010	296-150T-0110	NEW	99-12-079	296-150V-0100	NEW-P	99-13-200
296-150F-0625	NEW-P	99-08-129	296-150T-0120	NEW-P	99-08-130	296-150V-0110	NEW-P	99-13-200
296-150F-0625	NEW	99-13-010	296-150T-0120	NEW	99-12-079	296-150V-0120	NEW-P	99-13-200
296-150F-3000	AMD-P	99-08-128	296-150T-0130	NEW-P	99-08-130	296-150V-0140	NEW-P	99-13-200
296-150F-3000	AMD	99-12-080	296-150T-0130	NEW	99-12-079	296-150V-0200	NEW-P	99-13-200
296-150M	PREP	99-05-078	296-150T-0140	NEW-P	99-08-130	296-150V-0210	NEW-P	99-13-200
296-150M-0020	AMD-P	99-08-129	296-150T-0140	NEW	99-12-079	296-150V-0220	NEW-P	99-13-200
296-150M-0020	AMD	99-13-010	296-150T-0200	NEW-P	99-08-130	296-150V-0230	NEW-P	99-13-200
296-150M-0120	NEW-P	99-08-129	296-150T-0200	NEW	99-12-079	296-150V-0240	NEW-P	99-13-200
296-150M-0120	NEW	99-13-010	296-150T-0210	NEW-P	99-08-130	296-150V-0250	NEW-P	99-13-200
296-150M-0140	NEW-P	99-08-129	296-150T-0210	NEW	99-12-079	296-150V-0300	NEW-P	99-13-200
296-150M-0140	NEW	99-13-010	296-150T-0220	NEW-P	99-08-130	296-150V-0310	NEW-P	99-13-200
296-150M-0306	AMD-P	99-08-129	296-150T-0220	NEW	99-12-079	296-150V-0320	NEW-P	99-13-200
296-150M-0306	AMD	99-13-010	296-150T-0230	NEW-P	99-08-130	296-150V-0340	NEW-P	99-13-200

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-150V-0350	NEW-P	99-13-200	296-155-17355	REP	99-10-071	308-19-010	AMD-P	99-08-087
296-150V-0380	NEW-P	99-13-200	296-155-17357	REP	99-10-071	308-19-020	AMD-P	99-08-087
296-150V-0390	NEW-P	99-13-200	296-155-17359	REP	99-10-071	308-19-030	AMD-P	99-08-087
296-150V-0400	NEW-P	99-13-200	296-155-174	AMD	99-10-071	308-19-100	AMD-P	99-08-087
296-150V-0410	NEW-P	99-13-200	296-155-17613	AMD	99-10-071	308-19-105	NEW-P	99-08-087
296-150V-0415	NEW-P	99-13-200	296-155-17625	AMD	99-10-071	308-19-110	AMD-P	99-08-087
296-150V-0500	NEW-P	99-13-200	296-155-17635	REP	99-10-071	308-19-140	AMD-P	99-08-087
296-150V-0510	NEW-P	99-13-200	296-155-17652	AMD	99-10-071	308-19-150	AMD-P	99-08-087
296-150V-0520	NEW-P	99-13-200	296-155-66403	REP	99-10-071	308-19-160	AMD-P	99-08-087
296-150V-0530	NEW-P	99-13-200	296-155-220	AMD	99-10-071	308-19-200	AMD-P	99-08-087
296-150V-0540	NEW-P	99-13-200	296-155-270	AMD-XA	99-12-089	308-19-210	AMD-P	99-08-087
296-150V-0550	NEW-P	99-13-200	296-155-367	AMD	99-10-071	308-19-220	AMD-P	99-08-087
296-150V-0560	NEW-P	99-13-200	296-155-655	AMD	99-10-071	308-19-230	AMD-P	99-08-087
296-150V-0580	NEW-P	99-13-200	296-155-655	AMD-XA	99-12-089	308-19-240	AMD-P	99-08-087
296-150V-0590	NEW-P	99-13-200	296-155-66403	AMD-XA	99-12-089	308-19-250	AMD-P	99-08-087
296-150V-0700	NEW-P	99-13-200	296-155-730	AMD	99-10-071	308-19-300	AMD-P	99-08-087
296-150V-0710	NEW-P	99-13-200	296-200A-900	AMD-P	99-08-128	308-19-400	AMD-P	99-08-087
296-150V-0720	NEW-P	99-13-200	296-200A-900	AMD	99-12-080	308-19-410	AMD-P	99-08-087
296-150V-0800	NEW-P	99-13-200	296-301	PREP	99-04-057	308-19-420	AMD-P	99-08-087
296-150V-0930	NEW-P	99-13-200	296-301	PREP	99-06-040	308-19-430	NEW-P	99-08-087
296-150V-0950	NEW-P	99-13-200	296-301-020	AMD-XA	99-12-089	308-19-440	NEW-P	99-08-087
296-150V-1040	NEW-P	99-13-200	296-301-020	AMD	99-12-091	308-21-010	REP-XR	99-10-026
296-150V-1070	NEW-P	99-13-200	296-301-170	AMD-XA	99-12-089	308-21-100	REP-XR	99-10-026
296-150V-1090	NEW-P	99-13-200	296-301-195	AMD-XA	99-12-089	308-21-200	REP-XR	99-10-026
296-150V-1100	NEW-P	99-13-200	296-301-220	AMD-XA	99-12-089	308-21-300	REP-XR	99-10-026
296-150V-1110	NEW-P	99-13-200	296-302	PREP	99-02-083	308-21-400	REP-XR	99-10-026
296-150V-1120	NEW-P	99-13-200	296-303	PREP	99-02-083	308-21-500	REP-XR	99-10-026
296-150V-1170	NEW-P	99-13-200	296-304	PREP	99-02-083	308-21-600	REP-XR	99-10-026
296-150V-1180	NEW-P	99-13-200	296-304	PREP	99-12-037	308-32-015	REP-XR	99-09-056
296-150V-1185	NEW-P	99-13-200	296-304-03005	AMD	99-10-071	308-32-020	REP-XR	99-09-056
296-150V-1190	NEW-P	99-13-200	296-305	PREP	99-02-083	308-32-030	REP-XR	99-09-056
296-150V-1220	NEW-P	99-13-200	296-305-01003	AMD	99-05-080	308-32-040	REP-XR	99-09-056
296-150V-1303	NEW-P	99-13-200	296-305-01005	AMD	99-05-080	308-32-050	REP-XR	99-09-056
296-150V-1330	NEW-P	99-13-200	296-305-01509	AMD	99-05-080	308-32-060	REP-XR	99-09-056
296-150V-1350	NEW-P	99-13-200	296-305-02001	AMD	99-05-080	308-32-070	REP-XR	99-09-056
296-150V-1360	NEW-P	99-13-200	296-305-02003	AMD	99-05-080	308-32-080	REP-XR	99-09-056
296-150V-1380	NEW-P	99-13-200	296-305-02007	AMD	99-05-080	308-32-090	REP-XR	99-09-056
296-150V-1390	NEW-P	99-13-200	296-305-02013	AMD	99-05-080	308-48-800	PREP	99-10-016
296-150V-1400	NEW-P	99-13-200	296-305-02015	AMD	99-05-080	308-48-800	AMD-P	99-13-136
296-150V-1410	NEW-P	99-13-200	296-305-02501	AMD	99-10-071	308-56A-060	AMD-P	99-04-037
296-150V-1420	NEW-P	99-13-200	296-305-04001	AMD	99-05-080	308-56A-060	AMD	99-08-064
296-150V-1430	NEW-P	99-13-200	296-305-04501	AMD	99-05-080	308-56A-065	AMD-P	99-04-037
296-150V-1440	NEW-P	99-13-200	296-305-04503	AMD	99-05-080	308-56A-065	AMD	99-08-064
296-150V-1450	NEW-P	99-13-200	296-305-05001	AMD	99-05-080	308-56A-070	AMD-P	99-04-037
296-150V-1460	NEW-P	99-13-200	296-305-05007	AMD	99-05-080	308-56A-070	AMD	99-08-064
296-150V-1470	NEW-P	99-13-200	296-305-05009	AMD	99-05-080	308-56A-075	AMD-P	99-04-037
296-150V-1530	NEW-P	99-13-200	296-305-06005	AMD	99-05-080	308-56A-075	AMD	99-08-064
296-150V-1540	NEW-P	99-13-200	296-305-06007	AMD	99-05-080	308-56A-140	AMD-P	99-07-016
296-150V-1550	NEW-P	99-13-200	296-307	PREP	99-02-083	308-56A-140	AMD	99-12-031
296-150V-1560	NEW-P	99-13-200	296-307	PREP	99-12-037	308-56A-145	REP-P	99-07-016
296-150V-1570	NEW-P	99-13-200	296-350	PREP	99-02-083	308-56A-145	REP	99-12-031
296-150V-1580	NEW-P	99-13-200	296-350	PREP	99-08-069	308-56A-150	PREP	99-13-006
296-150V-1590	NEW-P	99-13-200	296-400A-045	AMD-XA	99-03-109	308-56A-160	AMD-P	99-07-016
296-150V-3000	NEW-P	99-13-200	296-400A-045	AMD	99-07-101	308-56A-160	AMD	99-12-031
296-155	PREP	99-02-083	296-401A-100	AMD	99-05-052	308-56A-200	AMD-P	99-07-016
296-155	PREP	99-04-057	296-401A-140	AMD	99-05-052	308-56A-200	AMD	99-12-031
296-155	PREP	99-06-040	296-401A-530	AMD	99-05-052	308-56A-205	REP-P	99-07-016
296-155	PREP	99-07-015	296-401A-700	AMD-P	99-08-128	308-56A-205	REP	99-12-031
296-155	PREP	99-08-070	296-401A-700	AMD	99-12-080	308-56A-215	AMD-P	99-07-016
296-155	PREP	99-12-037	308-10-010	PREP	99-08-036	308-56A-215	AMD	99-12-031
296-155-17317	AMD	99-10-071	308-10-010	AMD-P	99-12-026	308-56A-250	AMD-P	99-04-038
296-155-17335	REP	99-10-071	308-10-045	AMD-XA	99-05-004	308-56A-250	AMD	99-08-065
296-155-17337	AMD	99-10-071	308-10-045	AMD	99-09-045	308-56A-255	REP-P	99-04-038
296-155-17341	AMD	99-10-071	308-12-320	AMD-P	99-05-050	308-56A-255	REP	99-08-065
296-155-17349	REP	99-10-071	308-12-320	AMD	99-08-062	308-56A-265	AMD-P	99-04-038
296-155-17351	REP	99-10-071	308-12-326	AMD-P	99-05-050	308-56A-265	AMD	99-08-065
296-155-17353	REP	99-10-071	308-12-326	AMD	99-08-062	308-56A-270	AMD-P	99-04-038

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308- 56A-270	AMD	99-08-065	308- 93-250	AMD	99-03-002	308- 96A-505	PREP	99-10-056
308- 56A-275	AMD-P	99-04-038	308- 93-270	AMD	99-03-002	308- 96A-510	PREP	99-10-056
308- 56A-275	AMD	99-08-065	308- 93-280	AMD	99-03-002	308- 96A-520	PREP	99-10-056
308- 56A-280	REP-P	99-04-038	308- 93-320	PREP	99-10-057	308- 96A-530	PREP	99-10-056
308- 56A-280	REP	99-08-065	308- 93-410	REP	99-03-002	308- 96A-540	PREP	99-10-056
308- 56A-285	REP-P	99-04-038	308- 93-520	AMD	99-07-041	308- 99-010	PREP	99-10-055
308- 56A-285	REP	99-08-065	308- 93-530	AMD	99-07-041	308- 99-020	PREP	99-10-055
308- 56A-300	AMD-P	99-09-043	308- 93-540	AMD	99-07-041	308- 99-021	PREP	99-10-055
308- 56A-300	AMD	99-13-150	308- 93-550	REP	99-07-041	308- 99-025	PREP	99-10-055
308- 56A-305	AMD-P	99-09-043	308- 93-560	REP	99-07-041	308- 99-030	PREP	99-10-055
308- 56A-305	AMD	99-13-150	308- 93-570	REP	99-07-041	308- 99-040	PREP	99-10-055
308- 56A-310	AMD-P	99-09-043	308- 93-580	REP	99-07-041	308- 99-050	PREP	99-10-055
308- 56A-310	AMD	99-13-150	308- 93-590	REP	99-07-041	308-104-109	NEW-P	99-02-052
308- 56A-315	AMD-P	99-09-043	308- 93-600	REP	99-07-041	308-104-109	NEW	99-05-032
308- 56A-315	AMD	99-13-150	308- 93-620	REP	99-03-002	308-124	AMD	99-03-042
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308- 56A-320	AMD	99-13-150	308- 94-181	PREP	99-13-149	308-124-005	REP	99-03-042
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308- 56A-325	AMD	99-13-150	308- 94-200	PREP	99-13-149	308-124-021	AMD	99-03-042
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388-86-200	AMD-W	99-08-080	388-310-0300	AMD-P	99-05-071	388-330-020	PREP	99-07-039
388-87-0005	PREP	99-05-044	388-310-0300	AMD	99-10-027	388-330-030	PREP	99-07-039
388-87-0007	PREP	99-05-044	388-310-0400	AMD-P	99-05-071	388-330-035	PREP	99-07-039
388-87-0008	PREP	99-05-044	388-310-0400	AMD	99-10-027	388-330-040	PREP	99-07-039
388-87-0010	PREP	99-05-044	388-310-0500	AMD-P	99-05-071	388-330-050	PREP	99-07-039
388-87-0011	PREP	99-05-044	388-310-0500	AMD	99-10-027	388-330-060	PREP	99-07-039
388-87-0020	PREP	99-05-044	388-310-0600	AMD-P	99-05-071	388-400	PREP	99-07-105
388-87-0025	PREP	99-05-044	388-310-0600	AMD	99-10-027	388-400-0020	AMD-P	99-04-102
388-87-0105	PREP	99-05-044	388-310-0700	AMD-P	99-05-071	388-400-0020	AMD	99-08-050
388-87-0250	PREP	99-05-044	388-310-0700	AMD	99-10-027	388-406-0015	AMD-P	99-12-121
388-87-048	PREP	99-13-190	388-310-0800	AMD-P	99-05-071	388-406-0035	AMD-P	99-12-121
388-87-065	REP-P	99-11-053	388-310-0800	AMD-S	99-10-028	388-406-0040	AMD-P	99-12-121
388-87-079	PREP	99-06-043	388-310-0900	AMD-P	99-05-071	388-406-0050	AMD-P	99-12-121
388-87-080	REP-P	99-08-122	388-310-0900	AMD	99-10-027	388-408-0010	AMD-P	99-10-105
388-87-080	REP	99-13-049	388-310-1000	AMD-P	99-05-071	388-408-0015	AMD-P	99-10-105
388-87-090	PREP	99-11-084	388-310-1000	AMD	99-10-027	388-408-0035	AMD-P	99-12-120
388-87-110	REP-W	99-11-060	388-310-1050	AMD-P	99-05-071	388-412-0005	AMD-P	99-12-117
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388-418-0025	AMD-P	99-07-137	388-470-0055	AMD-P	99-12-117	388-527-2742	AMD	99-11-076
388-418-0025	AMD	99-10-064	388-470-0070	PREP	99-03-040	388-527-2750	AMD-P	99-07-025
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388-424-0010	AMD-P	99-13-126	388-476-0005	AMD-P	99-13-192	388-527-2752	REP	99-11-076
388-426	PREP	99-08-120	388-478-0010	AMD-P	99-12-120	388-527-2753	REP-P	99-07-025
388-426-0005	AMD-P	99-13-192	388-478-0015	AMD	99-04-056	388-527-2753	REP	99-11-076
388-434-0005	PREP	99-04-054	388-478-0055	AMD	99-04-103	388-527-2754	AMD-P	99-07-025
388-436-0001	REP-P	99-11-073	388-478-0055	PREP	99-05-045	388-527-2754	AMD	99-11-076
388-436-0002	NEW-P	99-11-073	388-478-0060	AMD	99-05-074	388-527-2790	AMD-P	99-07-025
388-436-0005	REP-P	99-11-073	388-478-0060	AMD-P	99-12-120	388-527-2790	AMD	99-11-076
388-438-0110	PREP	99-10-047	388-478-0070	AMD-P	99-08-118	388-527-2795	NEW-P	99-07-025
388-440	PREP	99-08-120	388-478-0070	AMD-E	99-08-119	388-527-2795	NEW	99-11-076
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388-444-0035	AMD	99-07-024	388-478-0075	PREP	99-07-103	388-530-2050	PREP	99-05-044
388-444-0040	AMD	99-07-024	388-478-0075	AMD-E	99-08-001	388-533	PREP	99-06-043
388-444-0045	AMD	99-07-024	388-478-0080	AMD-P	99-08-118	388-535-1000	REP	99-07-023
388-444-0075	AMD	99-07-024	388-478-0080	AMD-E	99-08-119	388-535-1010	NEW	99-07-023
388-448-0001	PREP	99-04-055	388-478-0080	AMD	99-11-054	388-535-1050	AMD	99-07-023
388-450-0005	AMD-P	99-12-118	388-478-0085	PREP	99-07-103	388-535-1060	NEW	99-07-023
388-450-0015	AMD-P	99-13-192	388-478-0085	AMD-E	99-08-001	388-535-1080	NEW	99-07-023
388-450-0025	REP-P	99-12-116	388-482-0005	AMD-P	99-12-117	388-535-1100	AMD	99-07-023
388-450-0025	AMD-P	99-13-192	388-484-0005	AMD-P	99-04-102	388-535-1150	AMD	99-07-023
388-450-0030	AMD-P	99-13-192	388-484-0005	AMD	99-08-050	388-535-1200	AMD	99-07-023
388-450-0035	AMD-P	99-12-119	388-501-0130	PREP	99-05-044	388-535-1220	NEW	99-07-023
388-450-0045	AMD-P	99-12-119	388-501-0160	PREP	99-08-040	388-535-1230	NEW	99-07-023
388-450-0050	PREP	99-03-040	388-501-0165	PREP	99-08-041	388-535-1240	NEW	99-07-023
388-450-0050	AMD-P	99-06-098	388-501-0175	PREP	99-05-044	388-535-1250	AMD	99-07-023
388-450-0050	AMD	99-09-054	388-502-0220	PREP	99-06-085	388-535-1260	NEW	99-07-023
388-450-0060	AMD-P	99-12-119	388-502-0220	AMD-P	99-11-052	388-535-1300	AMD	99-07-023
388-450-0065	AMD-P	99-12-119	388-502-0250	PREP	99-05-044	388-535-1350	AMD	99-07-023
388-450-0080	AMD-P	99-12-119	388-505-0210	AMD-P	99-13-126	388-535-1400	AMD	99-07-023
388-450-0085	AMD-P	99-12-119	388-505-0540	PREP	99-05-044	388-535-1450	AMD	99-07-023
388-450-0100	AMD-P	99-12-116	388-505-0595	PREP	99-05-044	388-535-1500	AMD	99-07-023
388-450-0106	PREP	99-03-040	388-511-1130	PREP	99-05-044	388-535-1550	AMD	99-07-023
388-450-0106	AMD-P	99-12-116	388-513-1305	AMD	99-06-045	388-539-0500	PREP	99-13-190
388-450-0116	PREP	99-03-040	388-513-1315	AMD	99-06-045	388-540-001	PREP	99-05-044
388-450-0116	AMD-P	99-12-116	388-513-1320	AMD	99-06-045	388-540-010	PREP	99-05-044
388-450-0140	AMD-P	99-12-116	388-513-1330	AMD	99-06-045	388-540-020	PREP	99-05-044
388-450-0160	AMD-P	99-12-116	388-513-1340	AMD-W	99-13-096	388-540-040	PREP	99-05-044
388-450-0185	AMD-P	99-12-116	388-513-1345	AMD-W	99-13-096	388-540-050	PREP	99-05-044
388-450-0190	AMD-P	99-12-116	388-513-1350	AMD	99-06-045	388-543-1000	NEW-W	99-08-080
388-450-0195	AMD-E	99-05-046	388-513-1360	AMD	99-06-045	388-543-1100	NEW-W	99-08-080
388-450-0195	AMD-P	99-06-088	388-513-1365	AMD	99-06-045	388-543-1200	NEW-W	99-08-080
388-450-0195	AMD	99-09-055	388-513-1380	AMD-P	99-06-100	388-543-1300	NEW-W	99-08-080
388-450-0200	AMD-P	99-12-116	388-513-1380	AMD-E	99-08-016	388-543-1400	NEW-W	99-08-080
388-450-0215	AMD-P	99-12-118	388-513-1380	AMD	99-11-017	388-543-1500	NEW-W	99-08-080
388-450-0220	AMD-P	99-12-118	388-513-1395	AMD	99-06-045	388-543-1600	NEW-W	99-08-080
388-450-0225	AMD-P	99-12-118	388-515-1505	AMD-W	99-13-096	388-543-1700	NEW-W	99-08-080
388-450-0235	AMD-P	99-12-118	388-515-1510	AMD	99-06-045	388-543-1800	NEW-W	99-08-080
388-450-0250	AMD-P	99-12-118	388-515-1530	AMD	99-06-045	388-543-1900	NEW-W	99-08-080
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388-452-0005	AMD	99-11-075	388-527	AMD-P	99-07-025	388-543-2100	NEW-W	99-08-080
388-462-0005	REP-P	99-10-105	388-527	AMD	99-11-076	388-543-2200	NEW-W	99-08-080
388-462-0010	AMD-P	99-10-105	388-527-2700	NEW-P	99-07-025	388-543-2300	NEW-W	99-08-080
388-462-0020	NEW-P	99-10-105	388-527-2700	NEW	99-11-076	388-543-2400	NEW-W	99-08-080
388-470-0005	PREP	99-03-040	388-527-2730	AMD-P	99-07-025	388-543-2500	NEW-W	99-08-080
388-470-0010	PREP	99-03-040	388-527-2730	AMD	99-11-076	388-543-2600	NEW-W	99-08-080
388-470-0012	NEW-P	99-06-099	388-527-2733	NEW-P	99-07-025	388-543-2700	NEW-W	99-08-080
388-470-0012	NEW	99-09-053	388-527-2733	NEW	99-11-076	388-543-2800	NEW-W	99-08-080
388-470-0015	PREP	99-03-040	388-527-2735	REP-P	99-07-025	388-543-2900	NEW-W	99-08-080
388-470-0020	PREP	99-03-040	388-527-2735	REP	99-11-076	388-543-3000	NEW-W	99-08-080
388-470-0025	PREP	99-03-040	388-527-2737	NEW-P	99-07-025	388-545-0500	PREP	99-11-084
388-470-0025	REP-P	99-12-117	388-527-2737	NEW	99-11-076	388-545-300	NEW-P	99-11-071
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388-550-1050	PREP	99-06-087	388-551-1210	NEW	99-09-007	388-552-360	NEW-P	99-08-122
388-550-1050	AMD-P	99-09-088	388-551-1300	NEW-P	99-05-073	388-552-360	NEW	99-13-049
388-550-1200	AMD	99-06-046	388-551-1300	NEW	99-09-007	388-552-370	NEW-P	99-08-122
388-550-2431	NEW	99-06-046	388-551-1310	NEW-P	99-05-073	388-552-370	NEW	99-13-049
388-550-2800	AMD	99-06-046	388-551-1310	NEW	99-09-007	388-552-380	NEW-P	99-08-122
388-550-2800	PREP	99-06-084	388-551-1315	NEW-P	99-05-073	388-552-380	NEW	99-13-049
388-550-2800	AMD-P	99-09-091	388-551-1315	NEW	99-09-007	388-552-390	NEW-P	99-08-122
388-550-2900	AMD	99-06-046	388-551-1320	NEW-P	99-05-073	388-552-390	NEW	99-13-049
388-550-2900	PREP	99-06-084	388-551-1320	NEW	99-09-007	388-552-400	NEW-P	99-08-122
388-550-2900	AMD-P	99-09-091	388-551-1330	NEW-P	99-05-073	388-552-400	NEW	99-13-049
388-550-3000	AMD	99-06-046	388-551-1330	NEW	99-09-007	388-552-410	NEW-P	99-08-122
388-550-3100	AMD	99-06-046	388-551-1340	NEW-P	99-05-073	388-552-410	NEW	99-13-049
388-550-3450	PREP	99-06-084	388-551-1340	NEW	99-09-007	388-552-420	NEW-P	99-08-122
388-550-3450	AMD-P	99-09-091	388-551-1350	NEW-P	99-05-073	388-552-420	NEW	99-13-049
388-550-3500	AMD	99-06-046	388-551-1350	NEW	99-09-007	388-890-0005	NEW-P	99-12-030
388-550-3500	PREP	99-06-084	388-551-1360	NEW-P	99-05-073	388-890-0010	NEW-P	99-12-030
388-550-3500	AMD-P	99-09-091	388-551-1360	NEW	99-09-007	388-890-0015	NEW-P	99-12-030
388-550-3700	AMD	99-06-046	388-551-1400	NEW-P	99-05-073	388-890-0020	NEW-P	99-12-030
388-550-3900	PREP	99-06-084	388-551-1400	NEW	99-09-007	388-890-0025	NEW-P	99-12-030
388-550-3900	AMD-P	99-09-091	388-551-1410	NEW-P	99-05-073	388-890-0030	NEW-P	99-12-030
388-550-4100	PREP	99-06-084	388-551-1410	NEW	99-09-007	388-890-0035	NEW-P	99-12-030
388-550-4100	AMD-P	99-09-091	388-551-1500	NEW-P	99-05-073	388-890-0040	NEW-P	99-12-030
388-550-4500	AMD	99-06-046	388-551-1500	NEW	99-09-007	388-890-0045	NEW-P	99-12-030
388-550-4500	PREP	99-06-084	388-551-1510	NEW-P	99-05-073	388-890-0050	NEW-P	99-12-030
388-550-4500	AMD-P	99-09-091	388-551-1510	NEW	99-09-007	388-890-0055	NEW-P	99-12-030
388-550-4500	AMD-W	99-11-050	388-551-1520	NEW-P	99-05-073	388-890-0060	NEW-P	99-12-030
388-550-4500	AMD-P	99-13-050	388-551-1520	NEW	99-09-007	388-890-0065	NEW-P	99-12-030
388-550-4700	AMD	99-06-046	388-551-1530	NEW-P	99-05-073	388-890-0070	NEW-P	99-12-030
388-550-4800	AMD	99-06-046	388-551-1530	NEW	99-09-007	388-890-0075	NEW-P	99-12-030
388-550-4800	AMD-P	99-09-090	388-551-2000	NEW-P	99-11-053	388-890-0080	NEW-P	99-12-030
388-550-4900	PREP	99-06-083	388-551-2010	NEW-P	99-11-053	388-890-0085	NEW-P	99-12-030
388-550-4900	AMD-P	99-09-087	388-551-2020	NEW-P	99-11-053	388-890-0090	NEW-P	99-12-030
388-550-5000	PREP	99-06-083	388-551-2100	NEW-P	99-11-053	388-890-0095	NEW-P	99-12-030
388-550-5000	AMD-P	99-09-087	388-551-2110	NEW-P	99-11-053	388-890-0100	NEW-P	99-12-030
388-550-5100	PREP	99-06-083	388-551-2120	NEW-P	99-11-053	388-890-0105	NEW-P	99-12-030
388-550-5100	AMD-P	99-09-087	388-551-2130	NEW-P	99-11-053	388-890-0110	NEW-P	99-12-030
388-550-5110	PREP	99-06-083	388-551-2200	NEW-P	99-11-053	388-890-0115	NEW-P	99-12-030
388-550-5110	NEW-P	99-09-087	388-551-2210	NEW-P	99-11-053	388-890-0120	NEW-P	99-12-030
388-550-5110	NEW-W	99-13-125	388-551-2220	NEW-P	99-11-053	388-890-0125	NEW-P	99-12-030
388-550-5120	PREP	99-06-083	388-552-001	NEW-P	99-08-122	388-890-0130	NEW-P	99-12-030
388-550-5120	NEW-P	99-09-087	388-552-001	NEW	99-13-049	388-890-0135	NEW-P	99-12-030
388-550-5120	NEW-W	99-13-125	388-552-005	NEW-P	99-08-122	388-890-0140	NEW-P	99-12-030
388-550-5150	PREP	99-06-083	388-552-005	NEW	99-13-049	388-890-0145	NEW-P	99-12-030
388-550-5150	AMD-P	99-09-087	388-552-100	NEW-P	99-08-122	388-890-0150	NEW-P	99-12-030
388-550-5200	PREP	99-06-083	388-552-100	NEW	99-13-049	388-890-0155	NEW-P	99-12-030
388-550-5200	AMD-P	99-09-087	388-552-200	NEW-P	99-08-122	388-890-0160	NEW-P	99-12-030
388-550-5250	PREP	99-06-083	388-552-200	NEW	99-13-049	388-890-0165	NEW-P	99-12-030
388-550-5250	AMD-P	99-09-087	388-552-210	NEW-P	99-08-122	388-890-0170	NEW-P	99-12-030
388-550-5300	PREP	99-06-083	388-552-210	NEW	99-13-049	388-890-0175	NEW-P	99-12-030
388-550-5300	AMD-P	99-09-087	388-552-220	NEW-P	99-08-122	388-890-0180	NEW-P	99-12-030
388-550-5350	PREP	99-06-083	388-552-220	NEW	99-13-049	388-890-0185	NEW-P	99-12-030
388-550-5350	AMD-P	99-09-087	388-552-230	NEW-P	99-08-122	388-890-0190	NEW-P	99-12-030
388-550-5400	PREP	99-06-083	388-552-230	NEW	99-13-049	388-890-0195	NEW-P	99-12-030
388-550-5400	AMD-P	99-09-087	388-552-240	NEW-P	99-08-122	388-890-0200	NEW-P	99-12-030
388-550-5600	PREP	99-06-085	388-552-240	NEW	99-13-049	388-890-0210	NEW-P	99-12-030
388-550-5600	AMD-P	99-11-052	388-552-300	NEW-P	99-08-122	388-890-0220	NEW-P	99-12-030
388-550-6000	AMD	99-06-046	388-552-300	NEW	99-13-049	388-890-0225	NEW-P	99-12-030
388-550-6000	PREP	99-06-086	388-552-310	NEW-P	99-08-122	388-890-0230	NEW-P	99-12-030
388-550-6000	AMD-P	99-09-089	388-552-310	NEW	99-13-049	388-890-0235	NEW-P	99-12-030
388-550-6000	PREP	99-12-071	388-552-320	NEW-P	99-08-122	388-890-0240	NEW-P	99-12-030
388-551-1000	NEW-P	99-05-073	388-552-320	NEW	99-13-049	388-890-0245	NEW-P	99-12-030
388-551-1000	NEW	99-09-007	388-552-330	NEW-P	99-08-122	388-890-0250	NEW-P	99-12-030
388-551-1010	NEW-P	99-05-073	388-552-330	NEW	99-13-049	388-890-0255	NEW-P	99-12-030
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388-551-1200	NEW-P	99-05-073	388-552-340	NEW	99-13-049	388-890-0265	NEW-P	99-12-030

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390- 14-035	AMD	99-12-061	391- 55-230	AMD-P	99-10-107	415-104-050	AMD-P	99-13-166
390- 14-040	PREP	99-06-056	391- 55-235	AMD-P	99-10-107	415-104-060	AMD-P	99-13-166
390- 14-040	AMD-P	99-09-068	391- 55-240	AMD-P	99-10-107	415-104-070	AMD-P	99-13-166
390- 14-040	AMD	99-12-062	391- 55-245	AMD-P	99-10-107	415-104-080	AMD-P	99-13-166
390- 14-045	PREP	99-06-057	391- 55-255	AMD-P	99-10-107	415-104-090	AMD-P	99-13-166
390- 14-045	AMD-P	99-09-069	391- 55-265	NEW-P	99-10-107	415-104-112	NEW-P	99-13-166
390- 14-045	AMD	99-12-063	391- 55-310	AMD-P	99-10-107	415-104-125	AMD-P	99-13-166
390- 14-055	PREP	99-06-058	391- 55-315	AMD-P	99-10-107	415-104-135	AMD-P	99-13-166
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458-16-320	AMD-XA	99-07-090	458-57-620	REP-P	99-11-104	468-300-020	AMD	99-08-066
458-16-320	AMD	99-13-018	458-57-630	REP-P	99-11-104	468-300-040	AMD-P	99-05-035
458-16A-010	AMD	99-04-016	458-57-640	REP-P	99-11-104	468-300-040	AMD	99-08-066
458-18-010	PREP	99-11-105	458-57-650	REP-P	99-11-104	468-300-220	AMD-P	99-05-035
458-20-119	AMD-XA	99-06-027	458-57-660	REP-P	99-11-104	468-300-220	AMD	99-08-066
458-20-119	AMD	99-11-107	458-61-090	AMD-P	99-10-033	468-300-700	AMD	99-07-059
458-20-131	AMD-P	99-05-017	458-65-010	REP-XR	99-10-032	468-310-010	AMD	99-03-025
458-20-131	AMD	99-08-090	458-65-020	REP-XR	99-04-018	468-310-020	AMD	99-03-025
458-20-135	AMD-E	99-12-077	458-65-020	REP	99-08-007	468-310-050	AMD	99-03-025
458-20-135	PREP	99-12-078	458-65-030	REP-XR	99-04-018	468-310-060	AMD	99-03-025
458-20-136	AMD-E	99-12-077	458-65-030	REP	99-08-007	468-310-100	AMD	99-03-025
458-20-136	PREP	99-12-078	458-65-040	REP-XR	99-04-018	468-500-001	AMD-XA	99-06-004
458-20-13601	NEW-E	99-12-077	458-65-040	REP	99-08-007	468-500-001	AMD	99-11-007
458-20-13601	PREP	99-12-078	460-21B-060	AMD-XA	99-07-012	468-550	PREP	99-11-026
458-20-157	REP-XR	99-04-019	460-21B-060	AMD	99-12-043	474-10-010	NEW	99-03-004
458-20-157	REP	99-08-005	460-22B-090	AMD-XA	99-07-012	474-10-020	NEW	99-03-004
458-20-165	AMD-XA	99-08-032	460-22B-090	AMD	99-12-043	474-10-030	NEW	99-03-004
458-20-165	AMD	99-13-052	460-24A	PREP	99-13-196	474-10-040	NEW	99-03-004
458-20-167	AMD	99-03-005	460-24A-110	NEW	99-03-050	474-10-050	NEW	99-03-004
458-20-192	PREP	99-09-082	460-24A-145	NEW	99-03-052	474-10-060	NEW	99-03-004
458-20-195	AMD-XA	99-08-022	460-24A-220	AMD	99-03-051	474-10-070	NEW	99-03-004

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
474-10-080	NEW	99-03-004	480-09-390	AMD	99-05-031	480-110-023	REP-S	99-12-112
474-10-090	NEW	99-03-004	480-09-400	AMD	99-05-031	480-110-026	REP-W	99-07-053
474-10-100	NEW	99-03-004	480-09-410	AMD	99-05-031	480-110-026	REP-S	99-12-112
478-140	AMD-P	99-08-056	480-09-420	AMD	99-05-031	480-110-028	REP-W	99-07-053
478-140	AMD	99-12-110	480-09-425	AMD	99-05-031	480-110-028	REP-S	99-12-112
478-140-010	AMD-P	99-08-056	480-09-426	AMD	99-05-031	480-110-031	REP-W	99-07-053
478-140-010	AMD	99-12-110	480-09-430	AMD	99-05-031	480-110-031	REP-S	99-12-112
478-140-015	AMD-P	99-08-056	480-09-440	AMD	99-05-031	480-110-032	REP-W	99-07-053
478-140-015	AMD	99-12-110	480-09-460	AMD	99-05-031	480-110-032	REP-S	99-12-112
478-140-018	AMD-P	99-08-056	480-09-465	AMD	99-05-031	480-110-036	REP-W	99-07-053
478-140-018	AMD	99-12-110	480-09-466	AMD	99-05-031	480-110-036	REP-S	99-12-112
478-140-019	NEW-P	99-08-056	480-09-467	AMD	99-05-031	480-110-041	REP-W	99-07-053
478-140-019	NEW	99-12-110	480-09-470	AMD	99-05-031	480-110-041	REP-S	99-12-112
478-140-021	AMD-P	99-08-056	480-09-475	AMD	99-05-031	480-110-046	REP-W	99-07-053
478-140-021	AMD	99-12-110	480-09-500	AMD	99-05-031	480-110-046	REP-S	99-12-112
478-140-024	AMD-P	99-08-056	480-09-510	AMD	99-05-031	480-110-051	REP-W	99-07-053
478-140-024	AMD	99-12-110	480-09-600	AMD	99-05-031	480-110-051	REP-S	99-12-112
478-140-050	AMD-P	99-08-056	480-09-610	AMD	99-05-031	480-110-056	REP-W	99-07-053
478-140-050	AMD	99-12-110	480-09-620	AMD	99-05-031	480-110-056	REP-S	99-12-112
478-140-060	REP-P	99-08-056	480-09-700	AMD	99-05-031	480-110-061	REP-W	99-07-053
478-140-060	REP	99-12-110	480-09-705	AMD	99-05-031	480-110-061	REP-S	99-12-112
478-140-070	AMD-P	99-08-056	480-09-710	AMD	99-05-031	480-110-066	REP-W	99-07-053
478-140-070	AMD	99-12-110	480-09-720	AMD	99-05-031	480-110-066	REP-S	99-12-112
478-140-080	NEW-P	99-08-056	480-09-730	AMD	99-05-031	480-110-071	REP-W	99-07-053
478-140-080	NEW	99-12-110	480-09-735	AMD	99-05-031	480-110-071	REP-S	99-12-112
478-210-010	REP	99-06-033	480-09-736	AMD	99-05-031	480-110-076	REP-W	99-07-053
478-210-020	REP	99-06-033	480-09-740	AMD	99-05-031	480-110-076	REP-S	99-12-112
479-16-020	AMD-P	99-03-089	480-09-745	AMD	99-05-031	480-110-081	REP-W	99-07-053
479-16-020	AMD	99-08-021	480-09-750	AMD	99-05-031	480-110-081	REP-S	99-12-112
479-16-040	AMD-P	99-03-089	480-09-751	AMD	99-05-031	480-110-086	REP-W	99-07-053
479-16-040	AMD	99-08-021	480-09-760	AMD	99-05-031	480-110-086	REP-S	99-12-112
479-16-098	AMD-P	99-03-089	480-09-770	AMD	99-05-031	480-110-091	REP-W	99-07-053
479-16-098	AMD	99-08-021	480-09-780	AMD	99-05-031	480-110-091	REP-S	99-12-112
479-20-007	AMD-P	99-03-089	480-09-800	AMD	99-05-031	480-110-096	REP-W	99-07-053
479-20-007	AMD	99-08-021	480-09-810	AMD	99-05-031	480-110-096	REP-S	99-12-112
479-20-020	AMD-P	99-03-089	480-09-815	AMD	99-05-031	480-110-101	REP-W	99-07-053
479-20-020	AMD	99-08-021	480-09-820	AMD	99-05-031	480-110-101	REP-S	99-12-112
479-20-025	AMD-P	99-03-089	480-09-830	REP	99-05-031	480-110-111	REP-W	99-07-053
479-20-025	AMD	99-08-021	480-12-100	REP-W	99-08-085	480-110-111	REP-S	99-12-112
479-20-037	AMD-P	99-03-089	480-12-370	RE-AD	99-08-026	480-110-116	REP-W	99-07-053
479-20-037	AMD	99-08-021	480-12-375	REP	99-08-026	480-110-116	REP-S	99-12-112
479-510-410	AMD-P	99-03-088	480-12-375	REP-W	99-08-085	480-110-121	REP-W	99-07-053
479-510-410	AMD	99-08-020	480-62	PREP	99-08-053	480-110-121	REP-S	99-12-112
479-510-420	AMD-P	99-03-088	480-70	PREP	99-08-012	480-110-126	REP-W	99-07-053
479-510-420	AMD	99-08-020	480-90	PREP	99-08-052	480-110-126	REP-S	99-12-112
479-510-450	NEW-P	99-03-088	480-92-011	AMD	99-05-016	480-110-131	REP-W	99-07-053
479-510-450	NEW	99-08-020	480-92-016	NEW	99-05-016	480-110-131	REP-S	99-12-112
479-510-460	NEW-P	99-03-088	480-92-021	AMD	99-05-016	480-110-136	REP-W	99-07-053
479-510-460	NEW	99-08-020	480-92-031	AMD	99-05-016	480-110-136	REP-S	99-12-112
480-09-005	NEW	99-05-031	480-92-041	NEW	99-05-016	480-110-141	REP-W	99-07-053
480-09-010	AMD	99-05-031	480-92-050	AMD	99-05-016	480-110-141	REP-S	99-12-112
480-09-012	AMD	99-05-031	480-92-060	AMD	99-05-016	480-110-146	REP-W	99-07-053
480-09-100	AMD	99-05-031	480-92-070	AMD	99-05-016	480-110-146	REP-S	99-12-112
480-09-101	NEW	99-05-031	480-92-080	AMD	99-05-016	480-110-151	REP-W	99-07-053
480-09-115	AMD	99-05-031	480-92-090	AMD	99-05-016	480-110-151	REP-S	99-12-112
480-09-120	AMD	99-05-031	480-92-100	AMD	99-05-016	480-110-156	REP-W	99-07-053
480-09-125	AMD	99-05-031	480-92-110	AMD	99-05-016	480-110-156	REP-S	99-12-112
480-09-130	AMD	99-05-031	480-100	PREP	99-08-105	480-110-161	REP-W	99-07-053
480-09-135	AMD	99-05-031	480-110-011	REP-W	99-07-053	480-110-161	REP-S	99-12-112
480-09-140	AMD	99-05-031	480-110-011	REP-S	99-12-112	480-110-166	REP-W	99-07-053
480-09-150	AMD	99-05-031	480-110-016	REP-W	99-07-053	480-110-166	REP-S	99-12-112
480-09-200	AMD	99-05-031	480-110-016	REP-S	99-12-112	480-110-171	REP-W	99-07-053
480-09-210	AMD	99-05-031	480-110-018	REP-W	99-07-053	480-110-171	REP-S	99-12-112
480-09-220	AMD	99-05-031	480-110-018	REP-S	99-12-112	480-110-176	REP-W	99-07-053
480-09-230	AMD	99-05-031	480-110-021	REP-W	99-07-053	480-110-176	REP-S	99-12-112
480-09-337	NEW-S	99-12-112	480-110-021	REP-S	99-12-112	480-110-205	NEW-S	99-12-112
480-09-340	AMD	99-05-031	480-110-023	REP-W	99-07-053	480-110-215	NEW-S	99-12-112

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-110-225	NEW-S	99-12-112	480-120-154	NEW	99-05-015	480-123-440	NEW-W	99-13-095
480-110-235	NEW-S	99-12-112	480-121	AMD-P	99-07-106	480-123-450	NEW-W	99-13-095
480-110-245	NEW-S	99-12-112	480-121	AMD	99-13-097	480-123-460	NEW-W	99-13-095
480-110-255	NEW-S	99-12-112	480-121-010	AMD-P	99-07-106	480-123-470	NEW-W	99-13-095
480-110-265	NEW-S	99-12-112	480-121-010	AMD	99-13-097	480-123-480	NEW-W	99-13-095
480-110-275	NEW-S	99-12-112	480-121-015	NEW	99-13-097	480-123-490	NEW-W	99-13-095
480-110-285	NEW-S	99-12-112	480-121-020	AMD-P	99-07-106	480-123-500	NEW-W	99-13-095
480-110-295	NEW-S	99-12-112	480-121-020	AMD	99-13-097	480-123-510	NEW-W	99-13-095
480-110-305	NEW-S	99-12-112	480-121-023	NEW	99-13-097	480-123-520	NEW-W	99-13-095
480-110-315	NEW-S	99-12-112	480-121-026	NEW	99-13-097	480-123-530	NEW-W	99-13-095
480-110-325	NEW-S	99-12-112	480-121-030	AMD-P	99-07-106	480-123-540	NEW-W	99-13-095
480-110-335	NEW-S	99-12-112	480-121-030	AMD	99-13-097	480-123-550	NEW-W	99-13-095
480-110-345	NEW-S	99-12-112	480-121-040	AMD-P	99-07-106	480-123-560	NEW-W	99-13-095
480-110-355	NEW-S	99-12-112	480-121-040	AMD	99-13-097	480-123-570	NEW-W	99-13-095
480-110-365	NEW-S	99-12-112	480-121-050	REP-P	99-07-106	480-140	PREP	99-09-028
480-110-375	NEW-S	99-12-112	480-121-050	AMD	99-13-097	480-143-010	REP-P	99-03-074
480-110-385	NEW-S	99-12-112	480-121-060	NEW-P	99-07-106	480-143-010	REP	99-08-055
480-110-395	NEW-S	99-12-112	480-121-060	NEW	99-13-097	480-143-020	REP-P	99-03-074
480-110-405	NEW-S	99-12-112	480-121-070	NEW-P	99-07-106	480-143-020	REP	99-08-055
480-110-415	NEW-S	99-12-112	480-121-070	NEW	99-13-097	480-143-030	REP-P	99-03-074
480-110-425	NEW-S	99-12-112	480-121-080	NEW-P	99-07-106	480-143-030	REP	99-08-055
480-110-435	NEW-S	99-12-112	480-121-090	NEW-P	99-07-106	480-143-040	REP-P	99-03-074
480-110-445	NEW-S	99-12-112	480-121-100	NEW-P	99-07-106	480-143-040	REP	99-08-055
480-110-455	NEW-S	99-12-112	480-123-015	NEW-W	99-13-095	480-143-050	REP-P	99-03-074
480-110-465	NEW-S	99-12-112	480-123-020	NEW-W	99-13-095	480-143-050	REP	99-08-055
480-110-475	NEW-S	99-12-112	480-123-030	NEW-W	99-13-095	480-143-060	REP-P	99-03-074
480-110-485	NEW-S	99-12-112	480-123-040	NEW-W	99-13-095	480-143-060	REP	99-08-055
480-110-495	NEW-S	99-12-112	480-123-050	NEW-W	99-13-095	480-143-070	REP-P	99-03-074
480-110-500	NEW-W	99-07-053	480-123-060	NEW-W	99-13-095	480-143-070	REP	99-08-055
480-110-510	NEW-W	99-07-053	480-123-070	NEW-W	99-13-095	480-143-080	REP-P	99-03-074
480-110-520	NEW-W	99-07-053	480-123-080	NEW-W	99-13-095	480-143-080	REP	99-08-055
480-110-530	NEW-W	99-07-053	480-123-085	NEW-W	99-13-095	480-143-100	NEW-P	99-03-074
480-110-540	NEW-W	99-07-053	480-123-090	NEW-W	99-13-095	480-143-100	NEW	99-08-055
480-110-550	NEW-W	99-07-053	480-123-100	NEW-W	99-13-095	480-143-110	NEW-P	99-03-074
480-110-560	NEW-W	99-07-053	480-123-110	NEW-W	99-13-095	480-143-110	NEW	99-08-055
480-110-570	NEW-W	99-07-053	480-123-120	NEW-W	99-13-095	480-143-120	NEW-P	99-03-074
480-110-580	NEW-W	99-07-053	480-123-130	NEW-W	99-13-095	480-143-120	NEW	99-08-055
480-110-590	NEW-W	99-07-053	480-123-140	NEW-W	99-13-095	480-143-130	NEW-P	99-03-074
480-110-600	NEW-W	99-07-053	480-123-150	NEW-W	99-13-095	480-143-130	NEW	99-08-055
480-110-610	NEW-W	99-07-053	480-123-160	NEW-W	99-13-095	480-143-140	NEW-P	99-03-074
480-110-620	NEW-W	99-07-053	480-123-170	NEW-W	99-13-095	480-143-140	NEW	99-08-055
480-110-630	NEW-W	99-07-053	480-123-180	NEW-W	99-13-095	480-143-150	NEW-P	99-03-074
480-110-640	NEW-W	99-07-053	480-123-190	NEW-W	99-13-095	480-143-150	NEW	99-08-055
480-110-650	NEW-W	99-07-053	480-123-200	NEW-W	99-13-095	480-143-160	NEW-P	99-03-074
480-110-660	NEW-W	99-07-053	480-123-210	NEW-W	99-13-095	480-143-160	NEW	99-08-055
480-110-670	NEW-W	99-07-053	480-123-220	NEW-W	99-13-095	480-143-170	NEW-P	99-03-074
480-110-680	NEW-W	99-07-053	480-123-230	NEW-W	99-13-095	480-143-170	NEW	99-08-055
480-110-690	NEW-W	99-07-053	480-123-240	NEW-W	99-13-095	480-143-180	NEW-P	99-03-074
480-110-700	NEW-W	99-07-053	480-123-250	NEW-W	99-13-095	480-143-180	NEW	99-08-055
480-110-710	NEW-W	99-07-053	480-123-260	NEW-W	99-13-095	480-143-190	NEW-P	99-03-074
480-110-720	NEW-W	99-07-053	480-123-270	NEW-W	99-13-095	480-143-190	NEW	99-08-055
480-110-730	NEW-W	99-07-053	480-123-280	NEW-W	99-13-095	480-143-200	NEW-P	99-03-074
480-110-740	NEW-W	99-07-053	480-123-290	NEW-W	99-13-095	480-143-200	NEW	99-08-055
480-110-750	NEW-W	99-07-053	480-123-300	NEW-W	99-13-095	480-143-210	NEW-P	99-03-074
480-110-760	NEW-W	99-07-053	480-123-310	NEW-W	99-13-095	480-143-210	NEW	99-08-055
480-110-770	NEW-W	99-07-053	480-123-320	NEW-W	99-13-095	480-143-990	REP-P	99-03-074
480-110-780	NEW-W	99-07-053	480-123-330	NEW-W	99-13-095	480-143-990	REP	99-08-055
480-110-790	NEW-W	99-07-053	480-123-340	NEW-W	99-13-095	480-146-010	REP-P	99-03-073
480-120	PREP	99-09-027	480-123-350	NEW-W	99-13-095	480-146-010	REP	99-08-054
480-120-052	NEW	99-10-013	480-123-360	NEW-W	99-13-095	480-146-020	REP-P	99-03-073
480-120-058	NEW	99-10-013	480-123-370	NEW-W	99-13-095	480-146-020	REP	99-08-054
480-120-139	AMD-P	99-07-107	480-123-380	NEW-W	99-13-095	480-146-030	REP-P	99-03-073
480-120-139	AMD	99-11-070	480-123-390	NEW-W	99-13-095	480-146-030	REP	99-08-054
480-120-144	NEW	99-05-015	480-123-400	NEW-W	99-13-095	480-146-040	REP-P	99-03-073
480-120-151	NEW	99-05-015	480-123-410	NEW-W	99-13-095	480-146-040	REP	99-08-054
480-120-152	NEW	99-05-015	480-123-420	NEW-W	99-13-095	480-146-050	REP-P	99-03-073
480-120-153	NEW	99-05-015	480-123-430	NEW-W	99-13-095	480-146-050	REP	99-08-054

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-146-060	REP-P	99-03-073	490-500-065	REP-P	99-12-030	490-500-485	PREP	99-06-081
480-146-060	REP	99-08-054	490-500-070	PREP	99-06-081	490-500-485	REP-P	99-12-030
480-146-070	REP-P	99-03-073	490-500-070	REP-P	99-12-030	490-500-500	PREP	99-06-081
480-146-070	REP	99-08-054	490-500-080	PREP	99-06-081	490-500-500	REP-P	99-12-030
480-146-080	REP-P	99-03-073	490-500-080	REP-P	99-12-030	490-500-505	PREP	99-06-081
480-146-080	REP	99-08-054	490-500-170	PREP	99-06-081	490-500-505	REP-P	99-12-030
480-146-090	REP-P	99-03-073	490-500-170	REP-P	99-12-030	490-500-510	PREP	99-06-081
480-146-090	REP	99-08-054	490-500-180	PREP	99-06-081	490-500-510	REP-P	99-12-030
480-146-091	REP-P	99-03-073	490-500-180	REP-P	99-12-030	490-500-525	PREP	99-06-081
480-146-091	REP	99-08-054	490-500-185	PREP	99-06-081	490-500-525	REP-P	99-12-030
480-146-095	REP-P	99-03-073	490-500-185	REP-P	99-12-030	490-500-530	PREP	99-06-081
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