

September 7, 2005

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ISSUE 05-17



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CITATION

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

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 in the basement of the Pritchard 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 of September 2005 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%) per annum.

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of September 2005 is 5.718%.

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

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **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.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **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 ((timed 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].

2005 - 2006

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			
<i>For Inclusion In -</i>	<i>File no later than 12:00 noon -</i>			<i>Count 20 days from -</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</i>
05-14	Jun 8, 05	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 9, 05	Sep 7, 05
05-15	Jun 22, 05	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 23, 05	Sep 20, 05
05-16	Jul 6, 05	Jul 20, 05	Aug 3, 05	Aug 17, 05	Sep 6, 05	Oct 4, 05
05-17	Jul 27, 05	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 27, 05	Oct 25, 05
05-18	Aug 10, 05	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 11, 05	Nov 8, 05
05-19	Aug 24, 05	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 25, 05	Nov 22, 05
05-20	Sep 7, 05	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 8, 05	Dec 6, 05
05-21	Sep 21, 05	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 22, 05	Dec 20, 05
05-22	Oct 5, 05	Oct 19, 05	Nov 2, 05	Nov 16, 05	Dec 6, 05	Jan 3, 06
05-23	Oct 26, 05	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 27, 05	Jan 24, 06
05-24	Nov 9, 05	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 10, 06	Feb 7, 06
06-01	Nov 23, 05	Dec 7, 05	Dec 21, 05	Jan 4, 06	Jan 24, 06	Feb 23, 06
06-02	Dec 7, 05	Dec 21, 05	Jan 4, 06	Jan 18, 06	Feb 7, 06	Mar 7, 06
06-03	Dec 21, 05	Jan 4, 06	Jan 18, 06	Feb 1, 06	Feb 21, 06	Mar 21, 06
06-04	Jan 4, 06	Jan 18, 06	Feb 1, 06	Feb 15, 06	Mar 7, 06	Apr 4, 06
06-05	Jan 18, 06	Feb 1, 06	Feb 15, 06	Mar 1, 06	Mar 21, 06	Apr 18, 06
06-06	Feb 1, 06	Feb 15, 06	Mar 1, 06	Mar 15, 06	Apr 4, 06	May 2, 06
06-07	Feb 22, 06	Mar 8, 06	Mar 22, 06	Apr 5, 06	Apr 25, 06	May 23, 06
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06-09	Mar 22, 06	Apr 5, 06	Apr 19, 06	May 3, 06	May 23, 06	Jun 20, 06
06-10	Apr 5, 06	Apr 19, 06	May 3, 06	May 17, 06	Jun 6, 06	Jul 5, 06
06-11	Apr 26, 06	May 10, 06	May 24, 06	Jun 7, 06	Jun 27, 06	Jul 25, 06
06-12	May 10, 06	May 24, 06	Jun 7, 06	Jun 21, 06	Jul 11, 06	Aug 8, 06
06-13	May 24, 06	Jun 7, 06	Jun 21, 06	Jul 5, 06	Jul 25, 06	Aug 22, 06
06-14	Jun 7, 06	Jun 21, 06	Jul 5, 06	Jul 19, 06	Aug 8, 06	Sep 6, 06
06-15	Jun 21, 06	Jul 5, 06	Jul 19, 06	Aug 2, 06	Aug 22, 06	Sep 19, 06
06-16	Jul 5, 06	Jul 19, 06	Aug 2, 06	Aug 16, 06	Sep 5, 06	Oct 3, 06
06-17	Jul 26, 06	Aug 9, 06	Aug 23, 06	Sep 6, 06	Sep 26, 06	Oct 24, 06
06-18	Aug 9, 06	Aug 23, 06	Sep 6, 06	Sep 20, 06	Oct 10, 06	Nov 7, 06
06-19	Aug 23, 06	Sep 6, 06	Sep 20, 06	Oct 4, 06	Oct 24, 06	Nov 21, 06
06-20	Sep 6, 06	Sep 20, 06	Oct 4, 06	Oct 18, 06	Nov 7, 06	Dec 5, 06
06-21	Sep 20, 06	Oct 4, 06	Oct 18, 06	Nov 1, 06	Nov 21, 06	Dec 19, 06
06-22	Oct 4, 06	Oct 18, 06	Nov 1, 06	Nov 15, 06	Dec 5, 06	Jan 2, 07
06-23	Oct 25, 06	Nov 8, 06	Nov 22, 06	Dec 6, 06	Dec 26, 06	Jan 23, 07
06-24	Nov 8, 06	Nov 22, 06	Dec 6, 06	Dec 20, 06	Jan 9, 07	Feb 6, 07

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

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

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

⁴ A 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 and 1.12.040.

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.

WSR 05-17-024**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT**

[Filed August 5, 2005, 10:20 a.m.]

Subject of Possible Rule Making: This rule making would implement RCW 46.70.136 by establishing a fee-based service for mediating warranty disputes pertaining to the purchase or installation of a manufactured home.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.330.040, 46.70.136.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Disputes occur when purchasers of manufactured homes argue with manufacturers, retailers and/or installers regarding repair or correction of items that may be covered under a warranty. Resolution of warranty disputes may be achieved more quickly and less expensively when mediation is provided as an alternative to litigation. This rule would establish a fee-based mediation service for resolving manufactured home warranty disputes between homeowners, manufacturers, retailers and/or installers.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Rule making will be coordinated with the Department of Licensing (DOL) through their participation in a rule-making advisory workgroup.

Process for Developing New Rule: Rules will be drafted with the active participation of a workgroup comprised of stakeholders. Draft rules will be mailed to interested parties. Written comments will be accepted, and oral testimony will be taken at a public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Teri Ramsauer, Manager, Office of Manufactured Housing, phone (360) 725-2960, fax (360) 586-5880, e-mail terir@cted.wa.gov; or Josey Young, SAA Case Manager, phone (360) 725-2963, fax (360) 586-5880, e-mail joseyy@cted.wa.gov; mailing address CTED/Housing Division/OMH, P.O. Box 42525, Olympia, WA 98504-2525. Draft rules will be provided to stakeholders and other parties upon request. Written comments will be accepted, and oral testimony will be taken at a public hearing.

August 1, 2005
Juli Wilkerson
Director

WSR 05-17-030**PREPROPOSAL STATEMENT OF INQUIRY
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Filed August 5, 2005, 3:21 p.m.]

Subject of Possible Rule Making: For grant programs administered by Interagency Committee for Outdoor Recreation (IAC), development and/or modification of WACs regarding (a) matching resources and (b) the use of grants to supplant the existing capacity of applicants.

Statutes Authorizing the Agency to Adopt Rules on this Subject: New sections 6 and 7, chapter 303, Laws of 2005 (ESSB 5396); RCW 79A.060 [79A.15.060](1); 79A.070 [79A.15.070](5); 79A.080 [79A.15.080]; 79A.25.210; 46.09.240(2); 77.85.120 (1)(d) (IN ORDER, THESE ARE PROGRAMS OFTEN REFERRED TO AS: WWRP-RPA, WWRP-FARM, WWRP-HCA, WWRP-ORA, BFP, FARR, NOVA, SALMON.)

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules may be needed to clarify policies regarding the intent and purpose in requiring matching resources; amount of the applicant's contribution; use of mitigation funds as match; and matching a grant from one IAC grant program with a grant from another IAC grant program. Consideration may also be given to requirements regarding the use of IAC grants to supplement rather than supplant the existing capacity of a sponsor.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies regulate whether and how IAC issues grants in these programs. There may be federal or state regulatory requirements regarding match and permits to implement awarded grants.

Process for Developing New Rule: Our intent is to advance this proposal through a participatory process that includes distribution of the recommendations to IAC's advisory committees and other interested parties, including those who have asked to be placed on IAC's WAC notification listing. We will encourage comments via mail, e-mail, telephone, and in person. Based on any comments, revision will be considered before presentation of final recommendations for adoption in an advertised and open public meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Greg Lovelady, Rules Coordinator, Interagency Committee for Outdoor Recreation, GregL@iac.wa.gov, 1111 Washington Street S.E., P.O. Box 40917, Olympia, WA 98504-0917, (360) 902-3008, fax (360) 902-3026. We anticipate that meeting schedule(s) will be available by late August 2005.

August 5, 2005
Greg Lovelady
Rules Coordinator

WSR 05-17-031**PREPROPOSAL STATEMENT OF INQUIRY
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION**

[Filed August 5, 2005, 3:23 p.m.]

Subject of Possible Rule Making: Development of WACs for the newly established riparian protection account and farmlands preservation account grant programs and the recently amended habitat conservation account and outdoor recreation account grant programs (chapter 303, Laws of 2005). Consideration will be given to writing rules regarding: Eligibility; project conversions; planning requirements; deeds of right; mitigation banking; match requirements; crite-

ria for awarding grants; and possibly other related subjects necessary for grant program implementation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 6(4), chapter 303, Laws of 2005, RCW 79A.15.060(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules may be needed to implement the direction of the legislature to create new grant categories. The types of needs include: (a) Developing grant program requirements; (b) protection of the investment of public dollars from such actions as conversion to uses other than those approved by the Interagency Committee for Outdoor Recreation (IAC); (c) helping to ensure projects meet their original intent by establishing measurable goals and objectives.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agencies regulate whether and how IAC issues grants in these programs. There may be federal or state regulatory requirements regarding match and permits to implement awarded grants.

Process for Developing New Rule: Our intent is to advance this proposal through a participatory process that includes distribution of the recommendations to IAC's advisory committees and other interested parties, including those who have asked to be placed on IAC's WAC notification listing. We will encourage comments via mail, e-mail, telephone, and in person. Based on any comments, revisions will be considered before presentation of final recommendations for adoption in an advertised and open public meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Greg Lovelady, Rules Coordinator, Interagency Committee for Outdoor Recreation, GregL@iac.wa.gov, 1111 Washington Street S.E., P.O. Box 40917, Olympia, WA 98504-0917, (360) 902-3008, fax (360) 902-3026. We anticipate that meeting schedule(s) will be available in August 2005.

August 5, 2005
Greg Lovelady
Rules Coordinator

WSR 05-17-042
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed August 9, 2005, 1:30 p.m.]

On August 2, 2000, the Department of Health (DOH) filed preproposal statement of inquiry WSR 00-16-106 regarding rules for x-ray standards. At the time of filing, DOH was exploring the possibility of rule making to address patient exposure limits, quality assurance standards for x-ray film processors, and clarifying existing rules in chapters 246-224, 246-225, 246-227, 246-228, and 246-229 WAC.

Since this rule making has been delayed, DOH asks that you withdraw this statement of inquiry. DOH expects to consider rules for individual x-ray standards by facility type in

the near future. A new statement of inquiry will be filed to alert interested parties at that time.

For more information regarding this rule making, contact Terry Frazee, Office of Radiation Protection, (360) 236-3213.

M. C. Selecky
Secretary

WSR 05-17-043
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed August 9, 2005, 1:31 p.m.]

The Department of Health would like to withdraw the following notice of inquiry (CR-101) because it is no longer valid.

WAC NUMBER	WSR NUMBER	WSR DATE	SUBJECT
246-915-020, 246-915-030, 246-915-120	98-13-107	6/17/98	Education and examination requirements for applicants of physical therapy licensure

If you have any questions, please contact Leann Yount, Acting Rules Coordinator, Health Professions Quality Assurance at (360) 236-4997.

M. C. Selecky
Secretary

WSR 05-17-052
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed August 9, 2005, 3:40 p.m.]

Subject of Possible Rule Making: Amending chapter 196-12 WAC, Registered professional engineers; chapter 196-16 WAC, Registered professional land surveyors; chapter 196-23 WAC, Stamping and seals; chapter 196-27A WAC, Rules of professional conduct.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.43.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Possibly amend chapter 196-12 WAC to clarify that engineers are not required to do continuing education, only land surveyors; amend chapter 196-16 WAC to implement legislative requirement land surveyors must complete continuing education credits starting July 2006; amend chapter 196-23 WAC to allow engineers passing the structural engineer examination to put the letters SE following their name; and possibly amend chapter 196-27A WAC regarding continuing education requirements for land surveyors.

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 Rick Notestine, P.O. Box 1025, Olympia, WA 98507-9025, phone (360) 664-1567, fax (360) 664-2551, e-mail rnotestine@dol.wa.gov. Comments may be submitted through mail, phone, fax or e-mail. Draft language of the rule amendments will be distributed to the board's list of interested persons and will be posted on the board's web site.

August 9, 2005

George A. Twiss

Executive Director

Board of Registration for Professional
Engineers and Land Surveyors

WSR 05-17-063

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

(Geologist Licensing Board)

[Filed August 10, 2005, 4:20 p.m.]

Subject of Possible Rule Making: Revision to WAC 308-15-050 Geologist examination application process.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.24.086, 18.220.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes to the application process rules are necessary to accommodate examination applicants applying directly to the National Association of State Boards of Geology (ASBOG) for those exams administered by the association, rather than passing those monies through the department and board for processing, creating a more efficient and cost-effective process.

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 Joan Robinson, Manager, Geologist Licensing Program, P.O. Box 9025, Olympia, WA 98507-9045, phone (360) 664-1387, fax (360) 664-1495, e-mail geologists@dol.wa.gov. Persons may comment by mail, fax, phone or e-mail. Draft language of any changes will be sent to persons on the board's listserve and mailing list.

August 10, 2005

Joe Vincent Jr.

Administrator

WSR 05-17-064

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

(Geologist Licensing Board)

[Filed August 10, 2005, 4:21 p.m.]

Subject of Possible Rule Making: Revision to WAC 308-15-150 Fees for geologist licenses.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.24.086, 18.220.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: There is a statutory requirement under RCW 43.24.086 that licensing and regulatory groups such as this board be self-supporting through fees. The Department of Licensing and the Geologist Licensing Board are reviewing the fee structure to determine if any adjustments to fees must be made, as well as determining if any updates to the language in the rule are necessary.

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 Joan Robinson, Manager, Geologist Licensing Program, P.O. Box 9025, Olympia, WA 98507-9045, phone (360) 664-1387, fax (360) 664-1495, e-mail geologists@dol.wa.gov. Persons may comment by mail, fax, phone or e-mail. Draft language of any changes will be sent to persons on the board's listserve and mailing list.

August 10, 2005

Joe Vincent Jr.

Administrator

WSR 05-17-083

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. UE-051106—Filed August 12, 2005, 1:50 p.m.]

Subject of Possible Rule Making: Consider establishing regulations to govern the interconnection of consumer-owned power generation facilities to utility delivery facilities. Such regulations may include standards for applications for interconnection, processing of such applications, technical and engineering standards for interconnections, safety standards, insurance and liability provisions, and other provisions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040 and 80.04.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 80.28.025 establishes a state policy to encourage electric power resources from renewable sources through use of incentives.

SSB 5101, chapter 300, Laws of 2005, states that "the legislature intends to provide incentives for the greater use of locally created renewable energy technologies." SSB 5101 also provides that utilities, in return for a credit against the public utility excise tax, may supply an incentive payment to

consumers for consumer-generated electricity from renewable energy systems. However, the incentive payments created by SSB 5101 are only available to customers connected to the distribution system of a light and power business if "uniform standards for interconnection to the electric distribution system" are in effect for light and power businesses serving 80% of total customer load in the state.

Establishing standards for interconnection of customer-owned power generation facilities to the delivery systems of the investor-owned utilities would constitute substantial progress toward meeting the threshold condition established by SSB 5101 for customer incentive payments. In addition, a rule would establish uniformity among the investor-owned utilities regarding technical and process standards as well as safety and liability standards for such interconnections.

In addition, recently enacted amendments to Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) require the commission to consider and determine whether to establish standards for interconnection.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Federal Energy Regulatory Commission (FERC) regulates interconnection of generation facilities to transmission facilities used to transmit power in interstate commerce. FERC is finalizing regulations governing interconnection to FERC-jurisdictional facilities. These regulations may provide a model for regulations in Washington state.

Process for Developing New Rule: Agency study; and the commission will ask for initial written comments, and may provide the opportunity for participation in workshop-style sessions as well as opportunities for additional comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1174, fax (360) 586-1150.

Interested persons may file initial written comments on the CR-101 by October 14, 2005. For specific information regarding opportunities for written comment and to ensure receipt of further information concerning this rule making, see below.

WRITTEN COMMENTS: Written comments may be submitted to the commission at the address given above and should be filed with the commission no later than October 14, 2005.

Electronic copies. The commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the commission's records center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (UE-051106).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 1/2 inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat

format or in Word 97 or later. Include all of the information requested above. The commission will post on the commission's web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/051106>. If you are unable to file your comments electronically or to submit them on a disk, the commission will always accept a paper document.

Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rule making, including comments, will be posted on the commission's web site as it becomes available. If you wish to receive further information on this rule making you may (1) call the commission's records center at (360) 664-1234, (2) e-mail the commission at records@wutc.wa.gov, or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the commission, please refer to Docket No. UE-051106 to ensure that you are placed on the appropriate service list. Questions may be addressed to Dick Byers, (360) 664-1209 or e-mail at dbyers@wutc.wa.gov.

NOTICE

TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING—the commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. UE-051106, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. UE-051106, and the words "Please keep me on the mailing list" to records@wutc.wa.gov. Please note that all information in the mailings will be accessible through the commission's internet web site at <http://www.wutc.wa.gov/051106>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

August 12, 2005
Carole J. Washburn
Executive Secretary

WSR 05-17-103
PREPROPOSAL STATEMENT OF INQUIRY
YAKIMA VALLEY
COMMUNITY COLLEGE

[Filed August 16, 2005, 8:46 a.m.]

Subject of Possible Rule Making: Space-available tuition waivers for eligible state employees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.15.558.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The college seeks to adopt a rule based on the advice of the Attorney General's Office.

The goal is to clarify the tuition and fee differential charged for "college" and "noncollege" employees taking Yakima Valley Community College classes.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The State Board for Community and Technical Colleges has authorized colleges to implement RCW 28B.15.-558.

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 Tomas Ybarra, Dean for Student Services, Yakima Valley Community College, P.O. Box 22520, Yakima, WA 98907-2520, voice (509) 574-6806, fax (509) 574-6879, tybarra@yvcc.edu. The college will hold a public hearing on the proposed rules. The hearing will be advertised to the college community and in the local Yakima and Grandview newspapers. Individuals unable to attend in person may submit comments in writing by mail or e-mail.

August 4, 2005

Dr. Anthony E. Beebe
Vice-President for Instruction
and Student Services

WSR 05-17-104

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF LABOR AND INDUSTRIES

[Filed August 16, 2005, 9:53 a.m.]

Subject of Possible Rule Making: Chapter 296-24 WAC, Part J-3, powered platforms, chapter 296-155 WAC, Manually propelled elevating work platforms, self propelled elevating work platforms, and boom supported elevating work platforms, chapter 296-869 WAC, Elevating platforms, and chapter 296-870 WAC, Powered platforms.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 49.17.010, 49.17.040, and 49.17.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WISHA is proposing to rewrite and clarify requirements relating to powered platforms, manually, self propelled, and boom supported elevating work platforms. The rule making is part of our long-term goal to rewrite our safety and health rules. The proposal will move current requirements from chapter 296-24 WAC, General safety and health standards, and chapter 296-155 WAC, Safety standards for construction work, into two separate, stand alone WAC chapters.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies, other than OSHA, are known to regulate these subjects.

Process for Developing New Rule: Parties interested in the formulation of these rules may contact the individual listed below. The public may also participate by commenting after rule language is proposed by providing written comments or oral testimony during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Hughes, Project Manager, WISHA Services Division, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98504-4620, e-mail hugw235@lni.wa.gov, phone (360) 902-4504, fax (360) 902-5529.

August 16, 2005

Gary Weeks
Director

WSR 05-17-109

PREPROPOSAL STATEMENT OF INQUIRY

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed August 16, 2005, 3:11 p.m.]

Subject of Possible Rule Making: WAC 392-140-600 through 392-140-685, school district eligibility for state special education safety net funding.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendments to rules are needed to implement provisions of the 2005-2007 Biennial Operating Appropriations Act in the special education safety net application process for the 2005-2006 school year and thereafter.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TTY (360) 664-3631. For telephone assistance contact Mary Ellen Parrish, (360) 725-6075.

August 12, 2005

Dr. Terry Bergeson
Superintendent of
Public Instruction

WSR 05-17-113

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF CORRECTIONS

[Filed August 17, 2005, 10:06 a.m.]

Subject of Possible Rule Making: Amendments to WAC 137-28-160 Definitions, 137-28-260 Serious infractions and chapter 137-56 WAC Community residential programs, work/training release, create a new chapter 137-25 WAC, Serious infractions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 72.09.130, 72.01.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revise the procedures for operation of work release and standardize serious infractions for prison and work release offenders.

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 interested parties to review and provide input on the proposed rules. Comments may be sent to John Nispel, rules coordinator at the address shown below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Nispel, Rules Coordinator, Department of Corrections, Contracts and Legal Affairs, P.O. Box 41114, Olympia, WA 98504-1114, phone (360) 586-2160, fax (360) 664-2009.

August 16, 2005

H. W. Clarke
Secretary

WSR 05-17-117

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF HEALTH

[Filed August 17, 2005, 4:32 p.m.]

Subject of Possible Rule Making: WAC 246-272A-0130 On-site sewage systems—Bacteriological reduction, this rule making will address on-site sewage system proprietary treatment products and the performance testing protocol used to demonstrate fecal coliform reduction.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the recent on-site rule revision process, the board adopted a protocol for demonstrating that products meet fecal coliform standards. The board and the Department of Health worked closely with the National Sanitation Foundation (NSF) throughout rule development. However, new information from the NSF recently indicated the protocol is impractical for some testing facilities. A workable protocol is critical so that product manufacturers have clear direction as to the requirements for product registration.

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 board and the Department of Health will work closely with the NSF and product manufacturers during rule development to ensure that the testing protocol will be practical and workable. Interested parties will be asked to provide input through mailings, e-mail, and the program's web site.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting John Eliasson, Department of Health, P.O. Box 47825, [Olympia,] WA 98504-7825, (360) 236-3041, john.eliasson@doh.wa.gov; or Ned Therien, State

Board of Health, P.O. Box 47990, Olympia, WA 98504-7990, (360) 236-4103, ned.therien@doh.wa.gov.

August 15, 2005
Craig McLaughlin
Executive Director

WSR 05-17-118

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed August 17, 2005, 4:34 p.m.]

Subject of Possible Rule Making: Revise and update chapter 246-314 WAC, Facility construction review.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.110, 43.70.040, and 43.70.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The state auditor has found the construction review program's (CRS) fee structure and charging practices need to be more clearly defined in rule. The department needs to amend rules to appropriately reflect the fees, and to allow fee refunds. The CRS program was reducing fees based on actual services provided and charging entities for preproject planning/consultation or services on a voluntary basis. The existing fee structure (WAC 246-314-990) does not support refunding or reducing fees. Additionally, updates are necessary to clarify and capture all facility types receiving CRS services.

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

Process for Developing New Rule: Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Allen Spaulding, Rules Coordinator, Facilities and Services Licensing, 310 Israel Road S.E., Tumwater, WA 98501-7852, e-mail al.spaulding@doh.wa.gov, (360) 236-2929.

August 17, 2005

M. C. Selecky
Secretary

WSR 05-17-119

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF HEALTH

[Filed August 17, 2005, 4:35 p.m.]

Subject of Possible Rule Making: The subject of possible rule making relates to WAC 246-490-040 Handling and care of human remains, 246-490-050 Transportation of human remains, and 246-490-060 Cremated remains.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.20.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: During the 2005 legislative session, the legislature passed SSB 5752 (chapter 365, Laws

of 2005), updating numerous sections of the law affecting the business and regulatory practices for funeral directors and cemeteries. The law was updated to reflect current practice. One of the updates changes the timeline for handling human remains by funeral directors. State Board of Health (SBOH) rules need to be changed to be consistent with the statute and to reflect current practices. In addition the board may consider moving the rules related to the handling of human remains into a single, dedicated rules chapter.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Licensing (DOL) licenses funeral home directors, and was the lead state agency on the legislation which requires SBOH to update chapter 246-490 WAC. SBOH and Department of Health (DOH) will include DOL during the rule development process to ensure consistency between DOL and SBOH rules.

Process for Developing New Rule: A collaborative rule-making process will be used. SBOH and DOH staff will work with DOL, funeral homes, and other interested parties during rule development. Input will be solicited through mailings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ned Therien, Health Policy Analyst, Washington State Board of Health, P.O. Box 7990, Olympia, WA 98504-7990, Ned.Therien@doh.wa.gov; or Phillip [Philip] Freeman, Manager Statistical Services Center for Health Statistics, Washington State Department of Health, P.O. Box 7814, Olympia, WA 98504-7814, Philip.Free-man@doh.wa.gov.

August 15, 2005
Craig McLaughlin
Executive Director

WSR 05-17-128

PREPROPOSAL STATEMENT OF INQUIRY UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. TR-051060—Filed August 19, 2005, 10:31 a.m.]

Subject of Possible Rule Making: Consider processes to implement the grade crossing protective fund grant program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 80.01.040, 81.04.160, and 81.53.281.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 2003, the legislature enacted statutory changes that form the basis for this preproposal inquiry. The Washington Utilities and Transportation Commission issued an interpretive and policy statement on November 26, 2003, in Docket No. TR-031384 to implement the changes for the biennium ending on June 30, 2005. Through the process of developing and implementing the interpretive and policy statement, the commission has decided that it is now appropriate to consider formalizing the program in a rule as encouraged by RCW 34.05.230.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agen-

cies: The Washington State Department of Transportation (WSDOT) administers several federal funding programs that involve railroad signals and other railroad safety improvements. Those programs involve major projects that are usually very costly. The projects generally envisioned for the Washington Utilities and Transportation Commission program are smaller in scope, and often involve smaller communities and short line railroads. Such projects would not be able to compete with the larger projects envisioned in the WSDOT programs even though they are important to public safety. Commission staff work closely with WSDOT staff on all such projects so that potential overlap is avoided and coordination is maximized.

Process for Developing New Rule: Agency study; the policy and interpretive statement will form the basis for discussion and comment. A request for written comments on the need for rules and what might be included in a proposed rule will be made to participants in the 2003 workshop on the subject, and to all others on the commission railroad interested persons list.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504-7250, phone (360) 664-1174, fax (360) 586-1150.

The commission issued an interpretive and policy statement on November 26, 2003, in Docket No. TR-031384. The grade crossing protective fund grant program was administered according to that document for the biennium ending June 30, 2005. It forms the basis for considering a rule encompassing the same subject matter, and can be found on the commission's web site at www.wutc.wa.gov/051060.

Interested persons may contact the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 664-1174, fax (360) 586-1150.

WRITTEN COMMENTS: Written comments may be submitted to the commission at the address given above and should be filed with the commission no later than **September 19, 2005**, for consideration in the commission study.

Electronic copies. The commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the Commission's Records Center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (TR-051060).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 1/2 inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The commission will post on the commission's web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/051060>. If you are unable to file your comments electroni-

cally or to submit them on a disk, the commission will always accept a paper document.

Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rule making, including comments, will be posted on the commission's web site as it becomes available. If you wish to receive further information on this rule making you may (1) call the Commission's Records Center at (360) 664-1234, (2) e-mail the commission at <records@wutc.wa.gov>, or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the commission, please refer to Docket No. TR-051060 to ensure that you are placed on the appropriate service list. Questions may be addressed to Mike Rowswell (360) 664-1265, e-mail mrowswel@wutc.wa.gov, address Mike Rowswell, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, fax (360) 586-1150.

NOTICE

TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING — The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. **ANY PERSON WHO COMMENTS** will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. TR-051060, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. TR-051060, and the words "Please keep me on the mailing list" to <records@wutc.wa.gov>. Please note that all information in the mailings will be accessible through the commission's internet web site at <<http://www.wutc.wa.gov/051060>>. **THOSE PARTIES WHO DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS OR INFORMATION ON THE RULE MAKING.**

August 18, 2005
Carole J. Washburn
Executive Secretary

WSR 05-17-136

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed August 19, 2005, 4:07 p.m.]

Subject of Possible Rule Making: Chapter 388-550 WAC, Hospital services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.500.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to amend WAC 388-550 Hospital services definitions and other sections in chapter 388-550 WAC, Hospital services, in order to update policy, add definitions, and ensure

accuracy, consistency, and clarity regarding inpatient and outpatient hospitals and hospital-related services.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Health and Recovery Services Administration will coordinate with other agencies as applicable.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Rules Program Manager, P.O. Box 45533, Health and Recovery Services Administration, Olympia, WA 98504-5533, phone (360) 725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

August 19, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-137

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Recovery Services Administration)**

[Filed August 19, 2005, 4:09 p.m.]

Subject of Possible Rule Making: Chapter 388-517 WAC, Medicare savings programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.530; 42 U.S.C., Section 1396a.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will be amended to reflect federal rules with regard to copayments, policies, and program eligibility. This rule change is necessary to comply with federal program rules and to achieve clear and concise WAC. These rules are consistent with requirements in the state plan for medical assistance.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carole McRae, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1250, fax (360) 664-0910, TTY 1-800-848-5429, e-mail mcraeca@dshs.wa.gov.

August 19, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-138**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed August 19, 2005, 4:11 p.m.]

Subject of Possible Rule Making: Creating a new chapter 388-828 WAC for the Division of Developmental Disabilities (DDD) full assessment.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In June 2003, the Joint Legislative Audit and Review Committee (JLARC) recommended that DSHS develop an assessment process for developmentally disabled clients designed to be consistently applied to all clients in all parts of the state. Part of developing this assessment process includes defining requirements for administering a newly developed full assessment to DDD eligible clients.

Rules are needed to govern and support the implementation of the full assessment requirements. Adoption of these rules will help promote consistent application and understanding of the division's full assessment process.

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

Process for Developing New Rule: At a later date, the department will file proposed rules and a proposed rule-making notice for publication in the Washington State Register, invite public comments, and hold a public hearing. The proposal will be sent to everyone on the mailing list to receive rule-making notices on this subject, and to anyone who requests the proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mark R. Eliason, Policy Manager, DDD Assessment Project, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 725-2517, fax (360) 407-0905, e-mail eliasmr2@dshs.wa.gov.

August 19, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-139**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed August 19, 2005, 4:12 p.m.]

Subject of Possible Rule Making: New sections and/or amendments in chapter 388-14A WAC, particularly amendments to WAC 388-14A-3350 Are there any limits on how much back support the division of child support can seek to establish?, and 388-14A-2005 When does an application for public assistance automatically become an application for

support enforcement services? and possibly other sections as required.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.20A.055, 74.20A.310.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Division of Child Support (DCS) seeks to clarify when a claim for child support starts as a result of the family receiving Medicaid or medical-only assistance.

Process for Developing New Rule: DCS engages in modified collaborative rule making. Those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at the DSHS Division of Child Support (DCS) headquarters as soon as possible. DCS will post information regarding this rule development project and others on its web site, which can be found at www.wa.gov/dshs/dcs, or on the DSHS Economic Services Administration's policy review web site, which can be found at <http://www1.dshs.wa.gov/esa/extpolicy/>. DSHS/DCS encourages the public to take part in developing the rules. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and will send a copy to everyone currently on the mailing list and to anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Nancy Koptur, DCS Rules Coordinator, Division of Child Support, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 664-5065, e-mail nkoptur@dshs.wa.gov, toll-free 1-800-457-6202, fax (360) 664-5055, TTY/TDD (360) 664-5011.

August 18, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-140**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed August 19, 2005, 4:14 p.m.]

Subject of Possible Rule Making: Chapter 388-529 WAC, Scope of medical services; chapter 388-501 WAC, Administration of medical programs—General; chapter 388-500 WAC, Medical definitions; and possibly other WAC sections in chapters 388-530, 388-533, 388-531, 388-535, 388-538, 388-535A, 388-540, 388-543, 388-544, 388-546, 388-550, 388-551, and 388-554 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.08.090, 74.09.530, and 74.09.700.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is amending these rules to clarify and correct inaccurate, outdated, and/or inconsistent statements of policy regarding medical services covered under department medical programs; to correct obso-

lete WAC cross references; and update medical definitions and decision making.

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 rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kevin Sullivan, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sullikm@dshs.wa.gov.

August 19, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-143

**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed August 19, 2005, 4:19 p.m.]

The Medical Assistance Administration requests the withdrawal of preproposal statement of inquiry, filed as WSR 00-22-015 on October 20, 2000 (WAC 388-500-0005).

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-144

**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed August 19, 2005, 4:20 p.m.]

The Medical Assistance Administration requests the withdrawal of preproposal statement of inquiry, filed as WSR 04-06-054 on March 1, 2004 (chapter 388-529 WAC).

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-148

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed August 22, 2005, 8:48 a.m.]

Subject of Possible Rule Making: WAC 415-112-155 If I work concurrently in a TRS position and PERS position, which system will I be in?, 415-108-728 If I work concurrently in a PERS position and TRS position, which system will I be in?, 415-110-728 If I work in both a SERS position and TRS position during the same school year, which system will I be in?, and possibly other related sections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This update is to provide employers with information to correctly report TRS, SERS, and PERS substitute employees working concurrently in two or more retirement systems in a school district or Educational Service District (ESD). Members may acquire only one service credit per month and this must be reflected in the reporting rules for concurrent positions.

Process for Developing New Rule: DRS will develop the draft rule(s) with the assistance of the Attorney General's Office. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DRS encourages your active participation in the rule-making process. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

August 18, 2005
Sandra J. Matheson
Director

WSR 05-17-149

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed August 22, 2005, 1:11 p.m.]

Subject of Possible Rule Making: Amendment to Highway Advertising Control Act, chapter 468-66 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 47.42 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amends chapter 468-66 WAC; reorganizes the entire chapter to combine information by unique subject matter; revises the permit fee, making it a

nonrefundable fee; establishes a fee for replacement of lost permit tags; and adds essential definitions for "nonconforming signs," "illegal signs," "visible development," "destroyed."

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other agencies that regulate highway advertising control on state highways.

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 Pat O'Leary, Outdoor Advertising Control Program Manager, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504-7344, phone (360) 705-7280, fax (360) 705-7296.

August 22, 2005

John F. Conrad

Assistant Secretary

Engineering and Regional Operations

WSR 05-17-161

WITHDRAWAL OF

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 22, 2005, 4:27 p.m.]

The DSHS Economic Services Administration, Division of Child Care and Early Learning is withdrawing the preproposal statement of inquiry filed as WSR 04-19-102 on September 20, 2004.

Andy Fernando, Manager

Rules and Policies Assistance Unit

WSR 05-17-163

PREPROPOSAL STATEMENT OF INQUIRY

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner No. R 2005-02—Filed August 23, 2005, 9:32 a.m.]

Subject of Possible Rule Making: Property and casualty statistical plans.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 48.02.060, 48.19.370.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 48.19.370 requires the commissioner to adopt rules and statistical plans for property and casualty insurance. WAC 284-24-015 has not been amended since 1998, and includes information that is no longer accurate. This rule will be updated, and the commissioner will consider additional rules to specify data elements and reporting requirements for medical malpractice insurance so that premium, exposure, claim, and expense data are

available in a timely manner and in a form that is useful for monitoring the condition of this market.

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; send written comments by September 26, 2005.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, fax (360) 586-3109, e-mail KacyS@oic.wa.gov.

August 22, 2005

Mike Kreidler

Insurance Commissioner

WSR 05-17-170

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF LICENSING

[Filed August 23, 2005, 1:50 p.m.]

Subject of Possible Rule Making: Chapter 308-93 WAC, Vessel registration and certificates of title, including WAC 308-93-087.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.02.070, 88.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required to reflect changes to state law that restrict disclosure of vessel information. Change may also be made so the rule is more user friendly. The result will be a more up-to-date rule that reflects legislative changes.

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 Dale R. Brown, Management Analyst, Policy and Project Office, Mailstop 48001, P.O. Box 2956, Olympia, WA 98507-2957, or by phone (360) 902-4020, fax (360) 902-3827, TTY (360) 664-8885, e-mail DBROWN@dol.wa.gov.

August 22, 2005

Robert Smith

for Steve Boruchowitz, Manager
Policy and Project Office

WSR 05-17-172**PREPROPOSAL STATEMENT OF INQUIRY
FOREST PRACTICES BOARD**

[Filed August 23, 2005, 3:11 p.m.]

Subject of Possible Rule Making: Amend Title 222 WAC, Forest Practices Act, related to northern spotted owl protection.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.010(1), 76.09.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1996 the Forest Practices Board responded to the Endangered Species Act listing of the northern spotted owl as "threatened" by adopting rules to protect its habitat on state and private forestlands. The northern spotted owl's populations are thought to have declined significantly in Washington state since 1996. The board is considering possible actions, including forest practices rule changes for state and private forestlands, to strengthen the conservation of spotted owl habitat on lands under the board's jurisdiction.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: United States Fish and Wildlife Service administers the federal Endangered Species Act for upland wildlife, including the northern spotted owl. The board intends that the Department of Natural Resources, which implements board actions, will work with the United States Fish and Wildlife Service and other stakeholders, including the Washington State Department of Fish and Wildlife, to develop recommendations for the board's consideration.

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. Mail, fax, or e-mail comments to Patricia Anderson, Forest Practices Board Coordinator, Department of Natural Resources, Forest Practices Division, 1111 Washington Street S.E., 4th Floor, P.O. Box 47012, Olympia, WA 98504-7012, fax (360) 902-1428, e-mail forestpracticesboard@wadnr.gov.

August 16, 2005

L. S. Young, Acting
for Pat McElroy
Chairman

WSR 05-17-191**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed August 24, 2005, 9:37 a.m.]

Subject of Possible Rule Making: The Division of Alcohol and Substance Abuse is amending certification requirements for chemical dependency treatment service providers in chapter 388-805 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.96A.040 and 2004 legislation, chapter 166, Laws of 2004.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To meet the requirements of chapters 70 and 504, Laws of 2005 and chapter 166, Laws of 2004, the department is amending the sections that refer to clinical manual content, administrative manual, assessment requirements, patient record content, and education, referral, and application criteria for opiate substitution treatment programs, and adding new language as appropriate.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Substance Abuse and Mental Health Services Administration also regulates opioid treatment programs, and they will be notified of the change in chapter 388-805 WAC requirements affecting opiate substitution treatment programs.

Process for Developing New Rule: DSHS invites the interested public to review and provide input on the development of these rules. Draft material and information about how to participate may be obtained by contacting the department representative below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Deb Cummins, Certification Policy Manager, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 725-3726 or toll free 1-877-301-4557, fax (360) 438-8057, TTY relay operator 1-800-833-6388 or 1-800-833-6384 for voice line.

August 23, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-17-195**PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF
FISH AND WILDLIFE**

[Filed August 24, 2005, 10:07 a.m.]

Subject of Possible Rule Making: Game management units and boundary descriptions, firearm restriction areas, deer and elk areas, spring black bear seasons, auction and raffle permits and special permits, and importation of dead non-resident wildlife (chronic wasting disease protection).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.047.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provides recreational opportunity.

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 Dave Britnell, Wildlife Program Assis-

tant Director, 600 Capitol Way North, Olympia, WA 98504-1091, phone (360) 902-2515.

August 24, 2005
 Evan Jacoby
 Rules Coordinator

WSR 05-17-197
PREPROPOSAL STATEMENT OF INQUIRY
OFFICE OF
FINANCIAL MANAGEMENT
 [Filed August 24, 2005, 10:28 a.m.]

Subject of Possible Rule Making: Updating the rules related to the process for the approval of electronic funds and information transfers by state agencies.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.41.180 and 43.41.110(14).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rules related to the approval of and the requirements for agency electronic funds and information transfer systems were last updated in 1982. Since implementation, the statute upon which the rules were enacted has been repealed and additional statutes related to this subject have been enacted. The proposed changes are intended to update the rules to ensure consistency with the current banking and agency practices, informational systems availability and current state and federal statutory requirements, as well as to make technical adjustments and clarifications as needed.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: OFM is coordinating with and receiving input from the Office of the State Treasurer.

Process for Developing New Rule: Early solicitation and consideration of comments and recommendations respecting the proposed changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. For information about the rules and process or to receive a copy of the draft rules before or after publication, contact Wendy Jarrett, Statewide Accounting Manager, Office of Financial Management, 6639 Capitol Boulevard (Point Plaza Building), P.O. Box 43113, Olympia, WA 98504-3113, phone (360) 664-7675, e-mail wendy.jarrett@ofm.wa.gov; Pam Valencia, Statewide Accounting, Office of Financial Management, 6639 Capitol Boulevard (Point Plaza Building), P.O. Box 43113, Olympia, WA 98504-3113, phone (360) 664-7670, e-mail pam.valencia@ofm.wa.gov.

August 24, 2005
 Roselyn Marcus
 Director of Legal Affairs
 Rules Coordinator

WSR 05-17-198
PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE PATROL
 [Filed August 24, 2005, 10:36 a.m.]

Subject of Possible Rule Making: Chapter 212-17 WAC, Rules of the director of fire protection relating to fireworks.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 43.43 and 70.77 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To clarify and amend safety rules to meet the 2000 Edition of the National Fire Protection Association Standard #1123 for outdoor public fireworks displays shot from barges and floating vessels.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Washington State Department of Labor and Industries, United States Consumer Products Safety Commission, United States Department of Alcohol, Tobacco, and Firearms.

Process for Developing New Rule: Agency study; study and recommendation by the Office of the State Fire Marshal with input from the Fireworks Stakeholders Group.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Acting Chief Deputy State Fire Marshal Larry Glenn, P.O. Box 42600, Olympia, WA 98504-2600, (360) 570-3133, fax (360) 570-3136, larry.glenn@wsp.wa.gov.

August 24, 2005
 J. Batiste
 Chief

WSR 05-17-201
PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION
 [Filed August 24, 2005, 11:26 a.m.]

Subject of Possible Rule Making: Charitable and non-profit licensees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposals would change rules relating to charitable and nonprofit organizations that operate gambling.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; and Susan Arland, Rules

Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at the] Red Lion Hotel Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 544-3910, on September 9, 2005; at the Clarion Hotel and Conference Center, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on October 14, 2005; and at the DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 18, 2005.

August 23, 2005
Susan Arland
Rules Coordinator

WSR 05-17-202

**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed August 24, 2005, 11:27 a.m.]

Subject of Possible Rule Making: Fund-raising events.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This amendment would allow poker at fund-raising events.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; and Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at the] Red Lion Hotel Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 544-3910, on September 9, 2005; at the Clarion Hotel and Conference Center, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on October 14, 2005; and at the DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 18, 2005.

August 23, 2005
Susan Arland
Rules Coordinator

WSR 05-17-203

**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed August 24, 2005, 11:29 a.m.]

Subject of Possible Rule Making: Card games operated by charitable and nonprofit organizations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This amendment relates to charitable and nonprofit organizations and the card games they can operate without a gambling license.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; and Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at the] Red Lion Hotel Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 544-3910, on September 9, 2005; at the Clarion Hotel and Conference Center, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on October 14, 2005; and at the DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 18, 2005.

August 23, 2005
Susan Arland
Rules Coordinator

WSR 05-17-204

**PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION**

[Filed August 24, 2005, 11:30 a.m.]

Subject of Possible Rule Making: Card rooms.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received a petition for rule change from Monty Harmon requesting that "cash" be defined.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; and Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at the] Red Lion Hotel Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 544-3910, on September 9, 2005; at the Clarion Hotel and Conference Center, 1507

North 1st Street, Yakima, WA 98901, (509) 248-7850, on October 14, 2005; and at the DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 18, 2005.

August 23, 2005
Susan Arland
Rules Coordinator

WSR 05-17-205
PREPROPOSAL STATEMENT OF INQUIRY
GAMBLING COMMISSION

[Filed August 24, 2005, 11:32 a.m.]

Subject of Possible Rule Making: Card rooms.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: We have received four petitions for rule change from the Recreational Gaming Association requesting several changes to card room rules. These changes include increasing betting limits for house-banked card games and poker games, increasing the administrative fee that can be collected by a card room from a player-supported jackpot from 10% to 35% and changing the rules of play for card games.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; and Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at the] Red Lion Hotel Pasco, 2525 North 20th Avenue, Pasco, WA 99301, (509) 544-3910, on September 9, 2005; at the Clarion Hotel and Conference Center, 1507 North 1st Street, Yakima, WA 98901, (509) 248-7850, on October 14, 2005; and at the DoubleTree Guest Suites, 16500 Southcenter Parkway, Seattle, WA 98188, (206) 575-8220, on November 18, 2005.

August 23, 2005
Susan Arland
Rules Coordinator



WSR 05-17-001
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed August 3, 2005, 2:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-21-090.

Title of Rule and Other Identifying Information: WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection, this rule discusses the responsibility of taxpayers to timely pay their tax liabilities, and the acceptable methods of payment. The rule explains the statutory due dates for persons remitting excise tax returns, and the interest and penalties imposed by law when a taxpayer fails to timely pay the correct amount of tax, as well as other penalties which may be applied. The department is only authorized to waive interest or penalties under limited circumstances. The rule provides examples of circumstances that qualify for a waiver of interest or penalties, and explains how a taxpayer may request a waiver of the same.

Hearing Location(s): Capital Plaza Building, 4th Floor L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on October 4, 2005, at 9:30 a.m.

Date of Intended Adoption: October 11, 2005.

Submit Written Comments to: Pat Moses, Interpretations and Technical Advice, P.O. Box 47453, Olympia, WA 98504-7453, e-mail PatM@dor.wa.gov, fax (360) 586-5543, by October 4, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis, no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to revise this rule to reflect provisions of chapter 13, Laws of 2003 1st sp.s. (EHB 2269). This legislation changed penalty provisions of RCW 82.32.090 and the due date for persons filing excise tax returns on a monthly basis.

The department has inserted two tables and made other format changes in the rule to provide the information in a more useful manner and assist readers in finding information of interest.

Reasons Supporting Proposal: To incorporate statutory changes mentioned above.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: Various statutes in chapters 82.08 and 82.32 RCW that impose interest, penalties, and due dates for taxes administered by the Department of Revenue.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6116; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule imposes no

new or additional administrative burdens on businesses that are not already imposed by the law.

A cost-benefit analysis is not required under RCW 34.05.328. This is not a significant legislative rule as defined in RCW 34.05.328.

August 2, 2005

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-05-022, filed 2/9/01, effective 3/12/01)

WAC 458-20-228 Returns, (~~remittances~~) payments, penalties, extensions, interest, stay of collection. (1) **Introduction.** This (~~rule~~) section discusses the responsibility of taxpayers to (~~timely~~) pay their tax (~~liabilities~~) by the appropriate due date, and the acceptable methods of payment. It discusses the interest and penalties that are imposed by law when a taxpayer fails to (~~correctly or timely pay a tax liability~~) pay the correct amount of tax by the due date. It also discusses the circumstances under which the law allows the department of revenue (department) to waive interest or penalties.

(a) Where can I get my questions answered, or learn more about what I owe and how to report it? Washington's tax system is based largely on voluntary compliance. Taxpayer(~~s~~)s have a legal responsibility to become informed about applicable tax laws, to register with the department, to seek instruction from the department, to file accurate returns, and to pay their tax liability in a timely manner (chapter 82.32A RCW, Taxpayer rights and responsibilities). The department has (~~instituted~~) a taxpayer services program to provide taxpayers with accurate tax-reporting assistance and instructions. The department staffs local district offices, maintains a toll-free question and information phone line (1-800-647-7706), provides information and forms on the internet (<http://dor.wa.gov>), and conducts free public workshops on tax reporting. The department also publishes notices, interpretive statements, and (~~rules~~) sections discussing important tax issues and changes. It's all friendly, free, and easy to access.

(b) I can avoid some penalties and interest if I file my returns electronically (by e-file)? It's true! Many common reporting errors are preventable when taxpayers take advantage of the department's electronic filing (e-file) system. E-file is an internet-based application that provides a secure and encrypted way for taxpayers to file and pay many of Washington state's business related excise taxes online. The e-file system helps taxpayers by performing all the math calculations and checking for other types of reporting errors. Using e-file to file electronically will help taxpayers avoid penalties and interest related to unintentional underpayments and delinquencies. Persons who wish to use e-file should access the department's internet site (<http://dor.wa.gov>) and open the page for electronic filing, which has additional links to pages answering frequently asked questions, and explaining the registration process for e-file. Taxpayers may also call the department's toll-free electronic filing help desk for more information, during regular business hours.

(c) Index of subjects addressed in this section:

PROPOSED

PROPOSED

Topic—Description	See subsection
<u>Where can I get my questions answered, or learn more about what I owe and how to report it?</u> - By phone or on-line, the department provides a number of free and easy resources to help you find answers. One of them is right for you.	(1)(a) of this section, (see above)
<u>I can avoid some penalties and interest if I file my returns electronically (by e-file)?</u> - It's true! E-filing guides you through the return and helps you avoid many common mistakes.	(1)(b) of this section, (see above)
<u>Do I need to file a return?</u> - How do I get returns and file them? Can I file my returns electronically?	(2) of this section
<u>What methods of payment can I use?</u> - What can I use to pay my taxes? Some taxpayers are required to pay electronically.	(3) of this section
<u>When is my tax payment due?</u> - Different reporting frequencies can have different due dates. What if the due date is a week-end or a holiday? If my payment is in the mail on the due date, am I late or on time?	(4) of this section
<u>Penalties</u> - What types of penalty exist? How big are they? When do they apply?	(5) of this section
<u>Statutory restrictions on imposing penalties</u> - More than one penalty can apply at the same time, but there are restrictions. Which penalties can be combined?	(6) of this section
<u>Interest</u> - In most cases interest is required. What interest rates apply? How is interest applied?	(7) of this section
<u>Application of payment towards liability</u> - Interest, penalties, and taxes are paid in a particular order. If my payment doesn't pay the entire liability, how can I determine what parts have been paid?	(8) of this section
<u>Waiver or cancellation of penalties</u> - I think I was on time, or I had a good reason for not paying the tax when I should have. What reasons qualify me for a waiver of penalty? How can I get a penalty removed?	(9) of this section
<u>Waiver or cancellation of interest</u> - Interest will only be waived in two limited situations. What are they?	(10) of this section
<u>Stay of collection</u> - Revenue will sometimes temporarily delay collection action on unpaid taxes. When can this happen? Can I request that revenue delay collection?	(11) of this section
<u>Extensions</u> - Can I get an extension of my due date? How long does an extension last?	(12) of this section

(2) ~~((Returns.))~~ **Do I need to file a return?** A "return" is defined as any paper or electronic document a person is required to file by the state of Washington in order to satisfy or establish a tax or fee obligation which is administered or collected by the department, and that has a statutorily defined due date. RCW 82.32.090(8).

(a) Returns and payments are to be filed with the department by every person liable for any tax which the department administers and/or collects, except for the taxes imposed under chapter 82.24 RCW (Tax on cigarettes), which are collected through sales of revenue stamps. Returns must be made upon forms, ~~((copies of forms))~~ **through the electronic filing (e-file) system (see subsection (1)(b) of this section)**, or by other means, provided or accepted by the department. The department provides tax returns upon request or when a taxpayer opens an active tax reporting account. Tax returns are generally mailed to all registered taxpayers prior to the due date of the tax. However, it remains the responsibility of ~~((the))~~ taxpayers to timely request a return if one is not received, or to otherwise insure that their return is filed in a timely manner. **E-file taxpayers do not receive paper returns. However, if an e-file taxpayer specifically requests it, the department will send an electronic reminder for each upcoming return as the time to file approaches.**

(b) Taxpayers whose accounts are placed on an "active nonreporting" status do not automatically receive a tax return and must request a return, or register to file by e-file, if they no longer qualify for this reporting status. (See WAC 458-20-101, Tax registration, for an explanation of the active nonreporting status.)

(c) **Some consumers ((that are)) may not be required to register with the department and obtain a tax registration endorsement ((see subsection (2)(a))). (Refer to WAC 458-20-101 for detailed information about tax registration and when it is required.) But even if they do not have to be registered, consumers may be required to pay use tax directly to the department if they have purchased items without paying Washington's sales tax. An unregistered consumer must report and pay their use tax liability directly to the department on a "Consumer Use Tax Return." Consumer use tax returns are available from the department at any of the local district offices ((, by fax, or through the internet)). A consumer may also call the department's toll free number 1-800-647-7706 to request a consumer use tax return by fax or mail. Finally, the consumer use tax return is available for download from the department's internet site at http://dor.wa.gov, along with a number of other returns and forms which are available there.**

The interest and penalty provisions of this rule may apply ~~((to delinquent))~~ if use tax ~~((liabilities, and))~~ is not paid on time. Unregistered consumers should refer to WAC 458-20-178 (Use tax) for an explanation of their tax reporting responsibilities.

(3) **What methods of payment((s)) can I use?** Payment may be made by cash, check, cashier's check, money order, and in certain cases by electronic funds transfers, or other electronic means approved by the department.

(a) Payment by cash should only be made at an office of the department to ensure that the payment is safely received and properly credited.

(b) Payment may be made by uncertified bank check, but if the check is not honored by the financial institution on which it is drawn, the taxpayer remains liable for the payment of the tax, as well as any applicable interest and penalties. RCW 82.32.080. The department may refuse to accept any check which, in its opinion, would not be honored by the financial institution on which that check is drawn. If the department refuses a check for this reason the taxpayer remains liable for the tax due, as well as any applicable interest and penalties.

(c) The law requires that certain taxpayers pay their taxes through electronic funds transfers. The department notifies taxpayers who are required to pay their taxes in this manner, and can explain how to set up the electronic funds transfer process. (See WAC 458-20-22802 on electronic funds transfers.)

(4) ~~((Due dates.))~~ **When is my tax payment due?** RCW 82.32.045 provides that payment of the taxes due with the ~~((combined))~~ excise tax return must be made monthly and within ~~((twenty-five))~~ twenty days after the end of the month in which taxable activities occur, unless the department assigns the taxpayer a longer reporting frequency. Payment of taxes due with returns covering a longer reporting frequency are due on or before the last day of the month following the period covered by the return. (For example, payment of the tax liability for a first quarter tax return is due on April 30th.) WAC 458-20-22801 (Tax reporting frequency—Forms) explains the department's procedure for assigning a quarterly or annual reporting frequency.

(a) If the date for payment of the tax due on a tax return falls upon a Saturday, Sunday, or legal holiday, the filing shall be considered timely if performed on the next business day. RCW 1.12.070 and 1.16.050.

(b) The postmark date as shown by the post office cancellation mark stamped on the envelope will be considered conclusive evidence by the department in determining if a tax return or payment was timely filed or received. RCW 82.32.-080. It is the responsibility of the taxpayer to mail the tax return or payment sufficiently in advance of the due date to assure that the postmark date is timely.

Refer to WAC 458-20-22802 (Electronic funds transfer) for more information regarding the electronic funds transfer process, due dates, and requirements.

(c) If a taxpayer suspects that it will not be able to file and pay by the coming due date, it may be able to obtain an extension of the due date to temporarily avoid additional penalties. Refer to subsection (12) of this section for details on requesting an extension.

(5) **Penalties.** Various penalties may apply as a result of the failure to correctly or accurately compute the proper tax liability, or to timely pay the tax. Separate penalties may apply and be cumulative for the same tax. Interest may also apply if any tax has not been paid when it is due, as explained in subsection (7) of this ~~((rule))~~ section. ~~((Penalties apply as follows:))~~ (The department's electronic filing system (e-file) can help taxpayers avoid additional penalties and interest. See subsection (1)(b) of this section for more information.)

The penalty types and rates addressed in this subsection are:

<u>Penalty Type—Description</u>	<u>Penalty Rate</u>	<u>See subsection</u>
<u>Late payment of a return - Five percent added when payment is not received by the due date, and increases if the tax due remains unpaid.</u>	5/15/25%	(5)(a) of this section
<u>Unregistered taxpayer - Five percent added against unpaid tax when revenue discovers a taxpayer who has taxable activity but is not registered.</u>	5%	(5)(b) of this section
<u>Assessment - Five percent added when a tax assessment is issued, and increases if the tax due remains unpaid.</u>	5/15/25%	(5)(c) of this section
<u>Issuance of a warrant - Ten percent added when a warrant is issued to collect unpaid tax, and does not require actual filing of a lien.</u>	10%	(5)(d) of this section
<u>Disregard of specific written instructions - Ten percent added when the department has provided specific, written reporting instructions and tax is underpaid because the instructions are not followed.</u>	10%	(5)(e) of this section
<u>Evasion - Fifty percent added when tax is underpaid and there is an intentional effort to hide that fact.</u>	50%	(5)(f) of this section
<u>Misuse of resale certificates - Fifty percent added against unpaid sales tax when a buyer uses a resale certificate but should not have.</u>	50%	(5)(g) of this section
<u>Failure to remit sales tax to seller - Ten percent added against sales tax when the department proceeds directly against a buyer who fails to pay sales tax to the seller as part of a sales taxable retail purchase.</u>	10%	(5)(h) of this section
<u>Failure to obtain the contractor's unified business identifier (UBI) number - A flat two hundred fifty dollar maximum penalty (does not require any tax liability) when specified businesses hire certain contractors but do not obtain and keep the contractor's UBI number.</u>	\$250 max	(5)(i) of this section

PROPOSED

(a) **Late payment of a return.** RCW 82.32.090(1) imposes a five percent penalty if the tax due on a taxpayer's return (~~(to be filed by a taxpayer)~~) is not paid by the due date. A (~~(ten)~~) fifteen percent penalty is imposed if the tax due is not paid on or before the last day of the month following the due date, and a (~~(twenty)~~) twenty-five percent penalty is imposed if the tax due is still not paid on or before the last day of the second month following the due date. The minimum penalty for late payment is five dollars.

Various sets of circumstances can affect how the late payment of a return penalty is applied. See (a)(i) through (iii) of this subsection for some of the most common circumstances.

(i) Will I avoid the penalty if I file my return without the payment? The department may refuse to accept any return which is not accompanied by payment of the tax shown to be due on the return. If the return is not accepted, the taxpayer is considered to have failed or refused to file the return. RCW 82.32.080. Failure to file the return can result in the issuance of an assessment for the actual, or an estimated, amount of unpaid tax. Any assessment issued will include an assessment penalty starting at five percent, which will increase the longer tax remains unpaid. See RCW 82.32.100 and (c) of this subsection. If the tax return is accepted without payment and payment is not made by the due date, the late (~~(penalties)~~) payment of return penalty will apply.

(~~(ii)~~) (ii) What if my account is given an active non-reporting status, but I later have taxes I need to report and pay? WAC 458-20-101 provides information about the active nonreporting status available for tax reporting accounts. In general, the active nonreporting status allows persons, under certain circumstances, to engage in business activities subject to the Revenue Act without filing excise tax returns. Persons placed on an active nonreporting status by the department are required to timely notify the department if their business activities no longer meet the conditions to be in active nonreporting status. One of the conditions is that the person is not required to collect or pay a tax the department is authorized to collect. The late payment of return penalty will be imposed if a person on active nonreporting status incurs a tax liability that is not paid by the due date for taxpayers that are on an annual reporting basis (i.e., the last day of January next succeeding the year in which the tax liability accrued).

(iii) I didn't register my business with the department when I started it, and now I think I was supposed to be paying taxes! What should I do? You should fill out and send in a Master Application to get your business registered. It is important for you to register before the department identifies you as an unregistered taxpayer and contacts you about your business activities. (WAC 458-20-101 provides information about registering your business.) Except as noted below, if a person engages in taxable activities while unregistered, but then registers prior to being contacted by the department, the registration is considered voluntary. When a person voluntarily registers, the late payment of return penalty does not apply to those specific tax-reporting periods representing the time during which the person was unregistered.

(A) However, even if the person has voluntarily registered as explained above, the late payment of return penalty will apply if the person:

(I) Collected retail sales tax from customers and failed to remit it to the department; or

(II) Engaged in evasion or misrepresentation with respect to reporting tax liabilities or other tax requirements; or

(III) Engaged in taxable business activities during a period of time in which the person's previously open tax reporting account had been closed.

(B) Even though other circumstances may warrant retention of the late payment of return penalty, if a person has voluntarily registered, the unregistered taxpayer penalty (see (b) of this subsection) will not be due.

(b) Unregistered taxpayer. (~~(Except as noted below, the late payment of return penalty does not apply to those tax-reporting periods during which a person is unregistered if the person)~~) RCW 82.32.090(4) imposes a five percent penalty on the tax due for any period of time where a person engages in a taxable activity and does not voluntarily register(~~(s)~~) prior to being contacted by the department. "Voluntarily register(~~(s)~~)" means to properly (~~(completing)~~) complete and (~~(submitting)~~) submit a master application to any agency or entity participating in the unified business identifier (UBI) program for the purpose of obtaining a UBI number, all of which is done before any contact from the department. For example, (~~(the department will consider)~~) if a person properly (~~(completing)~~) completes and (~~(submitting)~~) submits a master application to the department of labor and industries for the purpose of obtaining a UBI number, and this is done prior to any contact from the department of revenue, the department considers that person to have voluntarily registered. A person has not voluntarily registered if a UBI number is obtained by any means other than submitting a properly completed master application. WAC 458-20-101 (Tax registration and tax reporting) provides additional information regarding the UBI program.

(The late payment of return penalty will apply, even if the person has voluntarily registered as explained above, if the person:

(A) Collected retail sales tax from customers and failed to remit it to the department; or

(B) Engaged in evasion or misrepresentation with respect to reporting tax liabilities or other tax requirements; or

(C) Engaged in taxable business activities during a period of time in which the person's previously open tax reporting account has been closed.

(ii) Active nonreporting status taxpayer. The active nonreporting status allows persons, under certain conditions, to engage in business activities subject to the Revenue Act without having to file combined excise tax returns with the department. Persons placed on an active nonreporting status by the department are required to timely notify the department if their business activities no longer meet the conditions for active nonreporting status. One of the conditions is that the person is not required to collect or pay a tax the department is authorized to collect. The late payment of return penalty will be imposed if any tax due from unreported business

~~activities while on active nonreporting status is not paid by the due dates used for taxpayers that are on an annual reporting basis. Refer to WAC 458-20-101 for more information regarding the active nonreporting status.~~

~~(b) Late payment of an assessment. An additional penalty of ten percent of the tax due will be added to any taxes assessed by the department if payment of the taxes assessed is not received by the due date specified in the notice, or any extension of that due date.)~~ (c) Assessment. If the department issues an assessment for unpaid tax, a five percent penalty will be added to the assessment when it is issued. If any tax included in the assessment is not paid by the due date, or by any extended due date, the penalty will increase to a total of fifteen percent against the amount of tax that remains unpaid. If any tax included in the assessment is not paid within thirty days of the original or extended due date, the penalty will further increase to a total of twenty-five percent against the amount of tax that remains unpaid. The minimum for this penalty is five dollars. RCW 82.32.090(2).

~~((e))~~ The initial five percent assessment penalty is included with an assessment when it is issued. The penalty is calculated against the total amount of tax that was not paid when originally due and payable (see RCW 82.32.045). Audit payments made prior to issuance of an assessment will be applied to the assessment after calculation of the initial five percent assessment penalty. At the discretion of the department, preexisting credits or amendments paid prior to an audit or unrelated to the scope of the assessment may be applied before the five percent assessment penalty is calculated, reducing the amount of the penalty. Additional assessment penalty (plus ten percent increments at thirty and sixty days from issuance) is assessed against the amount of tax that remains unpaid at that particular time, after payments are applied to the assessment.

(d) Issuance of a warrant. If the department issues a tax warrant for the collection of any fee, tax, increase, or penalty, an additional penalty will immediately be added in the amount of ~~((five))~~ ten percent of the amount of the tax due, but not less than ten dollars. RCW 82.32.090(3). Refer to WAC 458-20-217 for additional information on the application of warrants and tax liens.

~~((d))~~ (e) Disregard of specific written instructions. If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, an additional penalty of ten percent of the additional tax found due will be imposed because of the failure to follow the instructions. RCW 82.32.090 ~~((d))~~ (5).

(i) ~~((The))~~ What is "disregard of specific written instructions"? A taxpayer ~~((will be))~~ is considered to have ~~((disregarded))~~ received specific written instructions when the department has informed the taxpayer in writing of its tax obligations and specifically advised the taxpayer that failure to act in accordance with those instructions may result in this penalty being imposed. The specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement. The penalty applies when a taxpayer does not follow the specific written instructions, resulting in underpayment of the tax due. The penalty may be applied only against the taxpayer given the specific written instruc-

tions. However, the taxpayer will not be considered to have disregarded the instructions if the taxpayer has appealed the subject matter of the instructions and the department has not issued its final instructions or decision.

(ii) What if I try to follow the written instructions, but I still don't get it quite right? The penalty will not be applied if the taxpayer has made a good faith effort to comply with specific written instructions.

~~((e))~~ (f) Evasion. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax due, a penalty of fifty percent of the additional tax found to be due ~~((shall))~~ will be added. RCW 82.32.090 ~~((5))~~ (6). The evasion penalty is imposed when a taxpayer knows a tax liability is due but attempts to escape detection or payment of the tax liability through deceit, fraud, or other intentional wrongdoing. An intent to evade does not exist where a deficiency is the result of an honest mistake, miscommunication, or the lack of knowledge regarding proper accounting methods. The department has the burden of showing the existence of an intent to evade a tax liability through clear, cogent and convincing evidence.

(i) Evasion penalty only applies to the specific taxes that a taxpayer intended to evade. To the extent that the evasion involved only specific taxes, the evasion penalty will be added only to those taxes. The evasion penalty will not be applied to those taxes which were inadvertently underpaid. For example, if the department finds that the taxpayer intentionally understated the purchase price of equipment in reporting use tax and also inadvertently failed to collect or remit the sales tax at the correct rate on retail sales of merchandise, the evasion penalty will be added only to the use tax deficiency and not the sales tax.

(ii) What actions may establish an intent to evade? The following is a nonexclusive list of actions that are generally considered to establish an intent to evade a tax liability. This list should only be used as a general guide. A determination of whether an intent to evade exists may be ascertained only after a review of all the facts and circumstances.

(A) The use of an out-of-state address by a Washington resident to register property to avoid a Washington excise or use tax, when at the time of registration the taxpayer does not reside at the out-of-state address on a more than temporary basis. Examples of such an address include, but are not limited to, the residence of a relative, mail forwarding or post office box location, motel, campground, or vacation property;

(B) The willful failure of a seller to remit retail sales taxes collected from customers to the department ~~((of revenue))~~; and

(C) The alteration of a purchase invoice or misrepresentation of the price paid for property (e.g., a used vehicle) to reduce the amount of tax owing.

~~((f))~~ (g) Misuse of resale certificates. Any buyer who uses a resale certificate to purchase items or retail services without payment of sales tax, and who is not entitled to use the certificate for the purchase, will be assessed a penalty of fifty percent of the tax due. RCW 82.32.291. The penalty can apply even if there was no intent to evade the payment of the tax. For more information concerning this penalty or the

proper use of a resale certificate, refer to WAC 458-20-102 (Resale certificates).

~~((g))~~ **(h) Failure to remit sales tax to seller.** The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases, if the department proceeds directly against the buyer for the payment of the tax. This penalty is in addition to any other penalties or interest prescribed by law. RCW 82.08.050.

~~((h))~~ **(i) Failure to obtain the contractor's unified business identifier (UBI) number.** If a person who is liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW contracts with another person or entity for work subject to chapter 18.27 RCW (Registration of contractors) or chapter 19.28 RCW (Electricians and electrical installations), that person must obtain and preserve a record of the UBI number of the person or entity performing the work. A person failing to do so is subject to the public works contracting restrictions in RCW 39.06.010 (Contracts with unregistered or unlicensed contractors prohibited), and a penalty determined by the director, but not to exceed two hundred and fifty dollars. RCW 82.32.070 ~~((i)(b))~~ **(2).**

(6) Statutory restrictions on imposing penalties. Depending on the circumstances, the law may impose more than one type of penalty on the same tax liability. However, those penalties are subject to the following restrictions:

(a) The ~~((aggregate of the))~~ penalties imposed for the late payment of a return, ~~((the late payment of an))~~ unregistered taxpayer, assessment, and issuance of a warrant (see subsection (5)(a) through ~~((e))~~ (d) of this ~~((rule))~~ section) may be applied against the same tax ~~((, but may not exceed a total of thirty five percent of the tax due, or twenty dollars, whichever is greater. This thirty five percent penalty limitation))~~ concurrently, each unaffected by the others, up to their combined maximum rates. Application of one or any combination of these penalties does not prohibit or restrict full application of other penalties authorized by law, even when they are applied against the same tax. RCW 82.32.090 ~~((6))~~ **(7).**

(b) The department may impose either the evasion penalty (subsection (5) ~~((e))~~ (f) of this section) or the penalty for disregarding specific written instructions (subsection (5) ~~((d))~~ (e) of this section), but may not impose both penalties on the same tax. RCW 82.32.090 ~~((7))~~ **(8).** The department also will not impose the penalty for the misuse of a resale certificate (subsection (5) ~~((f))~~ (g) of this section) in combination with either the evasion penalty or the penalty for disregarding specific written instructions on the same tax.

(7) Interest. The department is required by law to add interest to assessments for tax deficiencies and overpayments. RCW 82.32.050 and 82.32.060. Interest applies to taxes only. (Refer to WAC 458-20-229 for a discussion of interest as it relates to refunds and WAC 458-20-230 for a discussion of the statute of limitations as applied to interest.)

(a) For tax liabilities arising before January 1, 1992, interest will be added at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the date of payment, or December 31, 1998, whichever comes first. Any interest accrued on these liabilities after December 31, 1998, will be added at the annual

variable interest rates described below in ~~((subsection (7))~~ (e) of this subsection. RCW 82.32.050.

(b) For tax liabilities arising after December 31, 1991, and before January 1, 1998, interest will be added at the annual variable interest rates described below in ~~((subsection (7))~~ (e) of this subsection, from the last day of the year in which the deficiency is incurred until the date of payment.

(c) For interest imposed after December 31, 1998, interest will be added from the last day of the month following each calendar year included in a notice, or the last day of the month following the final month included in a notice if not the end of the calendar year, until the due date of the notice. However, for 1998 taxes only, interest may not begin to accrue any earlier than February 1, 1999, even if the last period included in the notice is not at the end of calendar year 1998. If payment in full is not made by the due date of the notice, additional interest will be due until the date of payment. The rate of interest continues at the annual variable interest rates described below in ~~((subsection (7))~~ (e) of this subsection. RCW 82.32.050.

(d) How is interest applied to an assessment that includes underpaid tax from multiple years? The following is an example of how the interest provisions apply. Assume that a tax assessment is issued with a due date of June 30, 2000. The assessment includes periods from January 1, 1997, through September 30, 1999.

(i) For calendar year 1997 tax, interest begins January 1, 1998, (from the last day of the year). When the assessment is issued the interest is computed through June 30, 2000, (the due date of the assessment).

(ii) For calendar year 1998 tax, interest begins February 1, 1999, (from the last day of the month following the end of the calendar year). When the assessment is issued interest is computed through June 30, 2000, (the due date).

(iii) For the 1999 tax period ending with September 30, 1999, interest begins November 1, 1999, (from the last day of the month following the last month included in the assessment period). When the assessment is issued interest is computed through June 30, 2000, (the due date).

(iv) Interest will continue to accrue on any portion of the assessed taxes which remain unpaid after the due date, until the date those taxes are paid.

(e) How is each year's interest rate determined? The annual variable interest rate will be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate for each new year will be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually ~~((, for the months of January, April, July, and October of the immediately preceding calendar))~~. The average is calculated using the federal short-term rates from January, April, July of the calendar year immediately preceding the new year, and October of the previous preceding year, as published by the United States Secretary of the Treasury. The interest rate will be adjusted on the first day of January of each year.

(f) How is the interest applied if an assessment includes some years that are underpaid and some that are overpaid? If the assessment contains tax deficiencies in some years and overpayments in other years with the net dif-

ference being a tax deficiency, the interest rate for tax deficiencies will also be applied to the overpayments. (Refer to WAC 458-20-229 for interest on refunds.)

(8) **Application of payment towards liability.** The department will apply taxpayer payments first to interest, next to penalties, and then to the tax, without regard to any direction of the taxpayer. RCW 82.32.080.

((a)) In applying a partial payment to a tax assessment, the payment will first be applied against the oldest tax liability. For purposes of RCW 82.32.145 (Termination, dissolution, or abandonment of corporate business—Personal liability of person in control of collected sales tax funds), it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability. For example, an audit assessment is issued covering a period of two years, which will be referred to as "YEAR 1" (the earlier year) and "YEAR 2" (the most recent year). The tax assessment includes total interest and penalties for YEAR 1 and YEAR 2 of five hundred dollars, retail sales tax of four hundred dollars for YEAR 1, six hundred dollars retail sales tax for YEAR 2, two thousand dollars of other taxes for YEAR 1, and seven thousand dollars of other taxes for YEAR 2. The order of application of any payments will be first against the five hundred dollars of total interest and penalties, second against the four hundred dollars retail sales tax in YEAR 1, third against the two thousand dollars of other taxes in YEAR 1, fourth against the six hundred dollars retail sales tax of YEAR 2, and finally against the seven thousand dollars of other taxes in YEAR 2.

(9) **Waiver or cancellation of penalties.** RCW 82.32.105 authorizes the department to waive or cancel penalties under limited circumstances.

(a) **Circumstances beyond the control of the taxpayer.** The department will waive or cancel the penalties imposed under chapter 82.32 RCW upon finding that the underpayment of the tax, or the failure to pay any tax by the due date, was the result of circumstances beyond the control of the taxpayer. It is possible that a taxpayer will qualify for a waiver of one type of penalty, without obtaining a waiver for all penalties associated with a particular tax liability. Circumstances determined to be beyond the control of the taxpayer when considering a waiver of one type of penalty are not necessarily pertinent when considering a waiver of a different penalty type. For example, circumstances that qualify for waiver of a late payment of return penalty do not necessarily also justify waiver of the assessment penalty or the penalty for misuse of a resale certificate. Refer to WAC 458-20-102 (Resale certificates) for examples of circumstances which are beyond the control of the taxpayer specifically regarding the penalty for misuse of resale certificates found in RCW 82.32.291.

(i) A request for a waiver or cancellation of penalties should contain all pertinent facts and be accompanied by such proof as may be available. The taxpayer bears the burden of establishing that the circumstances were beyond its control and directly caused the late payment. The request should be made in the form of a letter; however, verbal requests may be accepted and considered at the discretion of the department. Any petition for correction of assessment submitted to the department's appeals division for waiver of penalties must be made within the period for filing under RCW 82.32.160 (within thirty days after the issuance of the

original notice of the amount owed or within the period covered by any extension of the due date granted by the department), and must be in writing, as explained in WAC 458-20-100 (Appeals, small claims and settlements). Refund requests must be made within the statutory limitation period.

(ii) The circumstances beyond the control of the taxpayer must actually cause the late payment. Circumstances beyond the control of the taxpayer are generally those which are immediate, unexpected, or in the nature of an emergency. Such circumstances result in the taxpayer not having reasonable time or opportunity to obtain an extension of the due date or otherwise timely file and pay. Circumstances beyond the control of the taxpayer include, but are not necessarily limited to, the following.

(A) The return payment was mailed on time but inadvertently sent to another agency.

(B) Erroneous written information given to the taxpayer by a department officer or employee caused the delinquency. A penalty generally will not be waived when it is claimed that erroneous oral information was given by a department employee. The reason for not cancelling the penalty in cases of oral information is because of the uncertainty of the facts presented, the uncertainty of the instructions or information imparted by the department employee, and the uncertainty that the taxpayer fully understood the information given. Reliance by the taxpayer on incorrect advice received from the taxpayer's legal or accounting representative is not a basis for cancellation of a penalty.

(C) The delinquency was directly caused by death or serious illness of the taxpayer, or a member of the taxpayer's immediate family. The same circumstances apply to the taxpayer's accountant or other tax preparer, or their immediate family. This situation is not intended to have an indefinite application. A death or serious illness which denies a taxpayer reasonable time or opportunity to obtain an extension or to otherwise arrange timely filing and payment is a circumstance eligible for penalty waiver.

(D) The delinquency was caused by the unavoidable absence of the taxpayer or key employee, prior to the filing date. "Unavoidable absence of the taxpayer" does not include absences because of business trips, vacations, personnel turnover, or terminations.

(E) The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

(F) The delinquency was caused by an act of fraud, embezzlement, theft, or conversion on the part of the taxpayer's employee or other persons contracted with the taxpayer, which the taxpayer could not immediately detect or prevent, provided that reasonable safeguards or internal controls were in place. See ~~((subsection (9)))~~(a)(iii)(E) of this subsection.

(G) ~~((The taxpayer, prior to the time for filing the return, made timely application to the Olympia or district office for proper forms and the forms were not furnished in sufficient time to permit the completed return to be paid before its due date. In this circumstance, the taxpayer kept track of pending due dates and reasonably fulfilled its responsibility by timely requesting replacement returns from the department.))~~ The department does not respond to the taxpayer's request for a

tax return (or other forms necessary to compute the tax) within a reasonable period of time, which directly causes delinquent filing and payment on the part of the taxpayer. This assumes that, given the same situation, if the department had provided the requested form(s) within a reasonable period of time, the taxpayer would have been able to meet its obligation for timely payment of the tax. In any case, the taxpayer has responsibility to insure that its return is filed in a timely manner (e.g., by keeping track of pending due dates) and must anticipatively request a return for that purpose, if one is not received. (Note: Tax returns and other forms are immediately available to download at no cost from the department's internet site, <http://dor.wa.gov>. When good cause exists, taxpayers are advised to contact the department and request an extension of the due date for filing, before the due date of concern has passed. See subsection (12) of this section. Taxpayers who have registered to file electronically with e-file will avoid potential penalties relating to unreceived paper returns. See subsection (1)(b) of this section.)

(iii) The following are examples of circumstances that are generally not considered to be beyond the control of the taxpayer and will not qualify for a waiver or cancellation of penalty:

(A) Financial hardship;

(B) A misunderstanding or lack of knowledge of a tax liability;

(C) The failure of the taxpayer to receive a tax return form, EXCEPT where the taxpayer timely requested the form and it was still not furnished in reasonable time to mail the return and payment by the due date, as described in ~~((subsection (9)))(a)(ii)(G)((, above))~~ of this subsection;

(D) Registration of an account that is not considered a voluntary registration, as described in subsection (5)(a)((#)) (iii) and (b) of this section;

(E) Mistakes or misconduct on the part of employees or other persons contracted with the taxpayer (not including conduct covered in ~~((subsection (9)))(a)(ii)(F)((, above))~~ of this subsection); and

(F) Reliance upon unpublished, written information from the department that was issued to and specifically addresses the circumstances of some other taxpayer.

(b) **Waiver of the late payment of return penalty.** The late payment of return penalty (see subsection (5)(a) ~~((above))~~ of this section) may be waived either as a result of circumstances beyond the control of the taxpayer (RCW 82.32.105(1) and ~~((subsection (9)))(a)~~ of this ~~((rule))~~ subsection) or after a twenty-four month review of the taxpayer's reporting history, as described below.

(i) If the late payment of return penalty is assessed on a return but is not the result of circumstances beyond the control of the taxpayer, the penalty will still be waived or canceled if the following two circumstances are satisfied:

(A) The taxpayer requests the penalty waiver for a tax return which was required to be filed under RCW 82.32.045 (taxes reported on the combined excise tax return), RCW 82.23B.020 (oil spill response tax), RCW 82.27.060 (tax on enhanced food fish), RCW 82.29A.050 (leasehold excise tax), RCW 84.33.086 (timber and forest lands), RCW 82.14B.030 (tax on telephone access line use); and

(B) The taxpayer has timely filed and paid all tax returns due for that specific tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested. RCW 82.32.-105(2).

If a taxpayer has obtained a tax registration endorsement with the department and has engaged in business activities for a period less than twenty-four months, the taxpayer is eligible for the waiver if the taxpayer had no delinquent tax returns for periods prior to the period covered by the return for which the waiver is being requested. (See also WAC 458-20-101 for more information regarding the tax registration and tax reporting requirements.) This is the only situation under which the department will consider a waiver when the taxpayer has not timely filed and paid tax returns covering an immediately preceding twenty-four month period.

(ii) A return will be considered timely for purpose of the waiver if there is no tax liability on it when it is filed. Also, a return will be considered timely if any late payment penalties assessed on it were waived or canceled due to circumstances beyond the control of the taxpayer (see ~~((subsection (9)))(a)~~ of this subsection). The number of times penalty has been waived due to circumstances beyond the control of the taxpayer does not influence whether the waiver in this subsection will be granted. A taxpayer may receive more than one of the waivers in this subsection within a twenty-four month period if returns for more than one of the listed tax programs are filed, but no more than one waiver can be applied to any one tax program in a twenty-four month period.

For example, a taxpayer files combined excise tax returns as required under RCW 82.32.045, and timber tax returns as required under RCW 84.33.086. This taxpayer may qualify for two waivers of the late payment of return penalty during the same twenty-four month period, one for each tax program. If this taxpayer had an unwaived late payment of return penalty for the combined excise tax return during the previous twenty-four month period, the taxpayer may still qualify for a penalty waiver for the timber tax program.

(iii) The twenty-four month period reviewed for this waiver is not affected by the due date of the return for which the penalty waiver is requested, even if that due date has been extended beyond the original due date.

For example, assume a taxpayer's ~~((January 1999))~~ September 2003 return has had the original due date of ~~((March 1st))~~ October 20th extended to ~~((April 30th))~~ November 20th. The return and payment are received after the ~~((April 30th))~~ November 20th extended due date. A penalty waiver is requested. Since the delinquent return represented the month of ~~((January, 1999))~~ September 2003, the twenty-four months which will be reviewed begin on ~~((January 1, 1997))~~ September 1, 2001, and end with ~~((December 31, 1998))~~ August 31, 2003, (the twenty-four months prior to ~~((January, 1999))~~ September 2003). All of the returns representing that period of time will be included in the review. The extension of the original due date has no effect on the twenty-four month period under review.

(iv) A twenty-four month review is only valid when considering waiver of the late payment of return penalty described in subsection (5)(a) of this section. The twenty-four month review process cannot be used as justification for

a waiver of interest, assessment penalty, or any penalty other than the late payment of return penalty.

(10) **Waiver or cancellation of interest.** The department will waive or cancel interest imposed under chapter 82.32 RCW only in the following situations:

(a) The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department. RCW 82.32.105(3).

(11) **Stay of collection.** RCW 82.32.190 allows the department to initiate a stay of collection, without the request of the taxpayer and without requiring any bond, for certain tax liabilities when they may be affected by the outcome of a question pending before the courts (see ~~((subsection (14))~~(a) of this ~~((rule))~~ subsection). RCW 82.32.200 provides conditions under which the department, at its discretion, may allow a taxpayer to file a bond in order to obtain a stay of collection on a tax assessment (see ~~((subsection (14))~~(b) of this ~~((rule))~~ subsection). The department will grant a taxpayer's stay of collection request, as described in RCW 82.32.200, only when the department determines that a stay is in the best interests of the state.

(a) Circumstances under which the department may consider initiating a stay of collection without requiring a bond (RCW 82.32.190) include, but are not necessarily limited to, the existence of the following:

(i) A constitutional issue to be litigated by the taxpayer, the resolution of which is uncertain;

(ii) A matter of first impression for which the department has little precedent in administrative practice; or

(iii) An issue affecting other similarly situated taxpayers for whom the department would be willing to stay collection of the tax.

(b) The department will give consideration to a request for a stay of collection of an assessment (RCW 82.32.200) if:

(i) A written request for the stay is made prior to the due date for payment of the assessment; and

(ii) Payment of any unprotested portion of the assessment and other taxes due is made timely; and

(iii) The request is accompanied by an offer of a cash bond, or a security bond that is guaranteed by a specified authorized surety insurer. The amount of the bond will generally be equal to the total amount of the assessment, including any penalties and interest. However, where appropriate, the department may require a bond in an increased amount not to exceed twice the amount for which the stay is requested.

(c) Claims of financial hardship or threat of litigation are not grounds that justify the granting of a stay of collection. However, the department will consider a claim of significant financial hardship as grounds for staying collection procedures, but this will be done only if a partial payment agreement is executed and kept in accordance with the department's procedures and with such security as the department deems necessary.

(d) If the department grants a stay of collection, the stay will be for a period of no longer than two calendar years from the date of acceptance of the taxpayer request, or thirty days following a decision not appealed from by a tribunal or court

of competent jurisdiction upholding the validity of the tax assessed, whichever date occurs first. The department may extend the period of a stay originally granted, but only for good cause shown.

(e) Interest will continue to accrue against the unpaid tax portion of a liability under stay of collection. Effective January 1, 1997, the interest rates prescribed by RCW 82.32.190 and 82.32.200 changed from nine percent and twelve percent per annum, respectively, to the same predetermined annual variable rates as are described in subsection (7)(e)~~((above))~~ of this section.

(12) **Extensions.** The department, for good cause, may extend the due date for filing any return. Any permanent extension more than ten days beyond the due date, and any temporary extension in excess of thirty days, must be conditional upon deposit by the taxpayer with the department of an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit is credited to the taxpayer's account and may be applied to the taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where a temporary extension of more than thirty days has been granted.

The amount of the deposit is subject to departmental approval. The amount will be reviewed from time to time, and a change may be required at any time that the department concludes that such amount does not approximate the tax liability for the reporting period or periods for which the extension was granted.

WSR 05-17-008
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed August 4, 2005, 8:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-108.

Title of Rule and Other Identifying Information: Chapter 51-04 WAC, Policies and procedures for consideration of statewide and local amendments to the state building code.

Hearing Location(s): Renton Holiday Inn Select, One South Grady Way, Renton, WA 98055-2500, on October 14, 2005, at 10:00 a.m.

Date of Intended Adoption: November 4, 2005.

Submit Written Comments to: John Neff, P.O. Box 42525, Olympia, WA 98504-2525, e-mail sbcc@cted.wa.gov, fax (360) 586-9383, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Sue Mathers by September 30, 2005, TTY (360) 753-7427 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule updates the definitions for model code, model code organization, and state building code; clarifies procedures for local amendment review in regard to documentation; established a schedule of adoption for statewide amendments; and updates contact information.

Reasons Supporting Proposal: RCW 19.27.035, 19.27.060, and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.074, 19.27.035, 19.27.060.

Statute Being Implemented: RCW 19.27.074 and chapter 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issue proposed in the rule shown below.

Name of Proponent: State Building Code Council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Tim Nogler, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2969; and Enforcement: Local jurisdictions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a clarification of the council's policy for review of code amendments and does not impose any costs.

A cost-benefit analysis is not required under RCW 34.05.328. The council is not one of the agencies required to comply with this statute.

August 3, 2005

John Neff

Council Chair

AMENDATORY SECTION (Amending WSR 04-01-107, filed 12/17/03, effective 7/1/04)

WAC 51-04-015 Definitions. (1) "Supplements and accumulative supplements" mean the publications between editions of the model codes and standards which include changes to the current edition of the model codes and standards.

(2) "Council" means the Washington state building code council.

(3) "Emergency statewide amendment" means any proposed statewide amendment, the adoption of which is necessary immediately in order to protect life, safety or health of building occupants; preserve the structural integrity of buildings built to the state building code; to correct errors and omissions; or by the direction of the Washington state legislature or federal legislation. Emergency statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(4) "Local government amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions.

(5) "Local government residential amendment" means any amendment to the state building code, as adopted by cities or counties for implementation and enforcement in their respective jurisdictions, that applies to single and multifamily buildings as defined by RCW 19.27.015.

(6) "Model codes" means the codes developed by the model code organizations and adopted by and referenced in chapter 19.27 RCW.

(7) "Model code organization(s)" means the national code-promulgating organizations that develop the model codes (as defined herein), such as the International Code Council, International Association of Plumbing and Mechanical Officials, and National Fire Protection Association.

(8) "State building code" means the ((International Building Code including regulations for accessibility; the International Residential Code; the International Mechanical Code except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquefied Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code); the International Fire Code including those standards of the National Fire Protection Association specifically referenced in the International Fire Code; the Uniform Plumbing Code and Standards, as designated)) codes adopted by and referenced in chapter 19.27 RCW ((19.27.034)); the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

((7)) (9) "Statewide amendment" means any amendment to the building code, initiated through council action or by petition to the council from any agency, city or county, or interested individual or organization, that would have the effect of amending the building code for the entire state of Washington. Statewide amendments to the state building code must be adopted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

((8)) (10) "State building code update cycle" means that period during which the model code and standards referenced in chapter 19.27 RCW are updated and amended by the council in accordance with the Administrative Procedure Act, chapter 34.05 RCW hereinafter referred to as the "adoption period" and those additional periods when code changes are received for review as proposed amendments to the model codes, hereinafter referred to as "submission periods."

((9) "Model codes" means the International Building, Residential, Mechanical, and Fire Codes and the Uniform Plumbing Code as published by the International Code Council and the International Association of Plumbing and Mechanical Officials respectively.))

AMENDATORY SECTION (Amending WSR 04-01-107, filed 12/17/03, effective 7/1/04)

WAC 51-04-020 Policies for the consideration of proposed statewide amendments. Statewide and emergency statewide amendments to the state building code should be based on one of the following criteria:

(1) The amendment is needed to address a critical life/safety need.

(2) The amendment is needed to address a specific state policy or statute.

(3) The amendment is needed for consistency with state or federal regulations.

(4) The amendment is needed to address a unique character of the state.

(5) The amendment corrects errors and omissions.

Statewide and emergency statewide amendments to the state building code shall conform to the purposes, objectives, and standards prescribed in RCW 19.27.020.

The council will accept and consider petitions for emergency statewide amendments to the building code at any time, in accordance with RCW 19.27.074 and chapter 34.05 RCW.

The council will accept and consider all other petitions for statewide amendments in conjunction with the state building code update cycle, in accordance with RCW 19.27.074 and chapter 34.05 RCW, and WAC 51-04-015 and 51-04-020 as follows:

The state building code council shall ~~((identify a submission period of at least thirty days when revisions to the state building code may be submitted))~~ publicize the state building code amendment process in January of each year. Proposed state amendments must be received by March 1 to be considered for adoption by December 1. The state building code council shall review all ~~((submissions and accept))~~ proposed statewide amendments and file for future rule making those ~~((revisions favorably reviewed. Submissions must be received by March 1 to be considered for adoption by December 1 in any year. Revisions accepted))~~ proposals approved as submitted or as amended by the council. State amendments as approved by the council shall be submitted to the ((International Code Council and the International Association of Plumbing and Mechanical Officials, respectively, as proposed revisions to the model codes (unless recently considered as amendments))) appropriate model code organization, except those adopted for consistency with state statutes or regulation and held for further review during the adoption period of those model codes by the council. The effective date of any statewide amendments shall be the same as the effective date of the new edition of the model codes, except for emergency amendments adopted in accordance with chapter 34.05 RCW and deemed appropriate by the council.

The adoption period of new model codes commences upon availability of the publication of the new edition of the model codes ~~((by the International Code Council and the International Association of Plumbing and Mechanical Officials,))~~ and concludes with formal adoption of the ~~((revised))~~ building code as amended by the council and final review by the state legislature. For the purposes of this section, the publication of supplements shall not be considered a new edition. ~~((At the beginning of the adoption period, the state building code council shall identify a limited submission period of at least thirty days. During this period,))~~ The council will ((receive revisions proposed)) consider state amendments to:

The model codes provided that the proposed ~~((revisions))~~ amendments shall be limited to ~~((revisions which))~~ address changes in the model codes since the previous edition~~((:~~

~~The state building code which))~~; or, address((es)) existing statewide amendments to the model codes((:

~~The state building code which))~~; or, address((es)) portions of the state building code other than the model codes.

~~((In addition, the state building code council shall review for adoption those proposed revisions to the model code accepted after preliminary review in those submission peri-~~

~~ods since the last adoption period. The state building code council shall consider the action of the International Code Council and the International Association of Plumbing and Mechanical Officials, respectively, in their consideration of these proposals.))~~ The state building code council shall consider the action of the model code organizations in their consideration of these proposals.

Within sixty days of the receipt of the new edition of the model codes the council shall enter rule making to update the state building code.

AMENDATORY SECTION (Amending WSR 04-07-193, filed 3/24/04, effective 7/1/04)

WAC 51-04-030 Policies for consideration of proposed local government residential amendments. All amendments to the building code, as adopted by cities and counties for implementation and enforcement in their respective jurisdictions, that apply to single and multifamily buildings as defined by RCW 19.27.015, shall be submitted to the council for approval.

The council shall consider and approve or deny all proposed local government residential amendments to the building code within ninety days of receipt of a proposal, unless alternative scheduling is agreed to by the council and the proposing entity.

All local government residential amendments to the building code that require council approval shall be submitted in writing to the council, after the city or county legislative body has adopted the amendment and prior to implementation and enforcement of the amendment by the local jurisdiction. All local amendments submitted for review shall be accompanied by findings of fact adopted by the governing body of the local jurisdiction justifying the adoption of the local amendment in accordance with the five criteria noted below in this section.

It is the policy of the council to encourage joint proposals for local government residential amendments from more than one jurisdiction. Local government residential amendments submitted to the council for approval should be based on:

- (1) Climatic conditions that are unique to the jurisdiction.
- (2) Geologic or seismic conditions that are unique to the jurisdiction.
- (3) Environmental impacts such as noise, dust, etc., that are unique to the jurisdiction.
- (4) Life, health, or safety conditions that are unique to the local jurisdiction.
- (5) Other special conditions that are unique to the jurisdiction.

EXCEPTIONS: Appendices or portions thereof that have the effect of amending the uniform codes, that do not conflict with the building code for single and multifamily residential buildings as defined by RCW 19.27.015, may be adopted by local jurisdictions without council review or approval.

- Local government residential amendments to~~((:~~
- (1) Chapter 1, 17, or 34 of the International Building Code;
 - (2) Chapter 1 of the International Residential Code;
 - (3) Chapter 1 of the International Mechanical Code;

- (4) Chapter 1 of the International Fire Code;
 (5) Chapter 1 of the Uniform Plumbing Code;
 (6) Chapter 1 or 11 of the State Energy Code; or
 (7) Chapter 1 of the Ventilation and Indoor Air Quality Code)) administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the Council for review and approval provided that such amendments do not ~~((diminish))~~ affect the construction requirements of those chapters.

Those portions of the supplement or accumulative supplements that affect single and multifamily residential buildings as defined by RCW 19.27.015 that are not adopted by the council shall be submitted to the council for consideration as local government residential amendments to the building code.

Local government residential amendments shall conform to the limitations provided in RCW 19.27.040.

AMENDATORY SECTION (Amending WSR 90-02-108, filed 1/3/90, effective 2/3/90)

WAC 51-04-035 Procedure for submittal of proposed local government residential amendments. All proposed local government residential amendments to the state building code shall be submitted in writing to the council, on a form provided by the council, along with ~~((a statement of need))~~ findings of fact as required in WAC 51-04-030 for the proposed amendment. Local government residential amendments to administrative provisions (departmental operational procedures) contained within the state building code need not be submitted to the council for review and approval provided that such amendment does not affect the construction requirements of those chapters.

The council shall accept and consider all applications for review of local government residential amendments submitted to the council in a proper manner.

The council may refer a proposed local government residential amendment to one of the council standing committees for review and comment prior to council action in accordance with RCW 19.27.074.

AMENDATORY SECTION (Amending WSR 02-01-113, filed 12/18/01, effective 7/1/02)

WAC 51-04-040 Reconsideration. Any party proposing a statewide or local government amendment to the building code may, upon denial of the amendment by the council, file a petition for reconsideration.

Within ten days of a building code council vote to deny a statewide or local government amendment, any party may file a petition for reconsideration, stating the specific justification for rule adoption or local amendment. The petition shall be filed with the State Building Code Council, P.O. Box ~~((48300))~~ 42525, Olympia, Washington 98504-2525.

The council is deemed to have denied the petition for reconsideration if, within sixty days from the date the petition is filed, the council does not either:

- (1) Dispose of the petition; or
- (2) Serve the parties with a written notice specifying the date by which it will act on the petition.

Unless the petition is deemed denied, the petition shall be disposed of by the council with recommendations from the same committee or committees that considered the proposed rule or local amendment. The disposition shall be in the form of a written notice denying the petition, granting the petition and refiling the rule-making order or approving the local amendment, or granting the petition and setting the matter for further hearings.

AMENDATORY SECTION (Amending WSR 98-02-048, filed 1/5/98, effective 7/1/98)

WAC 51-04-070 Council mailing address. All requests for information, documentation, etc., should be submitted to:

Washington State Building Code Council
 906 Columbia St SW
 Post Office Box ~~((48300))~~ 42525
 Olympia, Washington 98504-~~((8300))~~ 2525
~~((360)-586-0486))~~ 360-725-2966

WSR 05-17-009
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed August 4, 2005, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 5-16-145 [05-13-145.]

Title of Rule and Other Identifying Information: Chapter 51-50 WAC, Adoption and amendment of the 2003 International Building Code, Sections 202, 903, 909, 1008, and 1101.

Hearing Location(s): Renton Holiday Inn Select, One South Grady Way, Renton, WA 98055-2500, on October 14, 2005, at 10:00 a.m.

Date of Intended Adoption: November 4, 2005.

Submit Written Comments to: John Neff, P.O. Box 42525, Olympia, WA 98504-2525, e-mail sbcc@ctd.wa.gov, fax (360) 586-9383, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Sue Mathers by September 30, 2005, TTY (360) 753-7427 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 148, Laws of 2005, requires the state Building Code Council (council) to adopt rules requiring automatic sprinkler systems in all buildings containing a nightclub as defined in the bill. This proposed language adds the requirements from ESHB 1401 to the building code.

In addition, the council has adopted an emergency rule which requires that wired glass installed in hazardous locations meet the same safety requirements as other types of glass. This proposal would adopt that requirement as a permanent rule.

This proposed rule also includes the following changes to published language in the IBC: Clarification of inspection requirements for elevator shaft pressurization; provide an

exception to allow manually operated sliding doors in spaces with an occupant load less than ten; and deletion of the requirement for elevator button labeling to conform with the ICC/ANSI A117.1.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.074 and 19.27.031.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issue proposed in the rule shown below.

Name of Proponent: State Building Code Council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2964; and Enforcement: Local jurisdiction.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The sprinkler provision of this rule, in Section 903.2, would have an impact on small business; however, the effects are mitigated by a special property tax exemption provided through chapter 148, Laws of 2005, which would extend for ten years after the initial application by property owners.

The remaining provisions would not have a cost impact on small businesses. The council has reviewed material stating that wired glass that meets the safety provisions of Section 2406 is available at the same cost. The remaining provisions provide clarification or cost savings.

A cost-benefit analysis is not required under RCW 34.05.328. The council is not one of the agencies required to comply with this statute.

August 3, 2005

John Neff
Council Chair

AMENDATORY SECTION (Amending WSR 04-01-108, filed 12/17/03, effective 7/1/04)

WAC 51-50-0200 Chapter 2—Definitions.

SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. See Section 310.2.

CHILD DAY CARE. See Section 310.2.

CHILD DAY CARE HOME, FAMILY. See Section 310.2.

NIGHTCLUB. An establishment, other than a theater with fixed seating, which includes all of the following:

1. Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;

2. Has as its primary source of revenue the sale of beverages of any kind for consumption on the premises and/or cover charges;

3. Has an occupant load of 100 or more; and

4. Includes assembly space without fixed seats considered concentrated or standing space per Table 1004.1.2.

PORTABLE SCHOOL CLASSROOM. See Section 902.1.

RESIDENTIAL CARE/ASSISTED LIVING FACILITIES. See Section 310.2.

AMENDATORY SECTION (Amending WSR 04-01-108, filed 12/17/03, effective 7/1/04)

WAC 51-50-0903 Section 903—Automatic sprinkler systems.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 Occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m²).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout an occupancy defined as a nightclub. Existing nightclubs constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2007. The occupant load of any nightclub shall be in accordance with Table 1004.1.2 as determined by the fire code official.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

EXCEPTION: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

3. Throughout all newly constructed Group E Occupancies having an occupant load of 50 or more for more than 12 hours per week or four hours in any one day. A minimum water supply meeting the requirements of NFPA 13 shall be required. The fire code official may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.

For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a twelve-month period that exceeds 100 percent of the value of such building or structure shall be considered new construction. In the case of additions, fire walls shall define separate buildings.

EXCEPTIONS:

1. Portable school classrooms, provided aggregate area of clusters of portable school classrooms does not exceed 5,000 square feet (1465 m²); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.
2. Group E day care.

When not required by other provisions of this chapter, a fire-extinguishing system installed in accordance with NFPA

13 may be used for increases and substitutions allowed in Section 504.2, 506.3, and Table 601 of the building code.

903.2.10.3 Buildings over 75 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is located 75 feet (22 860 mm) or more above the lowest level of fire department vehicle access.

EXCEPTIONS: 1. Airport control towers.
2. Open parking structures.
3. Occupancies in Group F-2.

AMENDATORY SECTION (Amending WSR 04-01-108, filed 12/17/03, effective 7/1/04)

WAC 51-50-0909 Section 909—Smoke control systems.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 5 of Section 707.14.1, the pressurization system shall comply with the following.

909.6.3.1 Standards and testing. Elevator shafts shall be pressurized to not less than 0.10 inch water column relative to atmospheric pressure. Elevator pressurization shall be measured with the elevator cars at the designated primary recall level with the doors in the open position. The test shall be conducted at the location of the calculated maximum positive stack effect in the elevator shaft. The measured pressure shall be sufficient to provide 0.10 inch of water column as well as accounting for the stack and wind effect expected on the mean low temperature January day.

909.6.3.2 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire chief. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.3 Separation. Elevator shaft pressurization equipment and its ductwork located within the building shall be separated from other portions of the building by construction equal to that required for the elevator shaft.

909.6.3.4 Location of intakes. Elevator shaft pressurization air intakes shall be located in accordance with Section 909.10.3. Such intakes shall be provided with smoke detectors which upon detection of smoke, shall deactivate the pressurization fan supplied by that air intake.

909.6.3.5 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

909.6.3.6 Hoistway venting. Hoistway venting required by Section 3004 need not be provided for pressurized elevator shafts.

909.6.3.7 Machine rooms. Elevator machine rooms required to be pressurized by Section 3006.3 need not be pressurized where separated from the hoistway shaft by construction in accordance with Section 707.

909.6.3.8 Special inspection. Special inspection for performance shall be required in accordance with Section 909.18.8(~~3 and Section 1704~~). System acceptance shall be in accordance with Section 909.19.

AMENDATORY SECTION (Amending WSR 04-01-108, filed 12/17/03, effective 7/1/04)

WAC 51-50-1008 Section 1008—Doors, gates and turnstiles.

1008.1.2 Door swing. Egress doors shall be side-hinged swinging.

EXCEPTIONS: 1. Private garages, office areas, factory and storage areas with an occupant load of 10 or less.
2. Group I-3 Occupancies used as a place of detention.
3. Doors within or serving a single dwelling unit in Groups R-2 and R-3 as applicable in Section 101.2.
4. In other than Group H Occupancies, revolving doors complying with Section 1008.1.3.1.
5. In other than Group H Occupancies, horizontal sliding doors complying with Section 1008.1.3.3 are permitted as a means of egress.
6. Power-operated doors in accordance with Section 1008.1.3.1.
7. In other than Group H Occupancies, manually operated horizontal sliding doors are permitted in a means of egress from occupied spaces with an occupant load of 10 or less.

Doors shall swing in the direction of egress travel where serving an occupant load of 50 or more persons or a Group H Occupancy.

The opening force for interior side-swinging doors without closers shall not exceed a 5-pound force. For other side-swinging, sliding, and folding doors, the door latch shall release when subjected to a 15-pound force. The door shall be set in motion when subjected to a 30-pound force. The door shall swing to a full-open position when subjected to a 15-pound force. Forces shall be applied to the latch side. Within an accessible route, at exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power operated doors shall be used within the accessible route of travel.

AMENDATORY SECTION (Amending WSR 05-01-014, filed 12/2/04, effective 7/1/05)

WAC 51-50-1101 Section 1101—General.

1101.2 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC A117.1, except those portions of ICC A117.1 amended by this section.

1101.2.1 (ICC A117.1 Section 403) Landings for walking surfaces. The maximum rise for any run is 30 inches (762 mm). Landings shall be provided at the top and bottom of any run. Landings shall be level and have a minimum dimension measured in the direction of travel of not less than 60 inches (1525 mm).

1101.2.2 (ICC A117.1 Section 403.5) Clear width of accessible route. Clear width of an accessible route shall comply with ICC A117.1 Table 403.5. For exterior routes of travel, the minimum clear width shall be 44 inches (1118 mm).

1101.2.3 (ICC A117.1 Section 404.2.9) Door-opening force. Fire doors shall have the minimum opening force allowable by the appropriate administrative authority. The maximum force for pushing open or pulling open doors other than fire doors shall be as follows:

1. Interior hinged door: 5.0 pounds (22.2 N)
2. Sliding or folding doors: 5.0 pounds (22.2 N)

At exterior doors where environmental conditions require a closing pressure greater than 8.5 pounds, power-operated doors shall be used within the accessible route of travel.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door in a closed position.

1101.2.4 (ICC A117.1 Section 407.4.6.2.2) Arrangement.
This section is not adopted.

1101.2.5 (ICC A117.1 Sections 603.4 and 604.11) Coat hooks, shelves, dispensers, and other fixtures. Coat hooks provided shall accommodate a forward reach or side reach complying with ICC A117.1 Section 308. Where provided, shelves shall be installed so that the top of the shelf is 40 inches (1015 mm) maximum above the floor or ground. Drying equipment, towel or other dispensers, and disposal fixtures shall be located 40 inches (1015 mm) maximum above the floor or ground to any rack, operating controls, receptacle or dispenser.

1101.2.6 (ICC A117.1 Section 604.6) Flush controls. Hand operated flush controls for water closets shall be mounted not more than 44 inches (1118 mm) above the floor.

1101.2.9 (ICC A117.1 Section 703.6.3.1) International Symbol of Accessibility. Where the International Symbol of Accessibility is required, it shall be proportioned complying with ICC A117.1 Figure 703.7.2.1. All interior and exterior signs depicting the International Symbol of Accessibility shall be white on a blue background.

1101.2.11 (ICC A117.1 Section 404.3.5) Control switches. Control switches shall be mounted 32 to 40 inches above the floor and not less than 18 inches nor more than 36 inches horizontally from the nearest point of travel of the moving doors.

NEW SECTION

WAC 51-50-2406 Section 2406—Safety glazing.

2406.1.2 Wired glass. This section is not adopted.

WSR 05-17-010
PROPOSED RULES
BUILDING CODE COUNCIL
[Filed August 4, 2005, 8:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-044.

Title of Rule and Other Identifying Information: Chapter 51-54 WAC, Adoption and amendment of the 2003 International Fire Code, Sections 202 and 903.

Hearing Location(s): Renton Holiday Inn Select, One South Grady Way, Renton, WA 98055-2500, on October 14, 2005, at 10:00 a.m.

Date of Intended Adoption: November 4, 2005.

Submit Written Comments to: John Neff, P.O. Box 42525, Olympia, WA 98504-2525, e-mail sbcc@cted.wa.gov, fax (360) 586-9383, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Sue Mathers by September 30, 2005, TTY (360) 753-7427 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 148, Laws of 2005, requires the state Building Code Council to adopt rules requiring automatic sprinkler systems in all buildings containing a nightclub as defined in the bill. This proposed language adds the requirements from ESHB 1401 to the Fire Code.

Reasons Supporting Proposal: RCW 19.27.074 and chapter 148, Laws of 2005.

Statutory Authority for Adoption: RCW 19.27.074 and chapter 148, Laws of 2005.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issue proposed in the rule shown below.

Name of Proponent: State Building Code Council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2964; and Enforcement: Local jurisdiction.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This bill/rule would have an impact on small business; however, the effects are mitigated by a special property tax exemption provided through chapter 148, Laws of 2005, which would extend for ten years after the initial application by property owners.

A cost-benefit analysis is not required under RCW 34.05.328. The rule is implementing Washington state statute.

August 3, 2005
John Neff
Council Chair

AMENDATORY SECTION (Amending WSR 04-01-105, filed 12/17/03, effective 7/1/04)

WAC 51-54-0200 Chapter 2—Definitions.

SECTION 202 GENERAL DEFINITIONS.

ADULT FAMILY HOME means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not

related by blood or marriage to the person or persons providing the services.

CHILD DAY CARE, shall, for the purposes of these regulations, mean the care of children during any period of a 24-hour day.

ELECTRICAL CODE is the National Electrical Code, promulgated by the National Fire Protection Association, as adopted in chapter 296-46 WAC, or the locally adopted Electrical Code.

FAMILY CHILD DAY CARE HOME is a child day care facility, licensed by the state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

NIGHTCLUB. An establishment, other than a theater with fixed seating, which includes all of the following:

1. Provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;

2. Has as its primary source of revenue the sale of beverages of any kind for consumption on the premises and/or cover charges;

3. Has an occupant load of 100 or more; and

4. Includes assembly space without fixed seats considered concentrated or standing space per Table 1004.1.2.

EDUCATIONAL GROUP E. Educational Group E Occupancy includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade. Religious educational rooms and religious auditoriums, which are accessory to churches in accordance with Section 302.2 of the IBC and have occupant loads of less than 100, shall be classified as Group A-3 Occupancies.

Day Care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than five children older than 2 1/2 years of age, shall be classified as a Group E Occupancy.

EXCEPTION: Family child day care homes licensed by the Washington state department of social and health services for the care of twelve or fewer children shall be classified as Group R3.

INSTITUTIONAL GROUP I. Institutional Group I Occupancy includes, among others, the use of a building or structure, or a portion thereof, in which people, cared for or living in a supervised environment and having physical limitations because of health or age, are harbored for medical treatment or other care or treatment; or in which people are detained for penal or correctional purposes or in which the liberty of the occupants is restricted. Institutional occupancies shall be classified as Group I-1, I-2, I-3 or I-4.

Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Residential board and care facilities

Assisted living facilities
Halfway houses
Group homes
Congregate care facilities
Social rehabilitation facilities
Alcohol and drug centers
Convalescent facilities

A facility such as the above with five or fewer persons and adult family homes licensed by the Washington state department of social and health services shall be classified as a Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2. A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

Group I-2. This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals
Nursing homes (both intermediate-care facilities and skilled nursing facilities)
Mental hospitals
Detoxification facilities

A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

A facility such as the above providing licensed care to clients in one of the categories listed in Section 313.1 regulated by either the Washington department of health or the department of social and health services shall be classified as Licensed Care Group LC.

Group I-3. (Remains as printed in the IFC.)

Group I-4. Day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood marriage, or adoption, and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code*. Places of worship during religious functions are not included.

Adult care facility. A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

EXCEPTION: Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group A-3.

Child care facility. A facility that provides supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

EXCEPTIONS: 1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.
2. Family child day care homes licensed by the Washington state department of social and health services for the care of 12 or fewer children shall be classified as Group R3.

RESIDENTIAL GROUP R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or Licensed Care Group LC. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature, including:

Boarding houses (transient)
Hotels (transient)
Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

Apartment houses
Boarding houses (not transient)
Convents
Dormitories
Fraternities and sororities
Monasteries
Vacation timeshare properties
Hotels (nontransient)
Motels (nontransient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4 or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, including adult family homes and family child day care homes for the care of 12 or fewer children, licensed by the Washington state department of social and health services, or adult and child care facilities that provide accommodations for five or fewer persons of any age for less than 24 hours. Adult family homes and family child day care homes, or adult and child care facilities that are within a single-family home are permitted to comply with the *International Residential Code* in accordance with Section 101.2.

Foster family care homes licensed by the Washington state department of social and health services shall be permitted, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

EXCEPTION: Adult family homes, family child day care homes and foster family care homes shall be classified as Group R-3.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3 except as otherwise provided for in this code or shall comply with the *International Residential Code* in accordance with Section 101.2.

LICENSED CARE GROUP LC. Licensed Care Group LC includes the use of a building, structure, or portion thereof,

for the business of providing licensed care to clients in one of the following categories regulated by either the Washington department of health or the department of social and health services:

1. Adult residential rehabilitation facility.
2. Alcoholism intensive inpatient treatment service.
3. Alcoholism detoxification service.
4. Alcoholism long-term treatment service.
5. Alcoholism recovery house service.
6. Boarding home.
7. Group care facility.
8. Group care facility for severely and multiple handicapped children.
9. Residential treatment facility for psychiatrically impaired children and youth.

EXCEPTION: Where the care provided at an alcoholism detoxification service is acute care similar to that provided in a hospital, the facility shall be classified as a Group I-2 Occupancy.

AMENDATORY SECTION (Amending WSR 04-01-105, filed 12/17/03, effective 7/1/04)

WAC 51-54-0900 Chapter 9—Fire protection systems.

902.1 Definitions.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 Occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (464.5 m²).
2. The fire area has an occupant load of 100 or more.
3. The fire area is located on a floor other than the level of exit discharge.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout an occupancy defined as a nightclub. Existing nightclubs constructed prior to July 1, 2006, shall be provided with automatic sprinklers not later than December 1, 2007. The occupant load of any nightclub shall be in accordance with Table 1004.1.2 as determined by the fire code official.

903.2.2 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

EXCEPTION: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

3. Throughout all newly constructed Group E Occupancies having an occupant load of 50 or more for more than 12 hours per week or four hours in any one day. A minimum

water supply meeting the requirements of NFPA 13 shall be required. The fire code official may reduce fire flow requirements for buildings protected by an approved automatic sprinkler system.

For the purpose of this section, additions exceeding 60 percent of the value of such building or structure, or alterations and repairs to any portion of a building or structure within a twelve-month period that exceeds 100 percent of the value of such building or structure shall be considered new construction. In the case of additions, fire walls shall define separate buildings.

EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of clusters of portable school classrooms does not exceed 5,000 square feet (1465 m²); and clusters of portable school classrooms shall be separated as required in Chapter 5 of the building code.
2. Group E Day Care.

When not required by other provisions of this chapter, a fire-extinguishing system installed in accordance with NFPA 13 may be used for increases and substitutions allowed in Section 504.2, 506.3, and Table 601 of the building code.

903.2.10.3 Buildings over 75 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level having an occupant load of 30 or more that is located 75 feet (22 860 mm) or more above the lowest level of fire department vehicle access.

EXCEPTIONS: 1. Airport control towers.
2. Open parking structures.
3. Occupancies in Group F-2.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 5 of Section 707.14.1, the pressurization system shall comply with the following.

909.6.3.1 Standards and testing. Elevator shafts shall be pressurized to not less than 0.10 inch water column relative to atmospheric pressure. Elevator pressurization shall be measured with the elevator cars at the designated primary recall level with the doors in the open position. The test shall be conducted at the location of the calculated maximum positive stack effect in the elevator shaft. The measured pressure shall be sufficient to provide 0.10 inch of water column as well as accounting for the stack and wind effect expected on the mean low temperature January day.

909.6.3.2 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire chief. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.3 Separation. Elevator shaft pressurization equipment and its ductwork located within the building shall be separated from other portions of the building by construction equal to that required for the elevator shaft.

909.6.3.4 Location of intakes. Elevator shaft pressurization air intakes shall be located in accordance with Section 909.10.3. Such intakes shall be provided with smoke detec-

tors which upon detection of smoke, shall deactivate the pressurization fan supplied by that air intake.

909.6.3.5 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

909.6.3.6 Hoistway venting. Hoistway venting required by IBC Section 3004 need not be provided for pressurized elevator shafts.

909.6.3.7 Machine rooms. Elevator machine rooms required to be pressurized by IBC Section 3006.3 need not be pressurized where separated from the hoistway shaft by construction in accordance with IBC Section 707.

909.6.3.8 Special inspection. Special inspection for performance shall be required in accordance with Section ~~((909.18.8.3 and IBC Section 1704))~~ 909.18.8. System acceptance shall be in accordance with Section 909.19.

WSR 05-17-011
PROPOSED RULES
BUILDING CODE COUNCIL
[Filed August 4, 2005, 8:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 5-13-142 [05-13-143].

Title of Rule and Other Identifying Information: Chapter 51-11 WAC, Washington State Energy Code, Section 1423 - Economizers.

Hearing Location(s): Renton Holiday Inn Select, One South Grady Way, Renton, WA 98055-2500, on October 14, 2005, at 10:00 a.m.

Date of Intended Adoption: November 4, 2005.

Submit Written Comments to: John Neff, Council Chair, P.O. Box 42525, Olympia, WA 98504-2525, e-mail sbcc@cted.wa.gov, fax (360) 586-9383, by October 13, 2005.

Assistance for Persons with Disabilities: Contact Sue Mathers by September 30, 2005, TTY (360) 753-7427 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The state Building Code Council has adopted an emergency rule modification to this section when it was determined that language adopted previously would cause undue expense for residential systems. The proposed permanent rule would establish an economizer threshold of 54,000 Btu/h for residential cooling units.

Reasons Supporting Proposal: RCW 19.27A.025 and 19.27A.045.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Statute Being Implemented: Chapters 19.27, 19.27A, and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fis-

cal Matters: The council is seeking comments on the issue proposed in the rule shown below.

Name of Proponent: Washington State Building Code Council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2964; and Enforcement: Local jurisdictions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed amendment is intended to reduce the cost of residential cooling systems and was determined to not have a disproportionate cost on small businesses. This rule effectively cancels out the code change previously proposed and reinstates the previous code provision; therefore, there is no difference in cost.

A cost-benefit analysis is not required under RCW 34.05.328. This rule reinstates a previous rule and poses no change in cost or compliance.

August 3, 2005

John Neff

Council Chair

AMENDATORY SECTION (Amending WSR 05-01-013, filed 12/2/04, effective 7/1/05)

WAC 51-11-1423 Economizers. Economizers meeting the requirements of Section 1413 shall be installed on:

a. Cooling units installed outdoors or in a mechanical room adjacent to outdoors having a total cooling capacity greater than 20,000 Btu/h including those serving computer server rooms, electronic equipment, radio equipment, telephone switchgear; and

b. Other cooling units with a total cooling capacity greater than 54,000 Btu/h, including those serving computer server rooms, electronic equipment, radio equipment, and telephone switchgear.

Exception: For Group R Occupancy, economizers meeting the requirements of Section 1413 shall be installed on single package unitary fan-cooling units having a total cooling capacity greater than 54,000 Btu/h.

The total capacity of all units without economizers (i.e., those units with a total cooling capacity less than a. and b. above) shall not exceed 240,000 Btu/h per building, or 10% of its aggregate cooling (economizer) capacity, whichever is greater. That portion of the equipment serving Group R Occupancy is not included in determining the total capacity of all units without economizers in a building.

**WSR 05-17-015
PROPOSED RULES
COUNTY ROAD
ADMINISTRATION BOARD**

[Filed August 4, 2005, 9:44 a.m.]

Preproposal statement of inquiry was filed as WSR 04-24-018.

Title of Rule and Other Identifying Information: Establishes a new standard of good practice for maintenance management.

Hearing Location(s): County Road Administration Board, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, on October 27, 2005, at 2:00 p.m.

Date of Intended Adoption: October 27, 2005.

Submit Written Comments to: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, Olympia, WA 98504-0913, e-mail Karen@crab.wa.gov, fax (360) 586-0386, by October 21, 2005.

Assistance for Persons with Disabilities: Contact Karen Pendleton by October 25, 2005, TTY (800) 833-6382 or (360) 753-5989.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal establishes a new standard of good practice for maintenance management; new section WAC 136-11-040, establishes maintenance management requirements, WAC 136-11-050, establishes an annual review by the County Road Administration Board, and WAC 136-11-060, states that the County Road Administration Board, by request, will provide to counties technical assistance related to defining, developing, operating, managing and utilizing maintenance management procedures.

Reasons Supporting Proposal: Required under RCW 36.78.121.

Statutory Authority for Adoption: Chapter 36.79 RCW. Statute Being Implemented: RCW 36.78.121.

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

Name of Proponent: County Road Administration Board, governmental.

Name of Agency Personnel Responsible for Drafting: Larry Pearson, 2404 Chandler Court S.W., Suite 240, (360) 753-5989; Implementation: Karen Pendleton, 2404 Chandler Court S.W., Suite 240, (360) 753-5989; and Enforcement: Jay Weber, 2404 Chandler Court S.W., Suite 240, (360) 753-5989.

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

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable, exempt under RCW 34.05.328 (5).

August 3, 2005

Jay P. Weber

Executive Director

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-11-010 Purpose and authority. The laws of the state of Washington (~~(specify)~~) provide in RCW 36.80-030 that the county engineer shall have supervision, under the direction of the county legislative authority, of maintaining all county roads of the county. The purpose of maintenance management is to recognize that (~~(the majority of)~~) many road maintenance activities can be planned, scheduled and accomplished in a predetermined manner (~~(which will result in improved economies of operation, public safety and wel-~~

PROPOSED

fare, and preservation of investment of county roads: Provided, however, That maintenance management shall not be mandatory and shall not be considered in the issuance of certificates of good practice)). RCW 36.78.121 directs the county road administration board, or its successor entity, to establish a standard of good practice for maintenance of transportation system assets.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-11-020 Goal. This chapter is intended to ((encourage each county engineer to apply)) establish basic management principles ((to)) for road maintenance activities and to set forth specific goals and objectives relative to the results to be achieved.

AMENDATORY SECTION (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

WAC 136-11-030 Objectives. ((For the guidance and information of the county engineer developing a maintenance management program the following objectives merit serious consideration:

(1) ~~To provide, annually, opportunities for key personnel to receive initial training or refresher training in the principles of maintenance management.~~

(2) ~~To develop countywide maintenance standards or levels of service for each major maintenance activity.~~

(3) ~~To develop standards of performance for individuals and work crews setting forth both the quality and quantity of results anticipated.~~

(4) ~~To prepare an annual maintenance program for adoption coincident with the annual budget and construction program which is to identify resource requirements in terms of staff resources, equipment and materials, and the costs of each.~~

(5) ~~To schedule, on an annual basis, major maintenance activities based on available budgeted maintenance funds so as to achieve an optimum balance of resources in the available time.~~

(6) ~~To develop, and annually update, a long range equipment replacement program encompassing all major road department equipment so as to meet the equipment demands of the maintenance program.~~

(7) ~~To establish an information reporting system capable of compiling data needed to allow comparison of actual performance with established performance standards and budgetary constraints.~~

(8) ~~To discuss, at least biennially, with appropriate supervisory personnel the data regarding utilization of staff resources, equipment and materials so as to assure the lowest attainable unit cost for each maintenance activity.~~

(9) ~~To provide adequate information to all maintenance personnel regarding goals and objectives of the county's maintenance management program.~~

(10) ~~To explore and evaluate new techniques, products, equipment and ideas which show promise of significantly improving performance or decreasing cost in any segment of the maintenance management effort:))~~ (1) To preserve the

investment made in roads, bridges, and roadway appurtenances.

(2) To create stronger accountability to ensure that cost-effective maintenance and preservation is provided for transportation facilities.

NEW SECTION

WAC 136-11-040 Maintenance management requirements. (1) An inventory of significant maintenance features (physical assets), as determined by the county, shall be maintained.

(2) Maintenance management is based upon work activities. Work activity guidelines shall be defined, by each county, for the significant activities representing the maintenance work to be performed. Definitions shall include an activity code, title, description, work unit and inventory unit.

(3) An annual work program and budget shall be prepared. The activity-based work program and budget shall summarize the kinds and amounts of work planned and the costs of the planned work.

(4) The resources needed to accomplish the annual work program shall be documented.

(5) Work scheduling procedures shall be documented.

(6) Work accomplishment and expenditure shall be monitored.

NEW SECTION

WAC 136-11-050 Annual review. On an annual basis, beginning in calendar year 2008, the county road administration board shall review compliance with the requirements of WAC 136-11-040 and report the results to the transportation commission or its successor entity.

NEW SECTION

WAC 136-11-060 County road administration board assistance. To assist each county to meet its requirements, the county road administration board shall provide maintenance management support and training. The county road administration board will also provide to counties, upon request, technical assistance related to defining, developing, operating, managing and utilizing maintenance management procedures.

WSR 05-17-025

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed August 5, 2005, 11:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-100.

Title of Rule and Other Identifying Information: Chapter 458-61 WAC, Real estate excise tax, provides tax-reporting information for persons selling real estate located in Washington, and for persons selling a controlling interest in an entity that owns real estate in Washington. The chapter

explains who is liable for the tax, how and when it must be paid, which transactions are taxable, what exemptions are available, and the record-keeping requirements.

Hearing Location(s): Capital Plaza Building, 4th Floor L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on September 27, 2005, at 10:00.

Date of Intended Adoption: October 5, 2005.

Submit Written Comments to: Margaret J. Partlow, P.O. Box 47453, Olympia, WA 98504-7453, e-mail margaretpa@dor.wa.gov, fax (360) 586-5543, by September 27, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499, no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes revising chapter 458-61 WAC to update existing information, more clearly and completely explain department practices in administering the tax, and incorporate legislative amendments to chapter 82.45 RCW. The department plans to consolidate information from several of the existing rules, and organize the chapter in a more "user friendly" format.

Reasons Supporting Proposal: To incorporate legislative amendments to chapter 82.45 RCW and to better explain the tax obligations of persons selling real estate or selling a controlling interest in an entity that owns real estate in Washington.

Statutory Authority for Adoption: RCW 82.32.300, 82.04.060, and 82.45.150.

Statute Being Implemented: Chapter 82.45 RCW.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret J. Partlow, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6123; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not impose any new performance requirement or administrative burden on small business that is not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules as defined by RCW 34.05.328.

August 4, 2005

Alan R. Lynn
Rules Coordinator

Chapter 458-61A WAC

REAL ESTATE EXCISE TAX

GENERAL INFORMATION AND TAXABILITY OF TRANSFERS

NEW SECTION

WAC 458-61A-100 Real estate excise tax—Overview. (1) **Introduction.** Chapter 82.45 RCW imposes an excise tax on every sale of real estate in the state of Washington. All sales of real property in this state are subject to the real estate excise tax unless specifically exempted by chapter 82.45 RCW and these rules. The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except as provided in RCW 82.45.150. This chapter provides applicable definitions, describes procedures for payment, collection, and reporting of the tax, explains when penalties and interest are imposed on late payment, describes those transactions exempted from imposition of the tax, and explains the procedures for refunds and appeals.

(2) **Imposition of tax.**

(a) The taxes imposed are due at the time the sale occurs, are the obligation of the seller, and, in most instances, are collected by the county upon presentation of the documents of sale for recording in the public records.

(b) If there is a sale of the controlling interest in an entity that owns real property in this state, the tax is paid to the department at the time the interest is transferred. See WAC 458-61A-101.

(3) **Rate of tax.** The rate of the tax is set forth in RCW 82.45.060. Counties, cities, and towns may impose additional taxes on sales of real property on the same incidences, collection, and reporting methods authorized under chapter 82.45 RCW. See chapter 82.46 RCW.

(4) **Nonprofit organizations.** Transfers to or from an organization exempt from ad valorem property taxes under chapter 84.36 RCW, or from federal income tax, because of the organization's nonprofit or charitable status are nevertheless subject to the real estate excise tax unless specifically exempt under chapter 82.45 RCW or these rules.

(5) **Sales in Indian country.** A sale of real property located in Indian country by an enrolled tribe or tribal member is not subject to real estate excise tax. See WAC 458-20-192 for complete information regarding the taxability of transactions involving Indians and Indian country.

NEW SECTION

WAC 458-61A-101 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state. (1) **Introduction.** The transfer of a controlling interest in an entity that has an interest in real property in this state is considered a taxable sale of the entity's real property for purposes of the real estate excise tax under chapter 82.45 RCW. This rule explains the application of the tax on those transfers.

(2) **Definitions.** For the purposes of this chapter, the following definitions apply unless the context requires otherwise.

(a) **"Controlling interest"** means:

(i) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(ii) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

Examples. The following examples, while not exhaustive, illustrate some of the circumstances in which the transfer of an interest in an entity may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(A) Able and Baker each own 40% of the voting shares of a corporation, Flyaway, Inc. Charlie, Delta, Echo, and Frank each own 5% voting shares. Charlie acquires Baker's 40% interest, and Delta's and Echo's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by Charlie (40% from Baker plus 5% from Delta and 5% from Echo). However, if Charlie, Delta, and Echo were to transfer their shares (totaling 15%) to Able, those transfers would not be taxable. Although Able would own 55% of the corporation, only a 15% interest was transferred and acquired, so the acquisition by Able is not taxable.

(B) Melody LLC consists of a general partner and three limited partners, each possessing a 25% interest. Even though the general partner controls the management and daily operations, a 25% interest is not a controlling interest. If someone were to acquire a 50% or greater interest from any of the existing partners, there would be a taxable acquisition of a controlling interest. If one partner acquires an additional 25% interest from another partner for a total of a 50% interest, no transfer or acquisition of a controlling interest occurs because less than 50% is transferred and acquired.

(C) Anne, Bobby, Chelsea, and David each own 25% of the voting shares of a corporation. The corporation redeems the shares of Bobby, Chelsea, and David. Anne now owns all the outstanding shares of the corporation. A taxable transfer occurred when the corporation redeemed the shares of Bobby, Chelsea, and David.

(D) Andrew owns 75% of the voting shares of a corporation. Andrew transfers all of his stock by 25% portions of the shares in three separate and unrelated transactions to Betsy, Carolyn, and Daniel, who are not acting in concert. A taxable transfer of a controlling interest occurs when Andrew transfers 75% of the voting shares of the corporation, even though no one has subsequently acquired a controlling interest.

(E) Big Corporation has two stockholders, Adrian and Britain. Adrian owns 90 shares of stock (90%) and Britain owns 10 shares of stock (10%). Big Corporation owns 60% of the stock of Little Corporation, which owns real property. Adrian, by virtue of owning 90% of Big Corporation's stock, has a 54% interest in Little Corporation (90% interest in Big multiplied by the 60% interest Big has in Little equals the

54% interest Adrian has in Little). Adrian sells his 90 shares of stock in Big to Britain. Adrian, by selling his 90 shares of Big stock, has transferred a controlling interest (54%) in an entity that owns real property (Little). This transfer is subject to the real estate excise tax.

(F) Assume the same facts as in Example (E) of this subsection, except that Big owns only 50% of Little's stock. Since Adrian has not transferred and Britain has not acquired a controlling interest in Little (90% x 50% = 45%), the real estate excise tax does not apply. If, however, Big had transferred its 50% interest in Little, that would be a transfer of a controlling interest and it would be subject to the real estate excise tax.

(b) The terms **"person"** or **"company"** mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state of Washington or any political subdivision thereof, corporation, limited liability company association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States or any agency or instrumentality thereof.

(c) **"True and fair value"** means market value, which is the amount of money that a willing, but unobliged, buyer would pay a willing, but unobligated, owner for real property, taking into consideration all reasonable, possible uses of the property.

(d) **"Twelve-month period"** is any period of twelve consecutive months and may span two calendar years.

(e) **"Acting in concert"** occurs:

(i) When one or more persons have a relationship with each other such that one person influences or controls the actions of another through common ownership. For example, if a parent corporation and a wholly owned subsidiary each purchase a 25% interest in an entity, the two corporations have acted in concert and acquired a controlling (i.e., at least 50%) interest in the entity.

(ii) Where buyers are not commonly controlled or owned, but the unity of purpose with which they have negotiated and will complete the acquisition of ownership interests, indicates that they are acting together. For example, three separate individuals who decide together to acquire control of a company jointly through separate purchases of 20% interests in the company act in concert when they acquire the interests.

(3) **In general.** In order for the tax to apply when the controlling interest in an entity that owns real property is transferred, the following must have occurred:

(a) The transfer or acquisition of the controlling interest occurred within a twelve-month period;

(b) The controlling interest was transferred in a single transaction or series of transactions by a single person or acquired by a single person or a group of persons acting in concert;

(c) The entity has an interest in real property located in this state;

(d) The transfer is not otherwise exempt under chapters 82.45 RCW and 458-61A WAC; and

(e) The transfer was made for valuable consideration.

(4) **Measure of the tax.** The measure of the tax is the "selling price." For the purpose of this rule, "selling price" means the true and fair value of the real property owned by the entity at the time the controlling interest is transferred.

(a) If the true and fair value of the property cannot reasonably be determined, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended or renumbered as of January 1, 2005.

(b) If the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale will be used as the selling price.

(c) **Examples.**

(i) A partnership owns real property and consists of two partners, Amy and Beth. Each has a 50% partnership interest. The true and fair value of the real property owned by the partnership is \$100,000. Amy transfers her 50% interest in the partnership to Beth for valuable consideration. The taxable selling price is the true and fair value of the real property owned by the partnership, or \$100,000.

(ii) A corporation consists of two shareholders, Chris and Dilbert. The assets of the corporation include real property, tangible personal property, and other intangible assets (goodwill, cash, licenses, etc.). An appraisal of the corporation's assets determines that the values of the assets are as follows: \$250,000 for real property; \$130,000 for tangible personal property; and \$55,000 for miscellaneous intangible assets. Chris transfers his 50% interest to Ellie for valuable consideration. The taxable selling price is the true and fair value of the real property owned by the corporation, or \$250,000.

(iii) An LLC owns real property and consists of two members, Frances and George. Each has a 50% LLC interest. Frances transfers her 50% interest to George. In exchange for the transfer, George pays Frances \$100,000. The true and fair value of the real property owned by the LLC is unknown. There is no debt on the real property. A fair market value appraisal is not available. The market value assessment for the property maintained on the county property tax rolls is \$275,000. The taxable selling price is the market value assessment, or \$275,000.

(5) **Persons acting in concert.** The tax applies to acquisitions made by persons acting in concert, as defined in subsection (2)(f) of this section.

(a) Where persons are not commonly controlled or influenced, factors that indicate whether persons are acting in concert include:

(i) A close relation in time of the transfers or acquisitions;

(ii) A small number of purchasers;

(iii) Mutual terms contained in the contracts of sale; and

(iv) Additional agreements to the sales contract that bind the purchasers to a course of action with respect to the transfer or acquisition.

(b) If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the persons are not acting in concert, and the acquisitions will be considered separate acquisitions.

(c) **Example.** Able owns 100% of Emerald Corporation, which owns real property. As a group, Baker, Charlie, Delta, and Echo negotiate to acquire all of Able's interest in Emerald. Baker, Charlie, Delta, and Echo each acquire 25% of Able's interest. The contracts of Baker, Charlie, Delta, and Echo are identical and the purchases occur simultaneously. Baker, Charlie, Delta, and Echo also negotiated an agreement binding themselves to a course of action with respect to the acquisition of Emerald and the terms of the shareholders agreement that will govern their relationship as owners of Emerald. Baker, Charlie, Delta, and Echo are acting in concert and their acquisitions from Able are treated as a single acquisition of a controlling interest that is subject to the real estate excise tax.

(6) **Date of sale.**

(a) When the controlling interest is acquired in one transaction, the actual date control is transferred is the date of sale. Examples of when an interest in an entity is transferred include when payment is received by the seller and the shares of stock are delivered to the buyer, or when payment is received by the seller and partnership documents are signed, etc. However, if the parties enter into an agreement to acquire or transfer a controlling interest over time through a series of transactions, the date of sale is deemed the date of the agreement arranging the transactions. The agreement results in the transfer of both a present interest and a beneficial interest in the entity, the sum of which results in a controlling interest, regardless of whether the first of the successive transactions is more than twelve months prior to the final transaction.

(b) **Examples.**

(i) Andrew owns 100% of the voting shares of Topaz Corporation. Andrew signs a binding agreement to transfer 51% of his shares in the corporation to Ted. The agreement states that the transfer will occur as follows: 49% of the shares will be transferred on January 1st, and the remaining 2% of the shares will be transferred on February 1st of the following year. Andrew has contractually agreed to sell 51% of the voting shares in Topaz within a twelve-month period, even though the shares will not actually be transferred to Ted until later. The date of sale is the date of the agreement, and REET is due upon the true and fair value of the property as of the date of the agreement.

(ii) Matt acquires a 10% interest in an entity which owns an apartment building under construction worth \$500,000 from Simon on January 30th. On July 30th Matt acquires a 30% interest in the same entity from Mary, but the building is now worth \$900,000. On September 30th Matt acquires a 10% interest in the same entity from Ruth, but the building is now worth \$1,000,000. These are three separate and completely independent transfers. The final transfer allowed Matt to acquire, within twelve months, a controlling interest in an entity that owns real property. September 30th is the date of sale.

To determine the sellers' proportional tax liability in the example above, the series of transactions is viewed as a

whole. Note both the individual and the total interests transferred. Here, Simon and Mary each conveyed 10% interests, while Ruth conveyed a 30% interest, with a total of a 50% interest being conveyed. To determine the liability percentage for each seller, divide the interest each conveyed by the total interest conveyed (Here, Simon and Mary: $10/50 = 20\%$; Ruth: $30/50 = 60\%$). This results in tax liability percentages here for Simon and Mary of 20% each and for Ruth, 60%.

To determine the amount of tax owed, the percentage is applied to the value of the property at the time of conveyance. In the example above, the value of the property to which the percentage applies is dependent on the time of each transfer (i.e., Simon's 20% on the \$500,000; Mary's 60% on the \$900,000; Ruth's 20% on the \$1,000,000).

(7) **Tax liability.** When there is a transfer or acquisition of a controlling interest in an entity that has an interest in real property, the seller of the interest is generally liable for the tax.

(a) When the seller has not paid the tax by the due date and neither the buyer nor the seller has notified the department of the sale within thirty days of the sale, the buyer is also liable for the tax.

(b) When the buyer has notified the department of the sale within thirty days of the sale, the buyer will not be held personally liable for any tax due.

(8) **Reporting requirements.** The transfer of a controlling interest in real property must be reported to the department when no instrument is recorded in the official real property records of the county in which the property is located. If the transfer is not taxable due to an exemption, that exemption should be stated on the affidavit.

(a) The sale must be reported by the seller to the department within five days from the date of the sale on the department of revenue affidavit form, DOR Form 84-0001B. The affidavit form must be signed by both the seller and the buyer, or their agent, and must be accompanied by payment of the tax due.

(b) The affidavit form may also be used to disclose the sale, in which case:

(i) It must be signed by the person making the disclosure; and

(ii) It must be accompanied by payment of the tax due only when submitted by a seller reporting a taxable sale.

(c) Any person who intentionally makes a false statement on any return or form required to be filed with the department under this chapter is subject to penalty of perjury.

(d) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which the transfer of an interest in an entity must be reported to the department. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) Simon and Peter each own 40% of the voting shares of a corporation. Paul, Matthew, Mark, and John each own 5% voting shares. Paul acquires Peter's 40% interest, and Matthew's and Mark's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by Paul (40% from Peter plus 5% from Matthew and 5% from Mark). This transaction must be reported.

(ii) Assume same facts as in example (d)(i) of this subsection. Paul's attorney advises him that for his protection, Paul should file an affidavit to disclose the sale. Paul files an affidavit to disclose the sale to the department within thirty days of the date of sale. Peter, Matthew, and Mark go on vacation and the affidavit and required tax payment is not sent to the department. The department notifies Peter, Matthew, and Mark of their tax liability, which now includes interest and penalties. Due to Paul's disclosure, Paul is relieved of any personal liability for the tax, interest, or penalties.

(iii) Assume the same facts as in example (d)(i) of this subsection, except Paul only acquires Peter's 40% interest and Matthew's 5% interest. This is not a taxable acquisition because a controlling interest (50% or more) was not acquired by Paul. This transaction does not need to be reported.

(9) **Due date, interest and penalties.** The tax imposed is due and payable immediately on the date of sale. See WAC 458-61A-306 for interest and penalties that may apply.

(10) **Transfers after tax has been paid.** When there is a transfer or acquisition of a controlling interest in an entity and the real estate excise tax is paid on the transfer, and there is a subsequent acquisition of an additional interest in the same entity within the same twelve-month period by a person acting in concert with the previous buyer(s), the subsequent seller is liable for its proportional portion of the tax. After payment by the subsequent seller of its proportional share, the person(s) who previously paid the tax may apply to the department for a refund of the amount overpaid because of the new proportional amount paid as a result of the subsequent transfer or acquisition.

(11) **Exemptions.** Because transfer and acquisition of a controlling interest in an entity that owns real estate in this state is statutorily defined as a "sale" of the real property owned by the entity, the exemptions of chapter 82.45 RCW and this chapter also apply to the sale of a controlling interest.

Examples.

(a) The merger of a wholly owned subsidiary owning real property located in this state with another subsidiary wholly owned by the same parent is a transfer of a controlling interest. However, this transfer may be exempt from taxation on two grounds. First, it may be exempt because it is a mere change in form or identity (see WAC 458-61A-211). Second, it may be exempt if it qualifies under the nonrecognition of gain or loss provisions of the Internal Revenue Code for entity formation, liquidation and dissolution, and reorganization. (See WAC 458-61A-212.)

(b) Taki owns 100% of a corporation. Taki wants her child, Mieko, and corporate manager, Sage, to be co-owners with her in the corporation. Taki makes a gift of 50% of the voting stock to Mieko and sells 33 1/3% to Sage. Although a controlling interest in the corporation has been transferred to and acquired by Mieko, it is not taxed because a gift is an exempt transfer and not considered for purposes of determining whether a controlling interest has transferred. The sale of the 33 1/3% interest to Sage is not a controlling interest, and is not taxed.

(c) Richard owns 75% of the voting stock of a corporation that owns real estate located in this state. Richard

pledges all of his corporate stock to secure a loan with a bank. When Richard defaults on the loan and the bank forecloses on Richard's stock in the corporation, the transfer and acquisition of the controlling interest of the entity is not a taxable transaction because foreclosures of mortgages and other security devices are exempt transfers. (See WAC 458-61A-208.)

NEW SECTION

WAC 458-61A-102 Definitions. For the purposes of chapter 458-61A WAC, the following definitions apply unless the context requires otherwise:

(1) "**Affidavit**" means the real estate excise tax affidavit provided by the department for use by taxpayers in reporting transfers of real property. Both the seller/grantor and the buyer/grantee, or their agents, sign the affidavit under penalty of perjury. The term also includes the form used to report to the department transfers and acquisitions of a controlling interest in an entity owning real property in this state under WAC 458-61A-101.

(2) "**Consideration**" means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, including performance of services, in return for the transfer of real property. The term includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, given to secure the purchase price, or any part thereof, or remaining unpaid on the property at the time of sale. For example, Lee purchases a home for \$250,000. He puts down \$50,000, and finances the balance of \$200,000. The full consideration paid for the house is \$250,000.

(a) "Consideration" includes the issue of an ownership interest in any entity in exchange for a transfer of real property to the entity. For example, if Julie transfers title to 20 acres of commercial property to Smith Development, LLC in exchange for a 50% ownership interest in the company, that constitutes consideration for the transfer. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, unless the transfer is otherwise specifically exempt under WAC 458-61A-211 or 458-61A-212.

(b) "Consideration" includes the assumption of an underlying debt on the property by the buyer at the time of transfer. For example, Ben buys a residence, valued at \$300,000, from Liza. Liza was purchasing the property on a real estate contract that has an outstanding balance of \$175,000. Ben gives Liza \$125,000 in cash and he assumes the obligation on the real estate contract, which Liza assigns to him. Real estate excise tax is due on \$300,000, which is the total consideration for the sale.

(c) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements. For example, Mel buys residential property for \$300,000. The title is encumbered by a lien for unpaid property taxes in the amount of \$12,000, and a lien for municipal sidewalk improvements in the amount of \$6,000. Although Mel will become liable for those liens in

order to take title to the property, they are not considered part of the purchase price for the purpose of calculating real estate excise tax. The real estate excise tax is due only on the purchase price of \$300,000.

(3) "**Controlling interest**" means:

(a) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(b) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity.

(4) "**County**" means the county treasurer or its agent.

(5) "**Date of sale**" means the date (normally shown on the instrument of conveyance or sale) that ownership of or title to real property, or control of the controlling interest in an entity that has a beneficial interest in real property, is delivered to the buyer/transferee in exchange for valuable consideration. In the case of a lease with option to purchase, the date of sale is the date when the purchase option is exercised and the property is transferred. "Date of sale," "date of transfer," "conveyance date," and "transaction date" all have the same meaning and may be used interchangeably in this chapter. The real estate excise tax is due on the date of sale.

(6) "**Department**" means the department of revenue.

(7) "**Floating home**" means a building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self-propulsion by mechanical means or for propulsion by means of wind, and which is on the property tax rolls of the county in which it is located.

(8) "**Governmental entity**" means the United States, any agency or instrumentality of the United States, the state of Washington ("state"), any government agency, commission, college, university, or other department of the state, any political subdivision of the state, counties, any county agency, council, instrumentality, commission, office, or department, any Washington taxing district, municipal corporations of this state, and any office, council, department, or instrumentality of a Washington municipal corporation.

(9) "**Mining property**" is property containing or believed to contain metallic or nonmetallic minerals, and sold or leased under terms that require the buyer or lessee to conduct exploration or mining work thereon, and for no other purpose.

(10) "**Mobile home**" means a mobile home as defined by RCW 46.04.302.

(11) "**Mortgage**" has its ordinary meaning, and includes a "deed of trust" for the purposes of this chapter, unless the context clearly indicates otherwise. The term "underlying debt" may also be used to refer to a mortgage or other security interest.

(12) "**Park model trailer**" means a park model trailer as defined in RCW 46.04.622.

(13) "**Real estate**" or "**real property**" means any interest, estate, or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity that owns land, or anything affixed to land, includ-

ing standing timber and crops. The term includes condominiums and individual apartments for which the buyer receives a warranty deed. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land. The term also includes any part of an irrigation system that is underground or affixed to the land. The term does not include irrigation equipment that is above the ground or that is not affixed to land. See RCW 82.12.020 for the tax treatment of sales of irrigation equipment that is not included in the definition of "real estate."

(14) **"Real estate contract"** or **"contract"** means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The term does not include earnest money agreements or options to purchase real property.

(15) **"Sale"** means:

(a) Any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such a conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. The term includes the grant, relinquishment, or assignment of a life estate in property. The term also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(b) The term "sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for a valuable consideration. For the purposes of this chapter, all acquisitions of persons acting in concert are aggregated for the purpose of determining whether a transfer or acquisition of a controlling interest has taken place.

(c) The term "sale" also applies to successive sales of the same property. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same parcel of property. For example, Bob owns a house that he sells to Sam on a real estate contract. Real estate excise tax is paid on the transfer from Bob to Sam. Sam makes several payments, until he becomes unemployed. Since Sam can no longer make payments on the property, he conveys it back to Bob. Bob then makes a subsequent sale of the house to Sally. Real estate excise tax is due on the transfer from Bob to Sally. See WAC 458-61A-209 for the tax implications on the conveyance from Sam back to Bob.

(d) The term "sale" does not include:

(i) Those real property transfers that are excluded from the definition of "sale" and exempted from the real estate excise tax under RCW 82.45.010(3) and this chapter, including transfers without valuable consideration.

(ii) The transfer of lots or graves in an established cemetery. An established cemetery is one that meets the requirements for ad valorem property tax exemption under chapter 84.36 RCW.

(iii) The transfer of an interest in real property merely to secure a debt or the assignment of a security interest, release of a security interest, satisfaction of a mortgage, or reconveyance under the terms of a mortgage or deed of trust.

(iv) A deed given to a purchaser under a real estate contract upon fulfillment of the terms of the contract provided that the proper tax was paid on the original transaction. The fulfillment deed must be stamped by the county treasurer as required by WAC 458-61A-301, and the stamp must show the affidavit number of the sale for which the deed is fulfilling.

(e) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not be taxable. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) John paid off his home mortgage and wants to get a loan to make improvements and buy a new car. John obtains an equity loan, secured by his home as collateral. This transaction is not subject to the real estate excise tax.

(ii) Bob purchased real property from Sam pursuant to a real estate contract. Real estate excise tax was paid on the purchase price at the time of the sale. Bob has now paid off the property, and Sam is issuing a fulfillment deed to Bob indicating that the real estate contract has been satisfied. The fulfillment deed from Sam to Bob is not subject to the real estate excise tax.

(iii) Diane has made the final payment on her mortgage, and the bank issues a full reconveyance of her property, indicating that the mortgage is paid in full. The reconveyance is not subject to the real estate excise tax.

(iv) Bill is refinancing his mortgage for a lower interest rate. There is a balloon payment on the new loan that will require that he refinance again in five years. Neither transaction is subject to the real estate excise tax.

(16) **"Seller"** means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, partnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, but it does not include the United States or the state of Washington. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning for purposes of the real estate excise tax.

(17) **"Selling price"** means the true and fair value of the property conveyed. There is a rebuttable presumption that the true and fair value is equal to the total consideration paid or contracted to be paid to the seller or to another person for the seller's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made under section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property at the time of sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained in the county property tax rolls at the time of sale will be used as the selling price. RCW 82.45.030.

(c) When the sale is of a partial interest in real property, the principal balance of any debt remaining unpaid at the time of sale will be multiplied by the percentage of ownership transferred, and that amount added to any other consideration to determine the selling price.

(d) In the case of a lease with option to purchase, the selling price is the true and fair value of the property conveyed at the time the option is exercised.

NEW SECTION

WAC 458-61A-103 Transfers involving an underlying debt. (1) Introduction. The real estate excise tax applies to transfers of real property when the grantee relieves the grantor from an underlying debt on the property or makes payments on the grantor's debt. The measure of the tax is the combined amount of the underlying debt on the property and any other consideration.

For example, Yen transfers property to Lee that is subject to an underlying debt. Yen is personally liable for the debt, meaning that if Yen does not make the payments the lender may foreclose on the property and obtain a judgment against Yen if the value of the property is insufficient to pay the debt. Lee agrees to make all future payments on Yen's debt but gives no other consideration for the property. Yen owes real estate excise tax on the amount of the underlying debt. Lee's payments on the underlying debt relieve Yen of her debt obligation. Therefore, Yen receives consideration.

(2) Transfers where grantor has no personal liability for the underlying debt. Real estate excise tax does not apply to transfers of real property subject to an underlying debt when the grantor has no personal liability for the debt and receives no other consideration for the transfer.

For example, Yen purchases property with funds obtained from PSP Corporation and secured only by the property. Yen has no personal liability for this debt. If Yen fails to make payments on the debt, PSP may foreclose on the property but it may not obtain a judgment against Yen. Yen transfers the property to Lee subject to the underlying debt. Lee takes the property subject to the underlying debt, and does not give any other consideration for the property. If Lee fails to make payments, PSP may foreclose on the property but it may not obtain a judgment against Lee (who, like Yen before, has no personal liability for the debt). Because Yen is not personally liable for the debt, Lee's payments on the underlying debt to PSP do not relieve Yen of any liability for the debt. The real estate excise tax does not apply to this transfer because there is no consideration.

(3) Documentation. In order to avoid the incidence of the tax, the grantor must present and maintain proper documentation to verify the type of debt and to confirm that fact that the grantor is not personally liable for the debt.

NEW SECTION

WAC 458-61A-104 Assignments. (1) Purchasers.

(a) The real estate excise tax does not apply to an assignment of a purchaser's interest in an earnest money agreement if neither the earnest money agreement nor its assignment results in a change of title to or ownership of the real property.

(b) The real estate excise tax does apply to transfers when the purchaser of real property under a real estate contract assigns the purchaser's interest in the contract for consideration. The tax is based on all consideration paid or contracted to be paid to the grantor for the assignment, including any unpaid principal balance due on the assigned real estate contract.

(2) Sellers. The real estate excise tax does not apply when a seller of real property under a real estate contract assigns any interest in the contract to a third party.

(3) Documentation. The real estate excise tax affidavit is not required for exempt assignments; however, the instrument of assignment must be stamped by the county treasurer as required by WAC 458-61A-301. The stamp will cross-reference the number of the affidavit relating to the contract being assigned.

NEW SECTION

WAC 458-61A-105 Mobile and floating home sales.

(1) Mobile homes. The transfer of a mobile home is subject to either real estate excise tax or sales/use tax, depending on the characteristics of the transfer, regardless of whether the mobile home is classified as real or personal property on the assessment rolls.

(2) Application of real estate excise tax. The real estate excise tax applies to the transfer of a mobile home that:

(a) Is affixed to land by a foundation (post or blocks) and has connections for utilities;

(b) Is not required to be removed from the land as a condition of sale; and

(c) Has been subject to retail sales or use tax during a previous sale.

(3) Sales or use tax. Mobile home sales are subject to retail sales or use tax in the following instances:

(a) The initial retail sale of the mobile home;

(b) The sale from a dealer's lot of either a new or used mobile home;

(c) If the removal of the mobile from the land is a condition of the sale; or

(d) The mobile home is not affixed to the land by a foundation and does not have connections for utilities.

(4) Floating homes. The real estate excise tax applies to the transfer of a floating home that is:

(a) Constructed on a float used in whole or in part for human habitation as a single-family dwelling;

(b) Not designed for self-propulsion by mechanical means or for propulsion by means of wind; and

(c) Listed on the real property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

NEW SECTION**WAC 458-61A-106 Sales of improvements to land, leases, and leases with option. (1) Introduction.**

(a) The sale of improvements constructed on real property is subject to the real estate excise tax if the contract of sale does not require that the improvements be removed at the time of sale.

(b) The transfer of a lessee's interest in a leasehold for valuable consideration is taxable to the extent the transfer includes any improvement constructed on leased land. If the selling price of an improvement is not separately stated, or cannot otherwise be reasonably determined, the assessed value of the improvement as entered on the assessment rolls of the county assessor will be used.

(2) **Lease with option to purchase.** The real estate excise tax applies to a lease with option to purchase at the time the purchase option is exercised and the property is transferred. The measure of the tax is the true and fair value of the property conveyed at the time the option is exercised.

(3) **Improvements removed from land.** The real estate excise tax does not apply to the sale of improvements if the terms of the sales contract require that the improvements be removed from the land. In this case the improvements are considered personal property and their use by the purchaser is subject to the use tax under chapter 82.12 RCW.

(4) **Documentation.** Completion of the affidavit is required for all of the above transfers except a transfer described in subsection (3) of this section, in which case the purchaser must file a use tax return with the department.

NEW SECTION

WAC 458-61A-107 Option to purchase. (1) Introduction. The real estate excise tax applies to a conveyance of real property upon the exercise of an option to purchase.

(2) **Taxability of sales of options.** The real estate excise tax does not apply to the grant or sale of an option and the real estate excise tax affidavit is not required for that transaction. However, the sale of an option is subject to business and occupation tax under the service and other category and should be reported on the combined excise tax return. RCW 82.04.290.

(3) Examples.

(a) Joe acquires an option at a cost of \$100,000. The option, if exercised, allows Joe to purchase ten parcels of land for \$700,000. As individual parcels, these lots of land are uneconomical to develop. Joe "packages" the land, making it economically feasible to develop by either obtaining sufficient acreage or required studies. Buildup, a real estate development and construction company, purchases Joe's option on the property for \$2.3 million and subsequently exercises the option, paying \$700,000 for the land. The real estate excise tax does not apply to the sale of the option, however the \$2.3 million received for the option is subject to the business and occupation tax under the service and other category. The measure of the real estate excise tax is the \$700,000 purchase price paid on the transfer of the land.

(b) Consider the same initial facts as in the example in (a) of this subsection, but instead, Joe exercises the option, and subsequently sells the land to Buildup. The real estate

excise tax applies to both the transfer to Joe and the subsequent transfer from Joe to Buildup.

NEW SECTION

WAC 458-61A-108 Contractor. (1) In general. If land is deeded to a contractor with an agreement to reconvey the property after construction of an improvement, the real estate excise tax does not apply to either the first conveyance or to the reconveyance if:

(a) The land is deeded for the sole purpose of enabling the contractor to obtain financing for the construction of the improvement on the property conveyed; and

(b) The agreement to reconvey is contained in a written statement made prior to the original conveyance.

(2) **Tax treatment.** When both of the requirements of subsection (1) of this section have been met, the deed to the contractor, although absolute on its face, will be treated as creating a security interest only. However, the sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(3) **Documentation.** Real estate excise tax affidavits are required for both the original conveyance and the reconveyance. The affidavit must contain wording to the effect that the purpose of the transfers is for construction and security purposes only. The affidavit for reconveyance must refer to the date and number of the original affidavit.

(4) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Jill owns an unimproved lot. She contracts with Sapphire Construction to build a residence on her lot. The contract provides that the lot will be deeded to Sapphire to obtain financing. The contract also states the property will be deeded back to Jill when the residence is completed. No real estate excise tax is due on the transfer of the vacant lot from Jill to Sapphire. Six months later, the residence is completed. Sapphire Construction transfers the property (land plus improvement) to Jill. No real estate excise tax is due on this transfer. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(b) Eleanor owns a house on 20 acres. She contracts with Ruby Development to sell 19 of her acres, but keeps ownership of her house and one acre that it sits on. The price is \$20,000 per acre. Since the property is not subdivided, she must convey all of her property to Ruby Development, under the condition that the house and the one acre will be deeded back to her when the property is subdivided. Eleanor transfers the 20-acre parcel to Ruby Development. Real estate excise tax is due on the \$380,000 contract price (19 acres x \$20,000 per acre). After one year, Ruby Development has the property subdivided into 20 one-acre parcels. Ruby Development transfers to Eleanor the house and one acre per the original contract. No real estate excise tax is due on the transfer from Ruby Development to Eleanor.

(c) Next to Eleanor, Bob owns 25 acres. He contracts with Ruby Development to sell his 25 acres for \$400,000, with the agreement that two lots will be transferred back to him after the development is completed. Real estate excise tax is due on the \$400,000 contract price. The reconveyance of two lots back to Bob is not subject to real estate excise tax.

(5) If a contractor, acting under the terms of a contract, purchases land on behalf of a customer for the purposes of constructing an improvement, the later conveyance of the property to the customer is not subject to the real estate excise tax provided the requirements of WAC 458-61A-214 (Nominee) are met. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(6) When the owner of a lot contracts to have an improvement built upon the lot and retains title to the land, or when a lessee contracts to have an improvement built upon the lot and retains the leasehold interest, the real estate excise tax does not apply to the purchase of the improvement. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(7) When a speculative builder owns a lot and builds an improvement upon it, the subsequent sale of land and improvement is subject to the real estate excise tax. When a speculative builder sells a parcel of property with a partially constructed improvement with the understanding that the builder will complete the improvement, the real estate excise tax applies to the percentage of the project complete at the time of transfer. The retail sales tax applies to that portion of the selling price representing the construction to be completed after transfer.

NEW SECTION

WAC 458-61A-109 Trading/exchanging property and boundary line adjustments. (1) **Trading/exchanging property.** The real estate excise tax applies when real property is conveyed in exchange for other real property or any other valuable property. The real estate excise tax is due on the true and fair value for each individual property.

(2) **Boundary line adjustments.**

(a) **Introduction.** A boundary line adjustment is a legal method to make minor changes to existing property lines between two or more contiguous parcels. Real estate excise tax may apply depending upon the specific circumstances of the transaction. Boundary line adjustments include, but are not limited to, the following:

- (i) Moving a property line to follow an existing fence line;
- (ii) Moving a property line around a structure to meet required setbacks;
- (iii) Moving a property line to remedy a boundary line dispute;
- (iv) Moving a property line to adjust property size and/or shape for owner convenience; and
- (v) Selling a small section of property to an adjacent property owner.

(b) **Boundary line adjustments in settlement of dispute.** Boundary line adjustments made solely to settle a

boundary line dispute are not subject to real estate excise tax if no other consideration is present.

(c) **Taxable boundary line adjustments.** In all cases, real estate excise tax applies to boundary line adjustments if there is consideration (other than resolution of the dispute), such as in the case of a sale or trade of property.

(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Mr. Jehnsen and Mr. Smith own adjoining parcels of land separated by a fence. During a survey to confirm the property boundary of Mr. Smith's parcel, the parties discover that the true property line actually extends five feet over on Mr. Jehnsen's side of the fence. Mr. Jehnsen does not want to move the fence. He has paved, landscaped and maintained this section of land and if he gave it up he would lose his parking area. After numerous discussions regarding the property line, Mr. Smith agrees to quitclaim the five-foot section of land to Mr. Jehnsen. Real estate excise tax does not apply since there is no consideration other than resolution of the dispute.

(b) Mr. Smith will only agree to transfer the five-foot section of land to Mr. Jehnsen if he is paid \$1,000. Mr. Smith owes real estate excise tax on \$1,000.

(c) Mr. Smith will cede the five-foot parcel only if Mr. Jehnsen gives him a narrow strip of land in exchange. Mr. Jehnsen agrees to exchange a ten-foot section of his parcel for the five-foot section of Mr. Smith's parcel solely to resolve the boundary line dispute. Real estate excise tax does not apply. It is irrelevant that the property involved in the transfer is not equal since the sole purpose of the transfer is to settle a boundary line dispute.

(d) Mr. Smith and Mr. Jehnsen are unable to resolve their dispute over the five-foot parcel. Mr. Jehnsen agrees to trade his lake front cabin for Mr. Smith's entire parcel. Mr. Jehnsen will owe real estate excise tax on the fair market value of the lake front cabin. Mr. Smith owes real estate excise tax on the fair market value of his parcel.

(e) Mr. Smith wants something in exchange for giving the five-foot parcel to Mr. Jehnsen. Mr. Jehnsen agrees to give Mr. Smith his tractor in exchange for the five-foot section of land. Mr. Smith will owe real estate excise tax on the fair market value of the five-foot section of his parcel and use tax on the value of the tractor (see WAC 458-20-178).

(f) Mr. Robbins owns 18 acres of land adjacent to Ms. Pemberton's 22-acre parcel. Mr. Robbins would like to develop his 18 acres, but he needs two more acres to develop the land. Ms. Pemberton agrees to give Mr. Robbins two acres of land. In exchange Mr. Robbins agrees to pave Ms. Pemberton's driveway as part of the land development. The real estate excise tax is due on the true and fair value of the two acres conveyed to Mr. Robbins. In addition, sales or use tax may be due on the value of the paving.

(4) **Documentation.** In all cases, an affidavit is required to record the new property line.

NEW SECTION

WAC 458-61A-110 Relocation service—Two-deed process. (1) **Introduction.** The real estate excise tax applies to property transfers involving the two-deed process or delivery of a deed, blank as to the grantee, but otherwise complete.

(2) **Delivery to third party.** The subsequent delivery of the deed to a third person named as grantee for consideration is also a taxable sale.

(3) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Bob lists his house with a realtor under an agreement that if the house does not sell within four months, the realtor will purchase the house from Bob at the agreed price. Bob intends to purchase a house listed with that realtor and needs the funds from the sale of his house to use as a payment for the new house. Bob's house does not sell within the four-month period so the realtor purchases Bob's house. Bob executes a blank deed and gives it to the realtor, authorizing the realtor to insert the grantee's name when the realtor eventually resells the house. Real estate excise tax is due on both transfers. Bob owes real estate excise tax on the selling price of the house at the time he transfers the house to the realtor. The realtor owes real estate excise tax on the selling price of the house upon sale to the final buyer.

(b) PSP Corporation contracts with a relocation company to handle the sale of homes for its employees that are relocating. The employee transfers the property to the relocation company. The relocation company delivers the deed to an escrow company who holds the deed until the relocation company finds a buyer. Real estate excise tax is due on both transfers. Tax is due when the employee transfers the deed to the relocation company. Real estate excise tax is due on the second transfer when the relocation company transfers the property to the buyer.

(4) **Transactions involving only a single deed.** In the event the transactions are accomplished by one deed, the county may require documentation confirming the date of sale of each transaction. The documentation may include a copy of the relocation contract, copy of the settlement statement(s), etc. Even though there is only one deed, two taxable transactions have occurred, and real estate excise tax is due on both.

NEW SECTION

WAC 458-61A-111 Easements, development rights, water rights, and air rights. (1) **Easements.** The real estate excise tax applies to the conveyance of an easement for the use of real property in return for valuable consideration. The real estate excise tax affidavit is required only if the transfer is taxable.

(2) **Development rights, water rights, and air rights.**

(a) The real estate excise tax applies to the sale of development rights, water rights, and air rights. The measure of the tax is the total consideration received in exchange for the transfer of the right. The real estate excise tax affidavit must be completed for the transfer of development rights, water

rights, and air rights regardless of whether a taxable sale has occurred.

(b) **"Development rights"** means transferable rights to the unused development on a parcel of land measured by the difference between the existing development density on the parcel and the density allowed by applicable zoning laws.

(c) **"Water rights"** means transferable rights to the diversion, extraction or use of water arising by virtue of the ownership of land located contiguous to surface water, a water right claim, or the possession of a water right permit or certificate issued by the department of ecology.

(d) **"Air rights"** means the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

NEW SECTION

WAC 458-61A-112 Mineral rights and mining claims. (1) **When tax is imposed.** A conditional sale of mining property in which the grantee has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee/grantee has the right to terminate the lease and option at any time, is taxable at the time of execution on the amount of the consideration paid to the grantor/lessor for execution of the contract. The tax due on any additional consideration paid by the grantee and received by the grantor is paid to the county upon the first occurrence of the following events:

(a) The time of termination;

(b) The time that all of the consideration due to the grantor has been paid and the transaction is completed except for the delivery of the deed to the grantee; or

(c) The time when the grantee unequivocally exercises an option to purchase the property.

(2) **Lease for royalty.** A mining lease that grants the lessee the right to conduct mining exploration upon or under the surface of real property and to remove minerals from the property in exchange for a royalty is not subject to the real estate excise tax when the lease does not transfer ownership of the minerals to the lessee prior to severance from the real property.

(3) **Patented claims.** Patented mining claims are real property and their sale is subject to the real estate excise tax.

(4) **Unpatented claims.** Unpatented mining claims are intangible personal property and therefore not subject to the real estate excise tax.

NEW SECTION

WAC 458-61A-113 Timber, standing. (1) **Introduction.** The real estate excise tax applies to the sale of timber any time the right or license to exercise control over the timber is granted while the timber is standing, whether this is accomplished by deed or by contract, regardless of when title actually passes from seller to buyer.

(2) **Taxable value.**

(a) The taxable value of the standing timber sold is the total price paid in cash plus the fair market value of any other consideration. See chapters 84.33 RCW and 458-40 WAC for specific regulations and rules regarding additional taxation of timber and forest land.

(b) In cases where the total sales price is not known at the time the contract is executed (for example, a "pay as cut" or "scale" sale), an estimate of the total sales price must be made and real estate excise tax paid. If, at completion of the contract, the real estate excise tax was underpaid, the grantor must file an amended affidavit and pay the additional tax. If the initial payment was made in good faith, no penalty and interest will be due on the subsequent payment. If the tax has been overpaid, the taxpayer may request a refund.

(3) **Exceptions.** The real estate excise tax does not apply when the right or license to exercise control over the timber passes after the timber has been cut, decked, and scaled (for example, a "decked log" sale), or after the timber is delivered to a log processing facility. This includes a contract between a timber owner and a logger, where the logger is hired to provide services (for example, harvesting timber or transporting logs), but does not acquire right or license to exercise control over the timber. See chapters 82.04 RCW and 458-20 WAC for specific regulations and rules regarding additional taxation of extracting activity.

(4) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples are provided as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Joe owns forest land and signs a contract to sell the uncut merchantable timber located on his land to Laurence for \$50,000. Laurence cuts down all the merchantable timber and takes the logs to the local sawmill, which pays Laurence \$100,000 for the logs. Joe has sold standing timber and real estate excise tax is due on the \$50,000. See WAC 458-20-135 for the tax implications on the sale of the logs from Laurence to the sawmill.

(b) Jake is a logger who enters into a contract with Heidi, who owns timberland. Under the contract terms, Jake agrees to pay Heidi a deposit of \$5,000 and then \$250 per thousand board feet (MBF) of timber he harvests from her land, as measured by Phantom Scaling Services. Jake has one year to harvest all the timber identified in the contract, and has ingress and egress rights to the property for the purpose of harvesting the timber. Title to the logs does not pass until they are scaled and paid for. Although bare legal title does not pass until after the timber is cut and scaled, Jake is the beneficial owner with the full right to harvest, possess and sell or otherwise dispose of the timber as he sees fit. This is a sale of standing timber and Heidi owes real estate excise tax on her total proceeds from the sale. Tax is due on a good faith estimate of the total proceeds of the sale and must be paid at the time the contract is executed. When the harvest is complete, any additional tax due must be paid. If the tax is overpaid, a refund may be requested.

(c) Barron Timber Co. harvests timber from their land. They fell the timber, yard the logs to the landing, and sort, deck and scale the logs by species and diameter class. Prospective buyers bid on the different log decks, with each log deck going to the highest bidder. This is a sale of decked logs and real estate excise tax is not due. The purchasers were granted right or license to exercise control over the logs only after they were decked and scaled.

(d) Rex is a timberland owner who hires Joe Logger to harvest his timber and transport the logs for a fee of \$200 per MBF. Rex identifies which trees he wants harvested and has the logger deliver the Douglas-fir logs to Seaport Export Yard, and the remaining logs to Diamond Sawmill. When the logs are delivered to each facility, they are scaled to determine volume (MBF) and a purchase agreement is arranged between the facility and Rex. This is a delivered log sale and real estate excise tax is not due. Rex retained right and license over the timber until it was delivered and scaled at the processing facilities.

EXEMPTIONS AND EXCLUSIONS

NEW SECTION

WAC 458-61A-200 Introduction. There are limited exemptions or exclusions from the real estate excise tax provided by law. This section discusses exemptions and the procedures that must be followed to qualify for an exemption.

NEW SECTION

WAC 458-61A-201 Gifts. (1) **Introduction.** Generally, a gift of real property is not a sale, and is not subject to the real estate excise tax. A gift of real property is a transfer for which there is no consideration given in return for granting an interest in the property. If consideration is given in return for the interest granted, then the transfer is not a gift, but a sale, and it is subject to the real estate excise tax to the extent of the consideration received.

(2) **Consideration.** See WAC 458-61A-102 for the definition of "consideration." Consideration may also include:

(a) Monetary payments from the grantee to the grantor; or

(b) Monetary payments from the grantee toward underlying debt (such as a mortgage) on the property that was transferred, whether the payments are made toward existing or refinanced debt.

(3) **Assumption of debt.** If the grantee agrees to assume payment of the grantor's debt on the property in return for the transfer, there is consideration, and the transfer is not exempt from tax. Real estate excise tax is due on the amount of debt assumed, in addition to any other form of payment made by the grantee to the grantor in return for the transfer. However, equity in the property can be gifted.

(4) **Rebuttable presumption regarding refinancing transactions.**

(a) There is a rebuttable presumption that the transfer is a sale and not a gift if the grantee is involved in a refinance of debt on the property within six months of the time of the transfer.

(b) There is a rebuttable presumption that the transfer is a gift and not a sale if the grantee is involved in a refinance of debt on the property more than six months from the time of the transfer.

(5) **Documentation.**

(a) A completed real estate excise tax affidavit is required for transfers by gift. A supplemental statement approved by the department must be completed and attached to the affidavit. The supplemental statement will attest to the

existence or absence of underlying debt on the property, whether the grantee has or will in the future make any payments on the debt, and whether a refinance of debt has occurred or is planned to occur. The statement must be signed by both the grantor and the grantee.

(b) The grantor must retain financial records providing proof that grantor is entitled to this exemption in case of audit by the department. Failure to provide records upon request will result in subsequent denial of the exemption.

(6) Examples.

(a) **Overview.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(b) Examples—No debt.

(i) John conveys his residence valued at \$200,000 to Sara. John comes off of the title. There is no underlying debt on the property, and Sara gives John no consideration for the transfer. The conveyance from John to Sara qualifies for the gift exemption from real estate excise tax.

(ii) Keith and Jean, as joint owners, convey their residence valued at \$200,000 to Jean as her sole property. There is no underlying debt on the property. In exchange for Keith's one-half interest in the property, Jean gives Keith \$10,000. Keith has made a gift of \$90,000 in equity, and received consideration of \$10,000. Real estate excise tax is due on the \$10,000.

(c) Examples—Existing debt.

(i) Josh conveys his residence valued at \$200,000 to Samantha. Josh has \$25,000 in equity and an underlying debt of \$175,000. Josh continues to make the mortgage payments out of his own funds, and Samantha does not contribute any payments toward the debt. Since Josh continues to make the payments, there is no consideration from Samantha to Josh, and the transfer qualifies for exemption as a gift.

(ii) Josh conveys the residence to Samantha, and after the transfer, Samantha begins to make payments on the debt. Josh does not contribute to the payments on the debt after the title is transferred. Josh has made a gift of his \$25,000 equity, but real estate excise tax is due on the \$175,000 debt that Samantha is now paying.

(iii) Dan conveys his residence valued at \$200,000 to himself and Jill as tenants in common. Dan has \$25,000 in equity and an underlying debt of \$175,000. Dan and Jill open a new joint bank account, to which they both contribute funds equally. Mortgage payments are made from their joint account. There is a rebuttable presumption that real estate excise tax is due on the conveyance because Jill appears to be contributing toward payments on the debt. In that case, real estate excise tax is due on the consideration given by Jill, (50% of the underlying debt) based upon her contributions to the joint account. The tax will be calculated on a one-half interest in the existing debt (\$87,500).

(iv) Dan conveys the residence to himself and Jill. Dan has \$25,000 in equity, and a mortgage of \$175,000. Dan and Jill open a new joint bank account, which is used to make the mortgage payments, but Dan contributes 100% of the funds to the account. The conveyance is exempt from real estate

excise tax, because Jill has not given any consideration in exchange for the transfer.

(v) Bob conveys his residence valued at \$200,000 to himself and Jane as tenants in common. Bob has \$25,000 equity, and an underlying debt of \$175,000. Bob and Jane have contributed varying amounts to an existing joint bank account for many years prior to the conveyance. Mortgage payments have been made from the joint account both before and after the transfer. The conveyance is exempt from real estate excise tax, because Jane's contributions toward the joint account from which the payments are made is not deemed consideration in exchange for the transfer from Bob (because she made contributions for many years before the transfer as well as after the transfer, there is no evidence that her payments were consideration for the transfer).

(vi) Bill and Melanie, as joint owners, convey their residence valued at \$200,000 to Melanie, as her sole property. There is an underlying debt of \$170,000. Prior to the transfer, both Bill and Melanie had contributed to the monthly payments on the debt. After the transfer, Melanie begins to make 100% of the payments, with Bill contributing nothing toward the debt. Bill's equity (\$15,000) is a gift, but Melanie's taking over the payments on the mortgage is consideration received by Bill. Real estate excise tax is due on \$85,000 (Bill's fractional interest in the property multiplied by the outstanding debt at the time of transfer: $50\% \times \$170,000$).

(vii) Casey and Erin, as joint owners, convey their residence to Erin. There is an underlying debt of \$170,000 in both their names. For the three years prior to the transfer, Erin made 100% of the payments on the debt. After the transfer, Erin continues to make 100% of the payments. The transfer is exempt from the real estate excise tax because Erin made all the payments on the property before the transfer as well as after the transfer; there is no evidence that her payments were consideration for the transfer.

(d) Examples—Refinanced debt.

(i) Bob conveys his residence to himself and Jane. Within one month of the transfer, Bob and Jane refinance the underlying debt of \$175,000 in both their names, but Bob continues to make the payments on the debt. Jane does not contribute any funds toward the payments. The conveyance qualifies for the gift exemption because Jane gave no consideration for the transfer.

(ii) Casey and Erin, as joint owners, convey their residence valued at \$200,000 to Erin as sole owner. There is an underlying mortgage on the property of \$170,000. Prior to the transfer, Casey and Erin had both contributed to the monthly mortgage payments. Within one month of the transfer, Erin refinances the mortgage in her name only and begins to make payments from her separate account. In this case, there is a rebuttable presumption that this is a disguised sale, since Erin, through her refinance, has assumed sole responsibility for the underlying debt. Real estate excise tax is due on \$85,000 (Casey's fractional interest in the property multiplied by the total debt on the property: $50\% \times \$170,000$).

(iii) Kyle conveys his residence valued at \$200,000 to himself and Amy as tenants in common. Kyle has \$25,000 in equity, and an underlying debt of \$175,000. Within one month of the transfer, Kyle and Amy refinance the mortgage in both their names, and open a joint bank account to which

they contribute funds equally. Payments on the new mortgage are made from the joint account. There is a rebuttable presumption that Amy's contributions to the joint account are consideration for the transfer, since Amy appears to have agreed to pay half of the monthly debt payment, and real estate excise tax may be due. The measure of the tax is one-half of the underlying debt to which Amy is contributing (\$87,500).

(iv) Kyle conveys his residence to himself and Amy. Kyle continues to make the payments on the underlying debt of \$175,000. Nine months after the transfer, Kyle and Amy refinance the property in both of their names. After the refinance, Kyle and Amy contribute equally to a new joint bank account from which the mortgage payments are now made. Amy's contribution to the mortgage nine months after the transfer is not deemed consideration in exchange for the transfer from Kyle to the two of them as tenants in common. The conveyance will qualify for the gift exemption.

(e) **Example—Refinanced debt—"Cosigner."** Charlie and Sadie, a married couple, own a residence valued at \$200,000 with an underlying mortgage of \$170,000. Sadie receives the property when they divorce. After a few months, Sadie tries to refinance, but her credit is insufficient to obtain a loan in her name only. Aunt Grace offers to assist her by becoming a "co-borrower" on the loan. As a result, the bank requires that Aunt Grace be added to the title. Following the refinance, Sadie makes 100% of the payments on the new debt, and Aunt Grace gives no consideration for being added to the title. The conveyance adding Aunt Grace to the title is exempt from real estate excise tax. Although the quitclaim deed from Sadie to Aunt Grace may be phrased as a gift, the transfer is exempt as Aunt Grace's presence on the title acts as an exempt security interest to protect Aunt Grace in the event Sadie defaults on her mortgage. See WAC 458-61A-215 for this exemption.

NEW SECTION

WAC 458-61A-202 Inheritance or devise. (1) **Introduction.** Transfers of real property by inheritance or devise are not subject to the real estate excise tax. For the purpose of this exemption, it does not matter whether the real property transferred was encumbered by underlying debt at the time it was inherited or devised.

(2) **Nonpro rata distributions.** A nonpro rata distribution is one in which the transfer of real property to the heirs or devisees may not be in proportion to their interests. For example, Aunt Mary wills her entire estate equally to her three nieces. The estate consists of her primary residence, a cottage at the ocean, and significant cash assets, among other things. Rather than take title to the two parcels of real estate in all three names, the estate may be distributed by deeding the primary residence to Meg, the oceanfront property to Beth, and the majority of the cash assets to Jo. Such distribution by a personal representative of a probated estate or by the trustee of a trust is not subject to the real estate excise tax if the transfer is authorized under the nonintervention powers of a personal representative under RCW 11.68.090 or under the nonpro rata distribution powers of a trustee under RCW 11.98.070(15), if no consideration is given to the personal

representative or the trustee for the transfer. For the purpose of this section, consideration does not include the indebtedness balance of any real property that is encumbered by a security lien.

(3) **Subsequent transfers.** A transfer of property from an heir to a third party is subject to the real estate excise tax. Examples:

(a) Steve inherits real property from his mother's estate. He sells the property to his son for \$50,000. The transfer of the property from the estate to Steve is exempt from real estate excise tax. The subsequent sale of the property to his son is a taxable event, and tax is due based upon the full sales price of \$50,000.

(b) Susan inherits real property from her father's estate. She decides to sell it to a friend on a real estate contract for \$100,000. Tax is due on the \$100,000.

(c) Sheri and her two sisters inherit their father's home, valued at \$180,000, in equal portions. Sheri wants sole ownership of the home but there are not "in-kind" assets of sufficient value to be distributed by the personal representative to her two sisters in a nonpro rata distribution. In order to take title directly from the personal representative, Sheri pays each of her sisters \$60,000, and they quitclaim their right to the property under the will. Tax is due on the total of \$120,000 paid for the property.

(4) **Community property or right of survivorship.** The transfer of real property to a surviving spouse in accordance with a community property agreement or a survivorship clause is not subject to real estate excise tax.

(5) **Joint tenants.** The transfer of real property upon the death of a joint tenant to the remaining joint tenants under right of survivorship is not subject to the real estate excise tax.

(6) **Life estates and remainder interests.** The conveyance of a life estate to the grantor with a remainder interest to another party is not a taxable transfer if no consideration passes. For example, Nate and Libby convey their property to their son, Rex, retaining a life estate for themselves. The transaction is not subject to real estate excise tax because Rex pays no consideration. Upon the deaths of Nate and Libby, the title will vest in Rex and no real estate excise tax is due. However, if Nate and Libby convey their property to Rex, retaining a life estate for themselves, and Rex pays any consideration for his future interest, the transaction is taxable. Tax is due on the total consideration paid.

(7) **Documentation.** In order to claim this exemption, the following documentation must be provided:

(a) **Community property agreement.** If the property is being transferred under the terms of a community property agreement, copies of the recorded agreement and certified copy of the death certificate;

(b) **Trusts.** If property is being transferred under the terms of a testamentary trust without probate, a certified copy of the death certificate, and a copy of the trust agreement showing the authority of the grantor;

(c) **Probate.** In the case of a probated will, a certified copy of the letters testamentary, or in the case of intestate administration, a certified copy of the letters of administration, showing that the grantor is the court appointed executor/executrix or administrator;

(d) **Joint tenants and remainder interests.** A certified copy of the death certificate is recorded to perfect title;

(e) **Other.** A certified copy of the court order requiring the transfer of property, and confirming that the grantor is required to do so under the terms of the order.

NEW SECTION

WAC 458-61A-203 Community property, dissolution of marriage, legal separation, decree of invalidity. (1) **Community property.** Transfers from one spouse to the other that establish or separate community property are not subject to the real estate excise tax.

(2) **Court decree.** The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in fulfillment of a settlement agreement incident to a decree of dissolution, declaration of invalidity, or legal separation.

(3) **Transfers to third parties.** A sale of real property by either one or both spouses to a third party is subject to the real estate excise tax, regardless of whether the sale is pursuant to the terms of a decree of dissolution, declaration of invalidity, or legal separation.

(4) **Former spouses.** Transfers of real property between ex-spouses that are independent of any settlement agreement incident to their decree of dissolution or decree of invalidity are subject to the real estate excise tax, unless otherwise exempt under this chapter.

NEW SECTION

WAC 458-61A-204 Tenants in common and joint tenants. (1) **Introduction.** The real estate excise tax does not apply to the transfer of real property that results in the creation of a tenancy in common or joint tenancy with or without right of survivorship if no consideration passes otherwise. See WAC 458-61A-201, Gifts.

(2) **Partition.** The partition of real property by tenants in common or joint tenants, by agreement or as the result of a court decree, is not subject to real estate excise tax. A partition results when tenants in common agree that certain tenants will be assigned certain particular tracts within the property that they own together. Transfers to partition real property are not subject to the real estate excise tax provided that the transfer is without additional consideration passing.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Betsy, Haley, and Kalli own five riverfront parcels as tenants-in common. One parcel is worth twice as much as any of the others, which are all equivalent in value. The property is partitioned. Betsy receives the especially valuable parcel; Haley and Kalli receive two parcels each. No real estate excise tax is due, since the partition of the property is by agreement and no additional consideration passed between the parties.

(b) David and Corwin are business partners; they own two parcels of real estate as tenants in common. One parcel

is valued at \$200,000 and has an underlying debt of \$175,000. The other parcel is valued at \$25,000 and has no underlying debt. Pursuant to a proceeding to liquidate their partnership, the court orders partition of the real property. David receives the more valuable parcel and assumes full responsibility for the debt. Corwin receives the less valuable parcel. No real estate excise tax is due, because the partition of the property is pursuant to a court order.

(4) The transfer of property upon the death of a joint tenant to the remaining joint tenants under a right of survivorship is not subject to the real estate excise tax. Transfers of real property by inheritance are not subject to the real estate excise tax. WAC 458-61A-202, Inheritances or devise, is cited on the real estate excise tax affidavit to claim an exemption from the real estate excise tax for such transfers.

(5) The sale of an interest in real property from one or more joint tenants or tenants in common to remaining tenants or to a third party is a taxable transaction. The taxable amount of the sale is the total of the following:

(a) Any consideration given; and

(b) Any consideration promised to be given, including the amount of any debt remaining unpaid on the property at the time of sale multiplied by that fraction of interest in the real property being sold.

NEW SECTION

WAC 458-61A-205 Government transfers. (1) **Introduction.** Transfers of real property from a government entity are not subject to the real estate excise tax. Transfers of real property to a government entity are subject to real estate excise tax unless specifically exempted under this chapter. A completed real estate excise tax affidavit is required for transfers both to and from a government entity.

(2) **Government seller.** A governmental entity selling real property is exempt from the real estate excise tax.

(3) **Government purchaser.** Generally, a seller that is not a governmental entity must pay real estate excise tax on voluntary sales of real property to a governmental entity unless the transfer is otherwise exempt under this chapter. See WAC 458-61A-206 regarding transfers pursuant to condemnation proceedings or under threat of the exercise of eminent domain.

(4) **Transfers for a public purpose.** Transfers to a governmental entity for a public use in connection with the development of real property by a developer when the transfer is required for plat approval are not subject to the real estate excise tax. For example, a developer who deeds property to the city for streets and utilities is not subject to real estate excise tax on the transfer.

NEW SECTION

WAC 458-61A-206 Condemnation proceedings. (1) **Introduction.** Transfers of real property to a governmental entity under an imminent threat of the exercise of eminent domain, a court judgment or settlement with a government entity based upon a claim of inverse condemnation, or as a result of the actual exercise of eminent domain, are not subject to the real estate excise tax.

(2) **Transfer must be to a governmental entity.** To qualify for this exemption, the threat of condemnation or the exercise of eminent domain must be made by a governmental entity with the actual power to exercise eminent domain.

(3) **Threat to exercise eminent domain must be imminent.** To qualify for this exemption, the governmental entity must have either filed condemnation proceedings against the seller/grantee; or:

(a) The governmental entity must have notified the seller in writing of its intent to exercise its power of eminent domain prior to the sale; and

(b) The governmental entity must have the present ability and authority to use its power of eminent domain against the subject property at the time of sale; and

(c) The governmental entity must have specific statutory authority authorizing its power of eminent domain for property under the conditions presented.

(4) **Inverse condemnation.** Inverse condemnation occurs when the government constructively takes real property even though formal eminent domain proceedings are not actually taken against the subject property. The seller must have a judgment against the governmental entity, or a court approved settlement, based upon inverse condemnation to claim the exemption.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a sale to a governmental entity may or may not be exempt on the basis of condemnation or threat of eminent domain. The status of each situation must be determined after a review of all the facts and circumstances.

(a) The Jazz Port school district wants to purchase property for a new school. An election has been held to authorize the use of public funds for the purchase, and the general area for the site has been chosen. In order to proceed, the district will need to obtain a five-acre parcel owned by the Fairwood family. The district has been granted authority to obtain property by the use of eminent domain if required. The district has notified the Fairwoods in writing of its intention to exercise its powers of eminent domain if necessary to obtain the land. The Fairwoods, rather than allowing the matter to proceed to court, agree to sell the parcel to the Jazz Port district. The school district will use the parcel for construction of the new school. The conveyance from the Fairwoods to Jazz Port school district is exempt from real estate excise tax because the transfer was made under the imminent threat of the exercise of eminent domain.

(b) The Sonata City Parks Department has the authority to obtain land for possible future development of parks. The department would like to obtain waterfront property for preservation and future development. They approach Frankie and Chaz Friendly with an offer to purchase the Friendlys' 20-acre waterfront parcel. The Parks Department does not have a current appropriation for actual construction of a park on the site, and the City Council has not specifically authorized an exercise of eminent domain to obtain the subject property. The conveyance from the Friendlys to the city is subject to the real estate excise tax, because the transfer was not made under the imminent threat of the exercise of eminent domain.

NEW SECTION

WAC 458-61A-207 Bankruptcy. (1) **Introduction.** The real estate excise tax does not apply to the conveyance of real property by a trustee in bankruptcy or debtor in possession made under either a confirmed chapter 11 plan or a confirmed chapter 12 plan. Federal law preempts real estate excise tax on these transfers.

(2) **Documentation requirements.** A copy of the Order of Confirmation or an extract from the Confirmed Bankruptcy Plan, showing the date the bankruptcy plan was confirmed, the court case cause number, and the bankruptcy chapter number must be attached to the real estate excise affidavit provided to the department.

NEW SECTION

WAC 458-61A-208 Foreclosure—Deeds in lieu of foreclosure—Sales pursuant to court order. (1) **Introduction.** The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. Real estate excise tax affidavits which state claims for this tax exemption must cite the cause number of the foreclosure proceeding on the affidavit and the conveyance document. A copy of the court decision must be attached to the department's affidavit copy by the county treasurer.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Joan and Sam are friends. They decide to jointly purchase real property worth \$100,000 as tenants in common. One year later, they decide to end their co-ownership of the property. Joan and Sam cannot agree on how the property should be divided. They both obtain legal counsel and go to court to resolve the issue. The court orders that Sam will deed his interest in the real property to Joan and Sam will be paid \$65,000 for his interest in the property. No real estate excise tax is due on the transfer since the transfer is pursuant to a court ordered sale.

(b) Rather than going to trial, Joan and Sam agree to a settlement during the course of their negotiations. The attorneys draft an agreeable settlement under which Sam will get the property and Joan will be paid \$75,000. The settlement agreement is presented to the court and the judge signs off on the agreement. Tax is due on the transfer because this is not a court ordered sale.

(3) **Foreclosure and contract forfeiture.** The real estate excise tax does not apply to the following transfers where no additional consideration passes:

(a) A transfer by deed in lieu of foreclosure to satisfy a mortgage or deed of trust;

(b) A transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default of the underlying obligation; or

(c) A transfer occurring through the cancellation or forfeiture of a vendee's interest in a contract for the sale of real

property, regardless of whether the contract contains a forfeiture clause, such as a declaration of forfeiture made under the provisions of RCW 61.30.070.

(d) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a transfer may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(i) Meg sells real property to Julie on a real estate contract. The contract price is \$65,000. Julie makes payments for one year and then loses her job and can't make payments on the contract. Julie feels that she has some equity in the property, but she and Meg disagree on how to resolve the issue. Eventually, they come to an agreement. Meg will pay Julie \$1,500; Julie will sign a deed in lieu of forfeiture and transfer the property to Meg. At the time of the deed in lieu of forfeiture, the outstanding balance of the contract was \$61,000. Even though the transfer was by a deed in lieu of forfeiture, there is additional consideration passing (the \$1,500). The transfer is subject to tax. The taxable selling price is \$62,500, which is the total of the outstanding contract balance that was canceled plus the \$1,500 paid to Julie.

(ii) Sally sells real property to Frank. Frank obtains a \$150,000 loan from Easy Bank. The bank secures the loan with a deed of trust on the real property. Frank is unable to make the payments on the loan. Frank transfers the property back to Easy Bank by deed in lieu of foreclosure to satisfy the deed of trust. No real estate excise tax is due on the transfer.

(iii) Mel sells real property to George. George obtains a \$100,000 loan from Zephyr Bank. The bank secures the loan with a deed of trust on the real property. George is unable to make the payments on the loan. George obtains a second loan of \$25,000 from Sam. Sam secures his loan with a second deed of trust on the real property. Sam's deed of trust is in junior position to Zephyr Bank's deed of trust. Later, George can't make payments to either the bank or Sam. At this time, George owes the Bank \$95,000 and Sam \$23,000. George transfers the real property to Sam by deed in lieu of foreclosure to satisfy Sam's junior deed of trust. The debt to Zephyr Bank (the senior position debt) remains unpaid on the property at the time of transfer. The transfer is partially exempt and partially taxable. The deed in lieu of the junior position debt is exempt. The senior position debt to the bank that remains outstanding on the property at the time of the transfer meets the definition of consideration and is subject to tax. Tax would be due on \$95,000.

(iv) Joe purchases a manufactured home and has it installed in a mobile home park. Joe signs a contract with the mobile home park owner to pay \$300 in monthly rent. If the rent is not paid, the contract states that the park owner has a lien against the manufactured home. Joe is injured and moves in with relatives in another state. Joe does not pay rent for six months. The park owner, takes title to the mobile home under the authority of the rent contract, and puts it up for sale to recover his interest for back rent. The park owner sells the manufactured home to Mimi. No tax is due on the transfer to the park owner, since that transfer was to satisfy a lien on the property. Real estate excise tax is due on the sale to Mimi.

(4) **Deed of trust.** The real estate excise tax does not apply to the foreclosure sale of real property by the trustee under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

(5) **Assignment of indebtedness.** A transfer from a servicing agent, who has acquired real property under this section, to the actual owner of the indebtedness that was foreclosed upon is not subject to real estate excise tax. A copy of the assignment of the indebtedness or a copy of the trustee's deed identifying the servicing agent as an agent for the actual owner must be attached to the real estate excise tax affidavit provided to the department for exemptions claimed under this subsection.

For example, Gil sells real property to Max. Max obtains a \$125,000 loan from Zone Finance. The finance company secures the loan with a deed of trust on real property. Zone Finance sells the loan to Federal National Mortgage Association (Fannie Mae). The finance company becomes the servicing agent for the loan. Max can't make payments on the loan. Due to nonpayment on the debt, the Trustee (under the authority of the Deed of Trust) conducts a Trustee's sale of the real property. The Trustee transfers the property to the Zone Finance via a Trustee's Deed. No real estate excise tax is due on that transfer. Zone Finance Company transfers real property to Fannie Mae, the actual owner of the debt. No real estate excise tax is due on that transfer.

(6) **Sheriff's sale.**

(a) **Introduction.** The real estate excise tax does not apply to a transfer of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county.

(b) The real estate excise tax applies to a subsequent sale or assignment of the right of redemption and the certificate of purchase that result from the sheriff's sale. The taxable consideration includes any payment given or promised to be given. It also includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

(c) **Examples.**

(i) Bill sells property to Sam on a contract. After one year, Sam stops making payments on the contract. Bill obtains a judgment against Sam for nonpayment. At the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. Sam is unable to make payment to redeem the right of redemption during the redemption period. When the redemption period is over, Bill turns the certificate of purchase over to the Sheriff. The Sheriff issues a Sheriff's Deed to Bill. No real estate tax is due on the issuance of the Sheriff's deed to Bill.

(ii) Alternatively, at the Sheriff's sale, Bill obtains a certificate of purchase. Sam obtains the right of redemption. To exercise the right of redemption, the holder must remit \$50,000 to the Sheriff. Sam sells the right of redemption to Jerry for \$10,000. Real estate excise tax is due on \$60,000 for the transfer of the right of redemption from Sam to Jerry. Jerry exercises the right of redemption by paying \$50,000 to the Sheriff. The Sheriff issues a Sheriff's Deed to Jerry. No real estate tax is due on the issuance of the Sheriff's deed to Jerry.

(7) **Documentation.** In addition to the documentation requirements set forth in subsections (1) and (5) of this section, a copy of the recorded original mortgage, deed of trust, contract of sale, or lien document must be presented with the real estate excise tax affidavit.

NEW SECTION

WAC 458-61A-209 Rescission of sale. (1) **Introduction.** The reconveyance of property due to a rescission of sale is not subject to the real estate excise tax.

(2) **Consideration must be repaid to buyer.** To qualify for exemption under this rule, all consideration paid toward the selling price must be returned by the seller to the buyer at the time of the reconveyance.

(a) A seller may retain interest paid by the buyer without disqualifying the exemption.

(b) The payment of a reasonable reimbursement for site improvements will not disqualify the exemption.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a reconveyance may or may not be exempt on the basis of a rescission of sale. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Scott sold his property to Mary by real estate contract for \$200,000 on January 15, 2004. Real estate excise tax was paid to Lion County. Mary gave Scott a down payment of \$10,000 and started making monthly payments of \$1,000 per month to Scott beginning March 2004. In September 2004 Mary notified Scott that she lost her job and wanted to rescind the purchase contract. Scott agreed to take the property back and returned the down payment of \$10,000, and the monthly principal payments totaling \$600 to Mary. The transfer back to Scott from Mary is exempt from real estate excise tax.

(b) Tony purchased Charlie's property by real estate contract for \$100,000 in March 2003. Real estate excise tax of \$1,780 was paid to Puget County. Tony made a \$15,000 down payment and began making \$800 monthly contract payments in May 2003. On October 31, 2004, Tony found out that the property had some minor problems and he wanted to rescind the purchase. Charlie agreed to take the property back but would not give back the money Tony had paid to Charlie for the property. Since all consideration paid toward the purchase of the property was not returned by Charlie, the transfer from Tony to Charlie does not qualify for exemption from real estate excise tax under this rule.

(c) Julie contracted to sell property to Amanda for \$150,000 in April 2004. Julie paid real estate excise tax to Rainier County before Amanda obtained financing. Amanda made a \$20,000 down payment to Julie and applied for a conventional loan to pay the balance of \$130,000. Subsequently, Amanda found out she could not qualify for a loan due to her past credit history. Amanda transferred the property back to Julie, and Julie returned the \$20,000 down payment to Amanda. The transfer back to Julie is exempt from real estate excise tax. In addition, the initial transfer from Julie to Amanda is exempt because Amanda was unable to qualify for a loan to finalize the purchase of the property.

(4) **Refunds.** See WAC 458-61A-301 for refund procedures with respect to real estate excise tax paid on original transfer when the sale is later rescinded.

NEW SECTION

WAC 458-61A-210 Irrevocable trusts. (1) **Introduction.** The distribution of real property to the beneficiaries of an irrevocable trust is not subject to the real estate excise tax if no valuable consideration is given for the transfer and the distribution is made according to the trust instrument.

(2) **Transfer into trust.** A conveyance of real property to an irrevocable trust is subject to the real estate excise tax if:

(a) The transfer results in a change in the beneficial interest and not a mere change in identity or ownership; and

(b) There is valuable consideration for the transfer.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a trust conveyance may or may not be exempt from real estate excise tax. The status of each situation must be determined after a review of all the facts and circumstances.

(a) Eric and Annie, husband and wife, transfer real property valued at \$500,000 to an irrevocable trust. The property has an underlying debt of \$300,000 that is secured by a deed of trust. Under the terms of the trust, the trustee is required to pay all the income annually to the grantors (Eric and Annie), or to the survivor if one of them dies. Upon the death of both Eric and Annie, the property will be divided equally among their children. The conveyance of the property into the trust is not subject to the real estate excise tax, even if the trust pays the indebtedness, because there has been no change in the present beneficial interest, and Eric and Annie did not receive consideration for the transfer.

(b) Jim and Jean, husband and wife, own real property valued at \$800,000. Upon Jean's death, her one-half interest in the property is transferred to Jean's testamentary trust under the terms of her will. Jim, as trustee, has sole discretion to accumulate income or to pay income to himself, or to their children, or to their grandchildren, or to each. The transfer to the trust is not subject to real estate excise tax. See WAC 458-61A-202.

(c) Upon Jean's death, Jim's remaining half-interest in the property is valued at \$400,000, with an underlying debt of \$30,000, for which he is personally liable. Jim transfers his half-interest to Jean's testamentary trust, and the trust pays or is obligated to pay the indebtedness. The conveyance of Jim's one-half interest is subject to real estate excise tax, because the transfer involves both a present change in the beneficial interest (after Jean's death, assets in Jean's trust are legally separate from assets belonging to Jim) and there is valuable consideration in the form of relief of liability for the debt. The real estate excise tax is due on the amount of the consideration (\$30,000).

(4) **Revocable trusts.** See WAC 458-61A-211 for the taxability of transfers into a revocable trust.

(5) **Documentation.** When real property is transferred to or from a testamentary trust, or real property is transferred to or from an irrevocable trust, the following must be provided:

(a) A copy of the trust instrument; or

PROPOSED

(b) A statement signed by the trustee or the grantor, or the representative of the trustee or grantor containing the following information:

(i) The name, address, and telephone number of the trustee or grantor, and/or representative of the trustee or grantor who is authorized to represent the trustee or grantor before the department of revenue;

(ii) The character of the trust, e.g., testamentary, irrevocable living trust, etc.;

(iii) The nature of the transfer:

(A) If the transfer is to or from a testamentary trust, the nature of and reason for the transfer.

(B) If the transfer is to or from an irrevocable living trust:

(I) The nature and reason for the transfer;

(II) Whether or not the property is encumbered with debt; and

(III) Whether or not the trustee may, at the time of the transfer, distribute income and/or principal to a person(s) other than the grantor(s).

NEW SECTION

WAC 458-61A-211 Mere change in identity or form—Family corporations and partnerships. (1) **Introduction.** A transfer of real property is exempt from the real estate excise tax if it consists of a mere change in identity or form of ownership of an entity. This exemption is not limited to transfers involving corporations and partnerships, and includes transfers of trusts, estates, associations, limited liability companies and other entities. If the transfer of real property results in the grantor(s) having a different proportional interest in the property after the transfer, real estate excise tax applies.

(2) **Qualified transactions.** A mere change in form or identity where no change in beneficial ownership has occurred includes, but is not limited to:

(a) The transfer by an individual or tenants in common of an interest in real property to a corporation, partnership, or other entity if the entity receiving the ownership interest receives it in the same pro rata shares as the individual or tenants in common held prior to the transfer. (See also WAC 458-61A-212, Transfers where gain is not recognized under the Internal Revenue Code.)

(b) The transfer by a corporation, partnership, or other entity of its interest in real property to its shareholders or partners, who will hold the real property either as individuals or as tenants in common in the same pro rata share as they owned the corporation, partnership, or other entity. To the extent that a distribution of real property is disproportionate to the interest the grantee partner has in the partnership, it will be subject to real estate excise tax.

(c) The transfer by an entity of its interest in real property to its wholly owned subsidiary, the transfer of real property from a wholly owned subsidiary to its parent, or the transfer of real property from one wholly owned subsidiary to another.

(d) The transfer by a corporation, partnership or other entity of its interest in real property to another corporation, partnership, or other entity if the grantee owner(s) receives it

in the same pro rata shares as the grantor owner(s) held prior to the transfer.

(e) Corporate mergers and consolidations that are accomplished by transfers of stock or membership, and mergers between corporations and limited partnerships as provided in chapters 25.10 and 24.03 RCW.

(f) A transfer of real property to a newly formed, beneficiary corporation from an incorporator to the newly formed corporation, provided:

(i) The proper real estate excise tax was paid on the original transfer to the incorporator; and

(ii) It was documented on or before the original transfer that the incorporator received title to the property on behalf of that corporation during its formation process.

This tax exemption does not apply to a transaction in which a property owner acquires title in his or her own name and later transfers title to the corporation upon its formation.

(g) A transfer into any revocable trust.

(h) A conveyance from a trustee of a revocable trust to the original grantor or to a beneficiary if no valuable consideration passes, or if the transaction is otherwise exempt under this chapter (for example, a gift or inheritance). A sale of real property by the trustee to a third party, or to a beneficiary for valuable consideration, is subject to the real estate excise tax.

(3) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may or may not qualify for this exemption. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Andy owns a 100% interest in real property. He transfers his property to his solely owned corporation. The transfer is exempt from real estate excise tax because there has been no change in the beneficial ownership interest in the property.

(b) Elizabeth owns a 100% interest in real property, and is the sole owner of Zippy Corporation. She transfers her property to Zippy. The corporation pays \$5,000 to Elizabeth and agrees to make payments on the underlying debt on the property. Despite the fact that there was consideration involved in the transfer, it is still exempt from tax because there was no change in beneficial ownership.

(c) Jim, Kathie, and Tim own real property as joint tenants. They transfer their property to their LLC in the same pro rata ownership. The transfer is exempt from real estate excise tax because there has been no change in beneficial ownership.

(d) Pat, Liz, and Erin own Stage Corporation. They also own Song & Dance Partnership, in the same pro rata ownership percentages as their interests in the corporation. Stage Corporation transfers real property to Song & Dance Partnership. The transfer is exempt from real estate excise tax, because there has been no change in beneficial interest.

(e) Morgan owns real property. Brea owns Sparkle Corporation. Morgan transfers real property to Sparkle in exchange for an interest in the corporation. The transfer is subject to real estate excise tax because there has been a change in the beneficial interest in the real property. The tax applies to the extent that the transfer of real property results in the grantor having a different proportional interest in the

property after it is transferred. (Note, however, that Morgan and Brea may be able to structure their transaction in a manner that would qualify for exemption under WAC 458-61A-212.)

(f) Dan owns property as sole owner. Jill owns property as sole owner. Dan and Jill each transfer their property to Rhything LLC, which they form together. The transfers are taxable because there has been a change in the beneficial ownership interest in the real property. To the extent that the transfer of real property results in the grantor having a different proportional interest in the property after the transfer, it is taxable. (Note, however, that Dan and Jill may qualify for an exemption under WAC 458-61A-212.)

(g) Fred and Steve are equal partners in Jazzy Partnership. They decide to transfer real property from the partnership to themselves as individuals. Based on its true and fair value, the partnership transfers 60% of the real property to Fred and 40% to Steve. This distribution is not in proportion to their ownership interest in Jazzy Partnership, and the transfer is not exempt because there has been a change in the beneficial ownership interest. To the extent that the transfer of property results in the grantor having a different proportional interest in the property after the transfer, it is taxable. (Note, however, that Fred and Steve may qualify for an exemption under WAC 458-61A-212.)

(4) Disparate treatment of ownership interests.

(a) Where the ownership of real property is different for financial accounting purposes than for federal tax purposes, the beneficial ownership interest in the real property is deemed the entity which is the owner for financial accounting purposes. Any transfer from the entity that is the owner for federal tax purposes to the owner for financial accounting purposes, or vice versa, is subject to the real estate excise tax.

(b) For example, Giant Company wants to expand its business. It identifies some real property, but is unable to finance the purchase through a normal loan. It contracts with Mega Loans Inc. to enter into a "synthetic lease" for the purchase of the real property. Under the terms of the synthetic lease, Mega Loans will take title to the real property, and Giant Company will lease it from Mega Loans. Real estate excise tax is paid on the purchase of the real property by Mega Loans. The terms of the lease also provide that Mega Loans will be the owner for federal tax purposes and Giant Company will be the owner for financial accounting purposes. Per the lease agreement, after a specified time Mega Loans will transfer title to the real property to Giant Company. The transfer of title from Mega Loans to Giant Company is subject to real estate excise tax.

(5) **Family corporations, partnerships, or other entities.** This exemption applies to transfers to an entity that is wholly owned by the transferor and/or the transferor's spouse or children, regardless of whether the transfer results in a change in the beneficial ownership interest. However, real estate excise taxes will become due and payable on the original transfer as otherwise provided by law if:

(a) The partnership or corporation thereafter voluntarily transfers the property; or

(b) The transferor, spouse or children voluntarily transfer stock in the corporation, or interest in the partnership capital to other than:

(i) The transferor and/or the transferor's spouse or children;

(ii) A trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of transfer to the trust; or

(iii) A corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer is not paid within sixty days of becoming due.

For example, parents own real property as individuals. They create an LLC that is owned by themselves and their three children. The parents transfer the real property to the LLC. Despite the fact that there was a change in beneficial ownership interest, it is still exempt from tax, because the LLC is owned by the grantor and/or the grantor's spouse or children.

(6) **Transfers when there is not a change in identity or form of ownership of an entity.** This exemption applies to transfers of real property when the grantor and grantee are the same.

For example, John and Megan own real property as tenants in common. They decide that they prefer to hold the property as joint tenants with rights of survivorship. John and Megan, as tenants in common, convey the property to John and Megan as joint tenants with rights of survivorship. The transfer is exempt from real estate excise tax.

NEW SECTION

WAC 458-61A-212 Transfers where gain is not recognized under the Internal Revenue Code. (1) **Introduction.** A transfer that, for federal income tax purposes, does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, is not subject to the real estate excise tax.

(2) **Internal Revenue Code sections.** This exemption includes, but is not limited to, nonrecognition of loss or gain under the following sections of the Internal Revenue Code of 1986:

(a) Section 332 - Corporate liquidations - Complete liquidations of subsidiaries.

(b) Section 337 - Corporate liquidations - Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(c) Section 351 - Corporate organizations and reorganizations - Transfer to corporation controlled by transferor.

(d) Section 368 (a)(1) - Corporate organizations and reorganization - Definitions relating to corporate reorganizations - Reorganizations - In general.

(e) Section 721 - Partners and partnerships - Nonrecognition of gain or loss on contribution.

(f) Section 731 - Partners and partnerships - Extent of recognition of gain or loss on distribution.

(3) **Extent of exemption.** This exemption applies only to transfers that qualify as nonrecognition of gain or loss transactions under the Internal Revenue Code for entity formation, liquidation or dissolution, and reorganization.

(a) This exemption does not apply to transactions under Internal Revenue Code section 1031 - Exchange of property

held for productive use or investment. That section of the Internal Revenue Code does not deal with entity formation, liquidation or dissolution, or reorganization. (See WAC 458-61A-213, IRS "tax deferred" exchanges.)

(b) This exemption does not apply to sales under Internal Revenue Code section 1034 - Rollover of gain on sale of principal residence. That section of the Internal Revenue Code does not deal with entity formation, liquidation or dissolution, or reorganization.

(4) **Treatment when gain is partially recognized in an otherwise exempt transaction.** In the event a transaction qualifies for the exemption under this section as a nonrecognition of gain or loss transaction for entity formation, liquidation or dissolution, or reorganization, but a gain is partially recognized under the Internal Revenue Code provisions, the real estate excise tax applies to the amount of the transaction for which gain is recognized.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a grant of an interest in real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) In an otherwise nontaxable Internal Revenue Code section 351 transaction, Nate transfers to ZULU Corporation real property which has a true and fair value of \$100,000. Nate receives, in exchange, ZULU stock worth \$80,000, cash of \$5,000, and a promissory note from ZULU to pay Nate \$15,000 monthly, starting at closing, for 36 months at 6% interest. The \$5,000 cash received and the \$15,000 promissory note constitute "boot" under the provisions of section 351 and gain is recognized to the extent of the "boot." For real estate excise tax purposes, the taxable portion is 20% (\$20,000/\$100,000) and the real estate excise tax applies to 20% of the true and fair value of the real property transferred, or \$20,000.

(b) In an otherwise nontaxable Internal Revenue Code section 351 transaction, Sally transfers real property with a true and fair value of \$50,000, and machinery worth \$250,000, to ECHO Corporation. In exchange, Sally receives ECHO stock worth \$275,000 and cash of \$25,000. The cash received constitutes "boot" and gain is recognized. For real estate excise tax purposes, the nonexempt portion of the transaction is 8.3% (\$25,000/\$300,000). The nonexempt percentage (8.3%) is applied to the true and fair value of the real property (\$50,000) to arrive at the amount \$4,167. Real estate excise tax is due on \$4,167.

(c) Brenda and Julie are partners in LIMA Partnership. In a nontaxable Internal Revenue Code section 721 transaction, Mike transfers real property to LIMA Partnership in exchange for a partnership interest in LIMA Partnership. No consideration, other than the partnership interest in LIMA Partnership, is given to Mike in exchange for Mike's transfer of real property. Because the transfer is exempt under Internal Revenue Code section 721, the real estate excise tax does not apply to Mike's conveyance of real property to LIMA partnership.

(d) Brenda and Julie are also partners in GOLF Partnership. In a nontaxable Internal Revenue Code section 721

transaction, Mike contributes cash to GOLF Partnership in exchange for a 60% partnership interest in GOLF Partnership. The cash is used by the partnership to develop real property owned by the GOLF Partnership. Because the transfer is exempt under Internal Revenue Code section 721, the real estate excise tax does not apply to Mike's acquisition of a partnership interest in GOLF Partnership.

(6) **Rules of construction.** In determining whether a transfer qualifies for exemption under this section, the department will consider the law, regulations, bulletins, technical memoranda, letter rulings, etc., of the Internal Revenue Code and the Internal Revenue Service, as interpreted by the courts. Determinations of taxability under this chapter will be given the same treatment as the final determination of taxability for federal tax purposes.

NEW SECTION

WAC 458-61A-213 IRS "tax deferred" exchange. (1) **Introduction.** This rule describes the application of the real estate excise tax in transfers involving an exchange facilitator. An "exchange facilitator" is a person who acts as an agent on behalf of another person in connection with an exchange of real property under section 1031 of the Internal Revenue Code section 1031 of 1986.

(2) Acquisition of property by an exchange facilitator in connection with a section 1031 tax deferred exchange is subject to the real estate excise tax.

(3) The later transfer of the property by the facilitator in completion of the exchange is subject to real estate excise tax, unless the following requirements are met:

(a) The proper tax was paid on the initial transaction;

(b) A supplemental statement signed by the exchange facilitator, as provided by WAC 458-61A-304, is attached to the real estate excise tax affidavit indicating that the facilitator originally took title to the property for the sole purpose of effecting a section 1031 federal tax deferred exchange; and

(c) The funds used by the exchange facilitator to acquire the property were provided by the grantee and/or received from the proceeds of the sale of real property owned by the grantee.

(4) If the deeds for both transactions to and from the facilitator are being recorded at the same time, the proper tax can be paid on either the first or the second transaction at the discretion of the facilitator.

(5) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a conveyance of real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) Bob owns commercial real property in Princeton County worth \$400,000. Bob wants to exchange his property in Princeton County for other commercial property in Eagle County owned by Sally. Sally agrees to sell her Eagle County property to Bob for \$600,000. Bob places his commercial property in Princeton County for sale. John contacts Bob and agrees to purchase the Princeton County property for \$450,000. Bob contacts Ted, an exchange facilitator, to

arrange for a transfer of his property as a 1031 federal tax deferred exchange. Per Ted's instructions, Bob transfers the Princeton County property to Ted. Ted transfers the Princeton County property to John and receives \$450,000. Real estate excise tax is due on the transfer from Bob to Ted. No tax is due on the transfer from Ted to John. The Eagle County property is transferred from Sally to Ted for the \$600,000 sales price, \$450,000 which was received from the Princeton County sale and \$150,000 from a new loan obtained by Bob. Ted transfers the Eagle County property to Bob. Tax is due on the transfer from Sally to Ted. No tax is due on the transfer from Ted to Bob.

(b) Bob is unable to find a buyer for his Princeton County property. Bob contacts Ted, the exchange facilitator, to arrange for a transfer of his property as a 1031 federal tax deferred exchange. Per Ted's instructions, Bob transfers the Princeton County property to Ted. Ted holds the property until Bob can locate a buyer. Real estate excise tax is due on the transfer from Bob to Ted. The Eagle County property is transferred from Sally to Ted for the \$600,000 sales price, provided from a \$600,000 new loan obtained by Bob. Ted transfers the Eagle County property to Bob. Tax is due on the transfer from Sally to Ted. No tax is due on the transfer from Ted to Bob. One month later, Joan agrees to purchase the Princeton County property. Ted transfers the property to Joan for \$350,000. Tax is due on the transfer from Ted to Joan, because the funds used by Ted to acquire the Princeton County property from Bob were not provided by Joan.

(6) **Documentation.** A real estate excise tax affidavit is required for each transfer in a section 1031 exchange including the transfers to and from an exchange facilitator. The affidavit reflecting the claim for tax exemption must show the affidavit number and date of the tax payment, and have attached the supplemental statement as provided by WAC 458-61A-304 and subsection (3)(b) of this section.

NEW SECTION

WAC 458-61A-214 Nominee. (1) **Introduction.** This rule describes the application of the real estate excise tax in transfers involving a nominee. A "nominee" is a person who acts as an agent on behalf of another person in the purchase of real property.

(2) **Initial acquisition.** The initial acquisition of property by a nominee on behalf of a third party is subject to the real estate excise tax.

(3) **Subsequent transfer.** The later transfer of the property by the nominee to the third party purchaser is subject to real estate excise tax, unless each of the following requirements is met:

(a) The proper tax was paid on the initial purchase of the property by the nominee;

(b) The funds used by the nominee to acquire the property were provided by the third party;

(c) The third party legally existed at the time of the initial transaction; and

(d)(i) The subsequent transfer from the nominee to the third party is not for a greater consideration than that of the initial acquisition; or

(ii) In the case where the nominee is a licensed contractor and the subsequent transfer to the third party (customer) reflects the completed construction contract, the retail sales tax is collected on the construction contract and remitted to the department. See also WAC 458-61A-104.

For example, Sara finds a home to buy. However, she is in the military and has learned she is going to be called to duty out of the country. She gives her money for the home purchase to Tom, who finalizes the purchase and obtains the mortgage in his name. Sara pays the down payment, closing costs, and makes all the payments on the mortgage. When Sara returns from duty, Tom will transfer the home back to her, and she will refinance the mortgage into her own name. Tom's transfer to Sara is exempt from real estate excise tax, as Tom was acting as her nominee in the purchase of the home and all funds associated with the purchase of the home have come from Sara.

(4) If the nominee is a licensed contractor transferring to the third-party principal at the completion of a construction contract, proof of the payment to the department of retail sales tax on the construction contract must be attached to the affidavit.

For example, Bill contracted with Phil's Construction to build a home for him on a lot Phil will acquire. Phil buys a lot from Kevin. Real estate excise tax is paid on the sale from Kevin to Phil. Phil's Construction builds the home and collects retail sales tax on the total construction contract, which is then remitted to the department of revenue. Phil's Construction files a real estate excise tax affidavit with the county, together with proof that retail sales tax has been paid. The transfer of the lot and completed home from Phil's Construction to Bill is exempt from real estate excise tax.

(5) **Documentation.** The parties must provide documentation that they have met all the requirements necessary to claim this exemption. Acceptable documentation includes a notarized statement, dated on or before the date of the initial purchase, that the nominee acquired the property on behalf of the third party, or other documentation clearly demonstrating the requirements of subsection (3) of this section have been satisfied. Such documentation may include, but is not limited to, financial documentation evidencing the nominee/third-party relationship existed from the time of the original transfer, and confirming the source of the funds used to purchase the property.

Examples.

(a) Tom is on title to property. Tom wants to transfer the property to Angie and claim the nominee exemption, but they do not have a notarized statement. In lieu of that statement, Angie presents documentation that she provided the funds for the down payment and all closing costs for the initial purchase of the property. Angie also presents documentation that she provided the funds on the first year's payments on the debt after the initial purchase and provided funds for the last year's payments on the debt. This is acceptable documentation that the requirements of subsection (3) of this section have been satisfied.

(b) Dan wants to buy a house and executes an earnest money agreement, contingent on financing. When he applies for a mortgage he is turned down because of insufficient credit. Dan's Uncle Bob agrees to purchase the house in his

name and loans Dan the down payment of \$10,000. Dan signs a promissory note agreeing to repay Uncle Bob. Dan makes all the mortgage payments on the property. After two years, Dan has sufficient credit to refinance the debt in his own name. Uncle Bob quitclaims title to Dan. This transfer meets the nominee exemption requirements because:

- (i) Real estate excise tax was paid on the initial transaction;
 - (ii) The signed earnest money agreement shows Dan's initial intent to purchase the property in his name;
 - (iii) Dan has made all the payments on the debt; and
 - (iv) The signed promissory note is sufficient evidence Uncle Bob did not intend to have a financial interest in the property.
- (6) The affidavit reflecting the claim for tax exemption must show the prior affidavit and number and date of the tax payment.

NEW SECTION

WAC 458-61A-215 Clearing or exiting title, and additions to title. (1) **Introduction.** The real estate excise tax does not apply to quitclaim deeds given for the sole purpose of clearing title if no consideration passes otherwise. This rule does not apply to deeds executed for the purpose of adding persons to title, except in cases of persons added to title for co-signing security purposes only.

(2) **Examples.** The following examples, while not exhaustive, illustrate some of the circumstances in which a conveyance of real property may or may not qualify for exemption under this rule. These examples should be used only as a general guide. The taxability of each transaction must be determined after a review of all the facts and circumstances.

(a) An exiting minority partner gives the partnership a quitclaim deed for the purpose of removing any presumptive interest. This transfer is exempt from real estate excise tax under this rule.

(b) An heir to an estate gives the estate a quitclaim deed for the purpose of removing any presumptive interest they have in the estate. This transfer is exempt under this rule.

(c) A developer deeds greenbelts, streets or common areas in a development to the homeowners association upon completion of the development and under the terms and covenants of the development. This transfer is exempt under this rule.

(d) Joseph owns a residence and goes to a bank to refinance. His credit is not good enough to obtain the new loan in his name only, but he can qualify if he obtains a co-signor/co-borrower. Joseph's parents agree to co-sign the loan. The bank requests that the parents also go on title with Joseph, and he quitclaims a half interest to his parents. Although the deed may be phrased as a gift to his parents, the deed acts as a security interest for his parents in the event Joseph defaults. The addition of Joseph's parents to the title is exempt under this rule, provided Joseph makes all the mortgage payments, and Joseph receives no consideration from his parents for the transfer.

(e) The parents described in (d) of this subsection who have been on title with their child are now issuing a quitclaim

deed to Joseph to exit title. Joseph has now paid off or refinanced the mortgage in his name only. The parents' intention was to go on title as "co-signors" only, not as co-purchasers of the property, and they have not made any payments toward the repayment of the loan. This transfer is exempt under this rule.

(3) **Documentation.** A narrative that explains the nature of the clearance of, or addition to title must be signed by both grantor and grantee, or agents of either, and attached to the real estate excise tax affidavit. The original narrative will be retained with the original affidavit at the county office and a copy of the narrative will be attached to the department's affidavit copy.

NEW SECTION

WAC 458-61A-216 Mortgage insurers. (1) **Introduction.** The transfer of real property from a mortgage lender to the Veterans Administration or Federal Housing Authority is an exempt transaction.

(2) The transfer of real property from a mortgage lender to another private insurer or guarantor in settlement of an insurance claim is a taxable transaction.

NEW SECTION

WAC 458-61A-217 Rerecord. (1) **Introduction.** The rerecording of documents to correct a legal description, change contract terms, or correct the spelling of the name of a party to the transaction, is not subject to the real estate excise tax.

(2) **Documentation required.** An affidavit is required for the rerecording. The affidavit must refer to the prior affidavit number and the recorded document number for the prior transaction, and must include a complete explanation of why the rerecording is necessary.

COLLECTION AND ADMINISTRATION

NEW SECTION

WAC 458-61A-300 Introduction. Real estate excise tax is levied by the state under chapter 82.45 RCW and by counties under chapter 82.46 RCW. The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except as provided in RCW 82.45.150. This section describes the applicable procedures for payment, collection, disposition of proceeds, requests for refunds, penalties, record keeping requirements, requests for rulings, and other administrative processes.

NEW SECTION

WAC 458-61A-301 Payment of tax, collection responsibility, audit responsibility, and tax rulings. (1) **Tax imposed.** The taxes imposed are due at the time the sale occurs and are collected by the county when the documents of sale are presented for recording or, in the case of a transfer of a controlling interest (see WAC 458-61A-101), by the department. The tax is imposed upon the seller.

(2) **Payment of tax. Scope of section.** This section applies to sales of real property that are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of title to real property. See WAC 458-61A-101 for procedures pertaining to transfers or acquisitions of a controlling interest in an entity owning real property in Washington.

(3) **County as agent for state.** Real estate excise tax is paid to and collected by the agent of the county where the property is located (unless the transaction involves the transfer of a controlling interest, in which case the tax is paid to the department).

(4) **Computation of tax.** The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price. A current list of the current state and local real estate excise tax rates is available on the department's web site at dor.wa.gov. This information is also available by contacting the county where the property is located.

(5) **Evidence of payment.** The county agent stamps the instrument of sale or conveyance prior to its recording as evidence that the tax has been paid or that an exemption from the tax was claimed. In the case of a used mobile home, the real estate excise tax affidavit is stamped as evidence of payment or a claimed exemption. The stamp references the affidavit number, date, and payment of or exemption from tax, and identifies the person stamping the instrument or affidavit.

(6) **Compliance with property tax statutes.** The county agent will not stamp the instrument of conveyance or affidavit if:

(a) A continuance of use has been applied for but not approved by the county assessor under chapter 84.33 or 84.34 RCW; or

(b) Compensating or additional tax is due but has not been paid as required by RCW 84.33.086, 84.33.140 (5)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080.

(7) **Prerequisites to recording.** The county auditor will not file or record the instrument of conveyance until all taxes due under this section have been paid or the transfer is determined to be exempt from tax as indicated by a stamped document.

(8) **Evidence of lien satisfaction.** A receipt issued by the county agent for payment of the tax may be used as evidence of satisfaction of a lien imposed under RCW 82.45.070.

(9) **Audit authority.** All transactions are subject to audit by the department. The department will audit transactions to confirm the proper amount of tax was paid and that any claim for exemption is valid. Failure to provide documentation to the department as requested may result in denial of any exemptions claimed and the assessment of additional tax.

(10) **Tax assessments.**

(a) If the department discovers an underpayment of tax due, it will notify the taxpayer and assess the additional tax due, together with all applicable interest and penalties. The assessment notice will identify the additional tax due and explain the reason for the assessment.

(b) Persons receiving an assessment must respond within thirty days from the date the assessment was mailed. Failure to respond may result in the assessment of additional penalties and interest and enforcement for collection of the defi-

cient tax under the administrative provisions of chapters 82.32 and 82.45 RCW.

(11) **Tax rulings.** Any person may request a written opinion from the department regarding their real estate excise tax liability pertaining to a proposed transfer of real property or a proposed transfer or acquisition of the controlling interest in an entity with an interest in real property. The request should include sufficient facts about the transaction to enable the department to ascertain the proper tax liability. The department will advise the taxpayer in writing of its opinion. The opinion is binding upon both the taxpayer and the department under the facts presented in accordance with WAC 458-20-100(9), appeals, small claims and settlements. To obtain a written opinion, send your a request to:

Department of Revenue
Taxpayer Information & Education
P.O. Box 47478
Olympia, WA 98504-7478

You may also use the "contact" information available online at dor.wa.gov.

(12) **Refunds.**

(a) **Introduction.** Under certain circumstances, taxpayers (or their authorized representatives) may request a refund of real estate excise tax paid. The request must be filed within four years of the date of sale, and must be accompanied by supporting documents.

(b) **Claims for refunds.** Any person having paid the real estate excise tax in error may apply for a refund of the amount overpaid by submitting a completed refund request form.

(c) **Forms and documentation.** Refund request forms are available from the department or the county. The completed form along with supporting documentation is submitted to the county office where the tax was originally paid. If the tax was originally paid directly to the department, the claim form and supporting documentation are submitted to:

Department of Revenue
Miscellaneous Tax Section
P.O. Box 47477
Olympia, WA 98504-7477

(d) **Circumstances under which refunds are authorized.** The authority to issue a refund under this chapter is limited to the following circumstances:

(i) Real estate excise tax was paid on the conveyance back to the seller in a transaction that is completely rescinded (as defined in WAC 458-61A-209);

(ii) Real estate excise tax was paid on the conveyance back to the seller on a sale rescinded by court order. The county treasurer must attach a copy of the court decision to the department's affidavit copy (see also WAC 458-61A-208, Deeds in lieu of foreclosure);

(iii) Real estate excise tax was paid on the initial conveyance recorded in error by an escrow agent before the closing date, provided that the property is conveyed back to the seller;

(iv) Real estate excise tax was paid on the conveyance back to the seller in accordance with (d)(iii) of this subsection;

(v) Real estate excise tax was paid on the initial conveyance recorded before a purchaser assumes an outstanding loan that represents the only consideration paid for the property, provided:

(A) The purchaser is unable to assume the loan; and

(B) The property is conveyed back to the seller. The refund is allowed because there is a failure of the consideration;

(vi) The conveyance back to the seller in (d)(v) of this subsection;

(vii) Double payment of the tax;

(viii) Overpayment of the tax through error of computation; or

(ix) Real estate excise tax paid when the taxpayer was entitled to claim a valid exemption from the tax but failed to do so at the time of transfer.

(e) **Responsibilities of county.**

(i) **Request for refund made prior to disposition of proceeds.** If the taxpayer submits a valid refund request to the county before the county treasurer has remitted the tax to the state treasurer, the county may void the receipted affidavit copies and issue the refund directly. The county will then submit a copy of the initial affidavit, together with a copy of the refund request, to the department. If, after reviewing the request for refund and supporting documentation, the county is unable to determine the validity of the request, the county will send the request, a copy of the affidavit, and all supporting documentation to the department for determination. If the county denies the request for refund, in whole or in part, the taxpayer may appeal in writing to the department's miscellaneous tax section within thirty days of the county's denial.

(ii) **Request for refund made after disposition of proceeds.** If the taxpayer submits the refund request after the county treasurer has remitted the tax to the state treasurer, the county will verify the information in the request and forward it to the department with a copy of the affidavit and any other supporting documents provided by the taxpayer. The county or the department may request additional documentation to determine whether the taxpayer qualifies for a refund.

NEW SECTION

WAC 458-61A-302 Disposition of proceeds and affidavit batch transmittal. (1) **Introduction.** This rule explains how the counties, the department of revenue, and the state treasurer process the taxes and administrative fees received under this chapter.

(2) **County treasurer.** The county treasurer distributes the proceeds of the real estate excise tax in accordance with the provisions of chapters 82.45 and 82.46 RCW. When no real estate excise tax is due on a transaction, the county will collect an administrative fee for processing the real estate excise tax affidavit. RCW 82.45.180.

(3) **Adjustments.** Requests from county treasurers for adjustments to the funds that have been distributed to the state treasurer must be sent to the department for approval or denial. The department will forward to the state treasurer those requests that it approves. If the department denies a

request for adjustment, the department will return the request to the county treasurer with an explanation for the denial.

(4) **Tax paid directly to the department.** Real estate excise tax for transfers of a controlling interest in an entity owning real property in Washington, and any other tax payment under this chapter made directly to the department, are remitted to the state treasurer. The state treasurer deposits the proceeds of the state portion of the tax in the general fund for the support of the common schools. The state treasurer deposits and distributes the proceeds of any local taxes in accordance with the provisions of chapters 82.45 and 82.46 RCW.

(5) **Affidavit batch transmittal.**

(a) **Due date.** The county will submit copies of all the real estate excise tax affidavits for the entire month, together with a completed affidavit batch transmittal form, to the department by the fifth business day following the close of the month in which the tax was received. The affidavit batch must include all affidavits processed during the month, plus copies of any documents related to refunds made by the county.

(b) **Alternate transmittal method.** An alternate method for submitting affidavits may be used in lieu of the paper method described in this rule with the prior approval of the department. Use of an alternate method (e.g., electronic transmittal) requires a signed memorandum of understanding (MOU) between the county and the department.

(c) **Distribution.** The county will complete the affidavit transmittal form, supplied by the department, and send one copy with the affidavit batch to the department. The county will send a second copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the state treasurer's office as documentation for the remittance of the real estate excise tax deposit.

(d) **Reporting of refunds.** The county must report any refunds made during the month on the adjustment section provided on the batch transmittal form and attach all refund documentation.

(e) **Retention of records.** The county treasurer will retain the approved real estate excise tax affidavits, including any supplemental statements, for a period of not less than four years following the year in which the affidavit is received. See RCW 82.45.150 and 82.32.340.

NEW SECTION

WAC 458-61A-303 Affidavit. (1) **Introduction.** This section explains when a real estate excise tax affidavit is required for the conveyance of an interest in property. See WAC 458-61A-101 for procedures pertaining to transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) **Affidavit required.** In general, an affidavit must be filed when ownership or title to real property transfers as evidenced by conveyance, deed, grant, assignment, quitclaim, including, but not limited to, the following:

(a) Conveyance establishing or separating community property, or in fulfillment of a settlement agreement incident to a dissolution of marriage, legal separation, or declaration of invalidity;

- (b) Conveyance resulting from a court order;
- (c) Conveyance to secure a debt;
- (d) Conveyance of a taxable easement;
- (e) A deed in lieu of foreclosure of a mortgage;
- (f) A deed in lieu or declaration of forfeiture of a real estate contract;
- (g) Conveyance to an heir in the settlement of an estate;
- (h) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;
- (i) Conveyance of development rights, water rights, or air rights;
- (j) Conveyance of leasehold improvements;
- (k) Boundary line adjustments; or
- (l) The affidavit must be filed when rerecording a document to correct a minor error, such as the legal description or spelling of a name.

(3) **Affidavit not required.** The real estate excise tax affidavit is not required nor accepted for the following transactions:

- (a) Conveyance of cemetery lots or graves;
- (b) Conveyance for assignment or release of security, stated on the face of the instrument:
 - (i) To secure or assign a debt; or
 - (ii) To provide or release collateral;
- (c) A lease of real property that does not transfer lessee-owned improvements;
- (d) A mortgage or deed of trust, satisfaction of mortgage, or reconveyance of a deed of trust;
- (e) A seller's assignment of deed and contract;
- (f) A fulfillment deed pursuant to a real estate contract;
- (g) A community property agreement under RCW 26.16.120;
- (h) Purchase of an option; or
- (i) An earnest money agreement.

(4) **Examples.**

(a) Lionel Construction has developed a group of new homes. It deeds a street to the homeowners' association upon completion of the development. This is done to clear title, which is an exempt transaction. The affidavit should cite the appropriate exemption rule, describe the exemption as "clearing title for street for homeowners' association," and have attached all department-required documentation.

(b) Webb Corporation transfers its interest in a parcel of real property to its wholly owned subsidiary, Watson Company. This is an exempt transaction because there is no change in beneficial ownership of the property. The affidavit must cite the appropriate exemption rule, describe the exemption as "transfer to wholly owned subsidiary; no change in beneficial ownership," and have attached all documentation required by the department.

(5) **Multiple buyers.** When the transfer of property is to two or more buyers, the affidavit must clearly state the relationship between them as joint tenants, tenants in common, partners, etc., and identify the form and proportion of interest each is acquiring.

(6) **Affidavit must be complete.**

(a) Taxpayers must provide complete and accurate information on the affidavit, as well as all documentation required

by the department for claimed tax exemptions. Incomplete affidavits will not be accepted.

(b) An affidavit is incomplete if any required information is omitted or obviously incorrect, such as the use of a nominal selling price. A nominal selling price is an amount stated on the affidavit that is so low in comparison with the fair market value assessment stated on the property tax rolls that it would cause disbelief by a reasonable person. In the case of a nominal selling price, the county assessed value will be used as the selling price, unless there is an independent appraisal showing a greater value.

(7) **Documentation required when claiming an exemption.** Claims of exemption from the real estate excise tax must be specific and include the following:

(a) Current assessed values of parcels involved as of the date of sale; and

(b) Complete reasons for the exemption, including reference to the specific tax exemption in this chapter, citing the specific WAC section and subsection providing the exemption, as well as a brief description of the exemption.

(8) **Completion of affidavit.** The department will provide a real estate excise tax affidavit to be completed by the taxpayer and filed with the agent of the county where the property is located. Affidavits will be furnished by the department to the county agents and accessible to the public in one or more formats to be determined by the department. Alternative forms may be used, as long as they are in a format accepted by the department.

In most instances, the affidavit must be signed by the seller or the seller's agent and the buyer or the buyer's agent, under oath, certifying that all information on the affidavit is complete and correct. However, an affidavit given in connection with the grant of an easement or right of way to a utility company, public utility district or cooperative, or a governmental entity needs to be signed only on behalf of the entity purchasing the utility right of way or easement.

(9) **Duplicate affidavits.** To accommodate the requirement that the affidavit be signed by both the seller and buyer, or agents of each, identical affidavits may be submitted for a single transaction, one bearing the seller's or seller's agent's signature and one bearing the buyer's or buyer's agent's signature. Both affidavits must be complete and have identical information. The county agent will receipt one of the affidavits and attach the other affidavit to the receipted affidavit.

(10) **Retention of records.** The taxpayer must retain all records pertaining to the transaction for a period of at least four years from the date of the conveyance.

NEW SECTION

WAC 458-61A-304 Supplemental statements. (1) The department will provide the county with a uniform multiuse supplemental statement form for use in meeting the requirements of the following sections of this chapter:

- (a) WAC 458-61A-306, Interest and penalties—Date of sale;
- (b) WAC 458-61A-201, Gifts; and
- (c) WAC 458-61A-213, IRS "tax deferred" exchange.

(2) The supplemental statements must be completed and distributed as required by the instructions contained on the form.

(3) Supplemental statements may be unsworn certified statements that meet the requirements set forth in RCW 9A.72.085.

NEW SECTION

WAC 458-61A-305 Trade-in credit. (1) **Introduction.** When a single-family residential property is transferred as either partial or entire consideration for the purchase of another single-family residential property, a credit for the amount of the real estate excise tax paid at the time of the first transfer is allowed toward the amount of the real estate excise tax due upon the later transfer of the same property.

(2) **Refund not available.** The later transfer must be made within nine months of the original transfer for the credit to be allowed. If the tax that would be due on the later transfer is greater than the tax paid for the first transfer, the difference must be paid. However, if the tax paid on the first transfer is greater than that due on the second transfer, no refund of tax paid will be allowed.

(3) The trade-in credit is allowed toward the later sale of the residence "brought in" on trade, not toward the tax liability of the sale of the residence for which it was traded. The affidavit upon which the trade-in credit is claimed must show all of the following:

- (a) The transaction date and prior affidavit number where the tax was paid on the original (trade-in) transaction;
- (b) The county auditor's recorded document number for the original transaction, if such was recorded; and
- (c) The disclosure that both properties involved in the original trade-in transaction are single-family dwellings.

For example, Bob is selling real property in Sun City. Alex wants to buy Bob's property, but he needs to sell his property in Smokey Hollow. Both the Sun City property and the Smokey Hollow property are single-family residential properties. Bob agrees to buy Alex's Smokey Hollow property for \$175,500 and Alex agrees to buy Bob's Sun City property for \$210,000. Real estate excise tax is paid on the full sales price of both properties. Three months later, Bob sells the Smokey Hollow property to Sally for \$180,000. Bob receives a credit on the sale to Sally for the tax paid on the previous sale of the Smokey Hollow property.

NEW SECTION

WAC 458-61A-306 Date of sale, interest, and penalties. (1) **Introduction.** This rule explains how to determine the date of sale and explains the application of interest and penalties when the tax is not paid within one month of the date of sale. See WAC 458-61A-101 for procedures pertaining to transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) **Date of sale.** Real estate excise tax is due and payable to the county on the date of sale, regardless of the date on which the contract of sale or instrument of conveyance is recorded.

(a) **Conditions to be fulfilled prior to completing sale.** When a contract of sale or instrument of conveyance is

signed and delivered by the seller to an escrow agent licensed under chapter 18.44 RCW (Escrow Agent Registration Act), a title company, a title insurance company, or an attorney acting as an escrow agent, with instructions to deliver the instrument to the buyer upon the fulfillment of one or more conditions that had prevented the sale from being completed, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(i) A statement, signed by the seller's agent, is attached to the affidavit indicating the specific conditions that had to be met in order for the sale to be completed;

(ii) The date shown on the instrument cannot be more than ninety days prior to the date the affidavit is presented to the county treasurer for filing; and

(iii) All documentation required by the department must be provided to the county agent when submitting the affidavit claiming an exemption from interest and penalty pursuant to this rule.

(b) **Sale of mining property.** A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the lease and option at any time, is taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract. The tax due on any additional consideration received by the seller is paid to the county at:

(i) The time of termination;

(ii) The time that all of the consideration due to the seller has been paid and the transaction is completed except for delivery of the deed to the buyer; or

(iii) The time when the buyer exercises an option to purchase the property.

For further information regarding mineral rights and mining claims, see WAC 458-61A-112.

(c) In all other cases, the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

(3) **Interest.** Payment of the real estate excise tax is due on the date of sale. If the tax is not paid within one month of the date of sale, interest will be imposed on the total amount of the unpaid tax (both the state and local components) from the date of sale to the date of full payment. RCW 82.45.100(1) and 82.46.010(5). Interest is calculated on a monthly basis with a full month's interest accruing at the beginning of each month. A list of annual interest rates is available on the department's web site at dor.wa.gov.

(a) Interest is computed in accordance with the provisions of RCW 82.32.050(2). The interest rate is adjusted annually on January 1. The rate applied to any given month or portion of a month is the annual variable interest rate in effect at the beginning of that month, divided by twelve. Any interest imposed for a month or portion of a month that starts in December will be imposed at the interest rate effective in December, even though the interest rate may change on January 1. For example:

(i) Tyler sold real property located in Mayberry to Dustin on April 20, 2004. Tyler does not file a Real Estate Excise

Tax Affidavit until August 15, 2004, at which time he pays \$1,530 in tax. The interest rate for 2004 is 4%, and interest is due on the transfer from April 20, 2004, through August 15, 2004, the date the tax was paid. Interest would be due as follows:

April 20 to May 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
May 21 to June 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
June 21 to July 20, 2004	\$1,530 tax at 0.33% per month	\$5.05
July 21 to August 15, 2004	\$1,530 tax at 0.33% per month	\$5.05
Total interest due with August 15, 2004 payment		\$20.20

In this example, note that a full month's interest applies from July 21 to August 15, 2004, even though it is less than a full month.

(ii) Tara sells her house in Sun City to Chris on March 5, 2004. Real estate excise tax of \$1,780 is due on April 5, 2004, but is not paid until June 16, 2004. Interest applies from March 5, 2004, through June 16, 2004, the date of full payment. Again, a full month's interest applies from June 5 to June 16, 2004, even though it is less than a full month.

March 5 to April 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
April 5 to May 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
May 5 to June 4, 2004	\$1,780 tax at 0.33% per month	\$5.87
June 5 to June 16, 2004	\$1,780 tax at 0.33% per month	\$5.87
Total additional interest due with June 16, 2004 payment		\$23.48

(b) When interest must be calculated in a shorter month that does not have a day corresponding to the original date of sale, interest is computed on the first day of the following calendar month.

For example, Kevin sells land located in unincorporated Sparkle County to Jim and Anita on January 30, 2004. Tax of \$3,560 is due on February 28, 2004. Since February has only twenty-eight days (assuming it is not a leap year) and February 28 most closely corresponds to the January 30 date of sale. The tax is not paid until May 10, 2004. The interest is computed as follows:

January 30 to February 28, 2004	\$3,560 tax at 0.33% per month	\$11.75
March 1 to March 30, 2004	\$3,560 tax at 0.33% per month	\$11.75
March 31 to April 30, 2004	\$3,560 tax at 0.33% per month	\$11.75

May 1 to May 10, 2004	\$3,560 tax at 0.33% per month	\$11.75
Total interest due with May 10, 2004 payment		\$47.00

(4) **Delinquent penalty.** If payment of real estate excise tax is not received by the county within one month of the date of sale, a delinquent penalty is imposed on the total amount of the unpaid tax. RCW 82.45.100(2) and 82.46.010(5).

(a) If tax is not paid:

(i) Within one month of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due;

(ii) Within two months of the date of sale, a penalty of ten percent shall be added to the tax due; and

(iii) Within three months of the date of sale, a penalty of twenty percent will be added to the tax due.

(b) Penalties are assessed against the seller only and will not be included in a lien arising under RCW 82.45.070.

(5) **State assessment penalty.** Any tax determined to be due and assessed by the department will include an assessment penalty of five percent of the tax assessed by the department. RCW 82.32.090(2).

(a) If payment of the tax assessment is not received by the department by the due date specified in the notice, or any extension thereof, a penalty of fifteen percent of the amount of the tax under this subsection will be assessed; and

(b) If payment of the tax assessment is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, a penalty of twenty-five percent of the amount of the tax under this subsection will be assessed; and

(c) This penalty will be no less than five dollars.

(6) **Evasion penalty.**

(a) The department may add a penalty equal to fifty percent of the underpaid excise tax due on transfers where an intent to evade the payment of the excise tax is demonstrated.

(b) An "intent to evade" includes, but is not limited to, knowingly stating a false sales price or knowingly claiming a tax exemption for which the transfer does not qualify.

PROPOSED

WSR 05-17-037

PROPOSED RULES

COLUMBIA BASIN COLLEGE

[Filed August 8, 2005, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-072.

Title of Rule and Other Identifying Information: Regulations on use of college facilities, WAC 132S-50-010 through 132S-50-280.

Hearing Location(s): Columbia Basin College Administration Building Board Room, on September 27, 2005, at 1-3 p.m.

Date of Intended Adoption: October 10, 2005.

Submit Written Comments to: Louise Meyers, Columbia Basin College, 2600 North 20th Avenue, Pasco, WA

99301, e-mail Imeyers@columbiabasin.edu, fax (509) 546-0404, by September 26, 2005.

Assistance for Persons with Disabilities: Contact Peggy Buchmiller by September 26, 2005, TTY/TTD (509) 546-0400.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Purpose of the proposed changes is to bring clarity to existing rules, update titles and clarify definitions, designate authority to the vice president for administration and to bring into alignment with current college policies.

Reasons Supporting Proposal: To clarify rules' intent and make corrections of a general housekeeping nature.

Statutory Authority for Adoption: RCW 28B.50.140(7).

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

Name of Proponent: Columbia Basin College, public and governmental.

Name of Agency Personnel Responsible for Drafting: Ruben Lemos, A-105 Administration Building, (509) 547-0511; Implementation: Bill Saraceno, A-252 Administration Building, (509) 547-0511 ext. 2248; and Enforcement: Lee R. Thornton, A-271 Administration Building, (509) 547-0511 ext. 2201.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending WAC 132S-50-010 through 132S-50-280, college facilities, does not have a disproportionate impact which reduced competition, innovation, employment, and new employment opportunities, and threatens the very existence of some small businesses as defined under chapter 10.85 [19.85] RCW.

A cost-benefit analysis is not required under RCW 34.05.328. Amending WAC 132S-50-010 through 132S-50-280, college facilities, relates only to internal government operations that are not subject to violation by a nongovernmental party. The purpose of amending these rules is to correct typographical errors, make name changes, and clarify or add language to the rule without changing its overall effect.

August 5, 2005

Lee R. Thornton
President

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-010 Purpose. Columbia Basin College exists as a facility which must provide for the needs of a community as expressed in the geographical boundaries of Benton and Franklin counties. Beyond its initial charge of education and training of people, there rests an additional responsibility to provide maximum use of its physical facilities for institutional and community use. It shall be the policy of Columbia Basin College to offer its physical facilities for group use on a priority basis as follows:

- (1) Instructional activities;
- (2) Student activities;
- (3) Community activities.

Each group must abide by rules and regulations of use which shall be determined by the administration. Instructional and student groups must make an application in advance of the

intended date of use to avoid scheduling conflicts. Community groups must make application for facility use and ((must)) should make such application at least thirty days prior to the intended date of use.

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 82-1, filed 10/11/82)

WAC 132S-50-020 Regulations regarding use of college facilities. The specific use of school facilities shall be governed by the regulations consistent with the intent of the policy. Primary consideration shall be given at all times to activities specifically related to the college's mission, and no arrangements shall be made that may interfere with, or operate to the detriment of, the college's own teaching, research or public service programs. These regulations shall be as follows:

(1) Requests for facility use must be submitted by means of a facility use form to the business office of Columbia Basin College.

(2) A ((paid)) Columbia Basin College employee must be assigned to the building during the scheduled time the facility is to be used.

(3) The administration reserves the right to deny or cancel any application for use when such use, or meeting, may in any way be prejudicial to the best interest of the school or for which satisfactory sponsorship is not provided. Review of such action may be carried to the board of trustees. The college may deny or cancel use of its facilities to any individual, group or organization if the requested use would:

(1) interfere or conflict with the college's instructional, student services, or support programs.

(2) interfere with the free flow of pedestrian or vehicular traffic on campus;

(3) involve illegal activity;

(4) create a hazard or result in damage to college facilities; or

(5) create undue stress on college resources.

(4) Applications for college facility use which may be considered a major policy decision not fully covered by this existing policy statement may be referred directly to the administration for disposition. Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations. The college reserves the right to deny use of college facilities to any individual or group whose past conduct indicates a likelihood that college rules and regulations will not be obeyed. The college may also deny use to a requesting individual or organization which has used the facilities in the past and has damaged college property, left college buildings and grounds in excessive disorder, or failed to cooperate with college staff regarding use of the facilities.

(5) Rental charges shall be levied per twenty-four hour setting on the following basis:

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

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.

- (a) Instructional use - Wherein facility is used for instructionally related activities, either by the college or by another post-secondary institution NO CHARGE
- (b) Student use - Where the use has been scheduled through the student activities office and is primarily for an activity that directs itself toward the benefit of Columbia Basin College ASB card holders NO CHARGE
- (c) Community activities - All other uses which are noninstructional and nonstudent sponsored:

Category I - Use which results in a community benefit and is usually arranged for by a nonprofit civic organization Charge to be determined by the ((Business Office)) vice president of administration to cover expenses.

Category II - Use by nonprofit community groups ((for a private or profit return)) The schedule for such rentals shall be as follows:

- (1) ((Little)) Theater \$125.00 plus additional set up fees
- (2) ((Little)) Theater (with specialized equipment) \$150.00 plus additional set up fees
- (3) Gym \$100-\$500 plus additional set up fees
- (4) Soccer Fields/Baseball Fields \$300-\$500 plus additional set up fees
- (5) ((Lounge - \$75.00))
- (5) Lecture room \$ 30.00 plus additional set up fees
- (6) Classroom \$ 15.00 plus additional set up fees
- (7) Conference room \$30-300/day plus additional set up fees
- (8) HUB \$75.00 plus additional set up fees
- (9) Byron Gjerde Multipurpose Center TBD by ASCBC
- (10) Byron Gjerde Atrium Area TBD by ASCBC

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-024 Commercial activities. The primary mission of institutions of higher education is the creation and dissemination of knowledge. Institutions of higher education must be mindful that in providing goods and services for fees, they may be competing with local private businesses. To promote the mission of Columbia Basin College, it is often necessary to engage in commercial activities that provide goods and services that meet special needs of students, faculty, staff and members of the public who participate in college activities and events. The college shall comply with chapter 28B.63 RCW, which establishes standards for colleges to follow in conducting commercial activities. (RCW 28B.63.010)

Columbia Basin College may engage in the providing of goods, services, or facilities for a fee only when such are directly and substantially related to the education mission of the college. Fees charged for goods, services, and facilities shall reflect their full direct and indirect costs, including overhead, and shall take into account the price of such items in the private marketplace.

In general, the facilities of the college shall not be rented to or used by, private or commercial organizations or associations, nor shall the facilities be rented to persons or organizations conducting programs for private gain. Columbia Basin College facilities will not be used for commercial solicitation, advertising, or promotional activities except when such activities clearly serve educational objectives, including but not limited to display of books of interest to the academic or career oriented community or the display or demonstration of technical or research equipment, extracurricular programs, including food services, athletic and recreational programs, and performing arts programs, and when such commercial activities related to educational objectives and are conducted under the sponsorship or at the request of a college department or of the ((dean of student services)) vice president of administration or ((his)) designee; provided that such solicitation does not interfere with, or operate to the detriment of, the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

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

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-025 Commercial activities defined. For the purposes of this chapter, the term "commercial activities" does not include handbills, leaflets, or newspapers distributed free of charge by any Columbia Basin College student or students or by members of recognized Columbia

PROPOSED

The base rate for facilities will be adjusted periodically only as allowed by law. The college reserves the right to make pricing changes without prior written notice, except that such price changes shall not apply to facility use agreements already approved in writing by the administration.

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.

Basin College student organizations or by Columbia Basin College ((college)) personnel that are distributed in a manner that does not unreasonably interfere with the ingress and egress of persons or the free flow of vehicular or pedestrian traffic, nor does it include commercial items sold through the college bookstore or any other facility at the direction of the ((business manager)) vice president of administration.

[AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)]

WAC 132S-50-026 Penalties for violations of commercial activities regulations. Nonstudent persons violating the provisions of this chapter may be referred to civil authorities for appropriate prosecutions, including violations of the law of criminal trespass.

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

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-027 Distribution of materials. ~~((1) Handbills, leaflets, newspapers and similar related matter may be sold or distributed free of charge by any student or students or by members of recognized student organizations or by college employees on or in college facilities at locations specifically designated by the director of activities; provided such distribution or sale does not interfere with the ingress and egress of persons, or interfere with the free flow of vehicle or pedestrian traffic.~~

~~((2) Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.~~

~~((3) All nonstudents shall be required to register with the director of activities prior to the distribution of any handbill, leaflet, newspaper or related matter. Nonstudents shall not be allowed to sell handbills, leaflets, newspapers or related matter.~~

~~((4) Permission for the posting or display of handbills, leaflets, newspapers, posters and similar related matter on college facilities must be granted by the dean of students or in such dean's absence by the director of student activities. Permission for such posting or display will be given only if such material is:~~

~~((a) Written and presented in good taste;~~

~~((b) Designed to attract attention rather than incite emotion; and~~

~~((c) Consistent and factual in content.))~~

(1) The college reserves the right to control and regulate the distribution of materials which might interfere with the college's educational mission.

(2) Permission for the posting, display or distribution of handbills, leaflets, newspapers, posters and similar related matter on college facilities must be obtained from the vice president of administration or designee. Permission for such

posting or display will be given only if such material meets the following criteria:

(a) Must not be commercial, obscene or unlawful in nature;

(b) Must not interfere with the ingress and egress of persons, or interfere with the free flow of vehicle or pedestrian traffic, or the orderly administration of college affairs, or cause an interruption of classes.

(c) Each of such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual, as well as the date when posted materials will be removed from the property.

(3) Students/college employees

Handbills, leaflets, newspapers and similar related matter may be sold or distributed free of charge by any Columbia Basin College student or students or by members of recognized Columbia Basin College student organizations or by Columbia Basin College employees on or in Columbia Basin College facilities at locations specifically designated by the director of student programs; provided such distribution or sale meets the criteria listed above (1a-c).

(4) Nonstudents Persons and organizations not connected with the college may not distribute handbills, leaflets, newspapers and similar materials.

(5) Any distribution of materials as authorized by the office of the vice president for administration and regulated by established guidelines shall not be construed as support or approval by the college community or the board of trustees.

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 132S-50-028 General policies limiting use (1) College facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities. Rules, regulations, policies, procedures and practices regarding the use of college facilities shall not discriminate or promote discrimination among political parties, groups or candidates solely on the basis of their particular political viewpoint.

(2) Activities of commercial or political nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples or brochures outside rooms or facilities to which access may be granted.

(3) No person may solicit contributions on college property for political uses, except where this limitation conflicts with federal law concerning interference with the mail.

(4) Religious groups shall not, under any circumstances, use the college facilities as a permanent meeting place. Use shall be intermittent only, so as not to imply College endorsement.

(5) College facilities are available to all recognized CBC student groups and CBC faculty or staff organizations, subject to these general policies, except as provided in WAC 132S-50-029(1), and to the rules and regulations of the college governing student, faculty and staff affairs.

(6) The college reserves the right to prohibit the use of college facilities by groups which restrict membership or participation in a manner inconsistent with the college's commitment to nondiscrimination as set forth in its written policies and commitments.

NEW SECTION

WAC 132S-50-029 Liability for damage The lessee of college facilities, including agreement signatories and individual organization leaders, shall be liable for any damage to college property occurring or having apparently occurred during the time the facility was being used by the organization. The lessee also agrees to hold harmless and indemnify Columbia Basin College, its agents, employees, officers, trustees, students and/or attorneys for any claim made against the college as a result of the lessee's use of college facilities. The college reserves the right to require using organizations to purchase insurance, naming the college as the insured, and may specify the amount of that insurance.

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-040 Traffic and parking—Definitions. The words used in this chapter shall have the meaning given in this section, unless the context clearly indicates otherwise.

- (1) "Board" shall mean the board of trustees of Community College District No. 19, State of Washington.
- (2) "Campus" shall mean any or all real property owned, operated, or maintained by Community College District No. 19, State of Washington.
- (3) "College" shall mean Columbia Basin Community College.
- (4) "Faculty members" shall mean any employee of Community College District No. 19 who is certified to teach in a community college in the State of Washington.
- (5) "Campus patrolman" shall mean an employee of the college, or a law enforcement student, who is responsible to the ~~((dean of student services))~~ vice president of administration for campus security.
- (6) "Staff" shall mean the classified employees of Washington State Community College District No. 19.
- (7) "Vehicle" shall mean an automobile, truck, motor driven cycle, scooter, or any vehicle empowered by a motor.
- (8) "Visitors" shall mean any person or persons, excluding students as defined above, who come upon the campus as guests and any person or persons who lawfully visit the campus for the purposes which are in keeping with the college's role as an institution of higher learning in the State of Washington.
- (9) "Permanent permits" shall mean permits which are valid for a school term and shall be obtained from the ~~((cashier's))~~ plant operations office at the fee set by the Board of Trustees.

(10) "School term" shall mean, unless otherwise designated, the time period commencing with the fall quarter of a community college teaching year and extending through the immediate subsequent winter and spring quarters. It shall not include, however, summer school sessions.

(11) "Temporary permits" shall mean permits which are valid for a specific period of time designated on the permit.

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 82-1, filed 10/11/82)

WAC 132S-50-060 Special traffic and parking regulations and restrictions authorized. Upon special occasions causing additional heavy traffic, during emergencies, or during construction of campus facilities, the ~~((dean of student services or his appointed designee))~~ vice president of administration or designee is authorized to impose additional traffic and parking regulations or modify the existing rules and regulations for the achievement of the general objectives provided in WAC 132S-50-050.

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-070 Traffic and parking—Enforcement. (1) Enforcement of the parking rules and regulations will begin the first day of the first week of full classes of the fall quarter and will continue until the end of spring quarter. These rules and regulations will not be enforced during summer quarter, Saturdays, Sundays, and official college holidays.

(2) The ~~((dean of student services, or his designee))~~ vice president of administration or designee, shall be responsible for the enforcement of the rules and regulations contained in this chapter. The ~~((dean of student services))~~ vice president of administration is hereby authorized to delegate this responsibility to the campus patrolman or other designated subordinates.

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-075 Fines, penalties and issuance of traffic tickets. Fines will be levied for parking violations that occur on CBC campus. A schedule shall be published in the CBC Student Handbook and on the parking citation form, and a copy of the fine schedule shall be available in the security office. Upon the violations of any of the rules and regulations contained in this chapter, the ~~((dean of student services, his designee))~~ vice president of administration, or designee or subordinates, may issue a summons or traffic ticket setting forth the date, the approximate time, permit number, license information, infraction, officer, and schedule of fines. Such summons or traffic tickets may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator.

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.

PROPOSED

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-080 Traffic and parking—Fines and penalties. The ~~((dean of student services or his designee))~~ vice president of administration or designee, is authorized to impose the following fines and penalties for the violation of the rules and regulations contained in this chapter:

(1) Except as provided under subsection (2) of this section, fines will be levied for all violations of the regulations contained in this chapter.

(2) Vehicles which are parked on any campus within Community College District No. 19 and which are in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the ~~((dean of student services))~~ vice president of administration. If a vehicle is impounded, it may be taken to such place for storage as the ~~((dean of student services))~~ vice president of administration or ~~((his))~~ designee selects. The expenses of such impounding and storage shall be charged to the owner or operator of the vehicle and paid by him prior to its release. The college and its employees shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(3) At the discretion of the ~~((dean of student services))~~ vice president of administration, an accumulation of traffic violations by a student will be cause for disciplinary action, and the ~~((dean of student services))~~ vice president of administration shall initiate disciplinary proceedings against such student.

(4) A schedule of fines shall be set and reviewed ~~((annually))~~ by a committee of students appointed by the ~~((dean of students))~~ vice president of administration. This schedule shall be published in the student handbook, summary of parking regulations, and traffic summons form.

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 82-1, filed 10/11/82)

WAC 132S-50-085 Authorization for issuance of parking permits. The ~~((dean of student services or his appointed designee))~~ vice president of administration or designee is authorized to issue parking permits to faculty members and staff members of the college pursuant to the following regulations:

(1) Faculty and staff members may be issued parking permits upon the registration of their vehicles at the beginning of fall quarter; provided that new faculty and staff members employed during the regular academic year may be issued parking permits upon the registration of their vehicles at the time they begin their employment at the college.

(2) The ~~((dean of student services or his designee,))~~ vice president of administration or designee may issue temporary and special parking permits when such permits are necessary to enhance the business or operation of the college.

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 82-1, filed 10/11/82)]

WAC 132S-50-090 Valid parking permit. A valid parking permit is:

(1) An unexpired parking permit registered and properly displayed;

(2) A temporary parking permit authorized by the ~~((dean of student services or his designee))~~ vice president of administration or designee, and properly displayed;

(3) A special parking permit authorized by the ~~((dean of student services or his designee))~~ vice president of administration or designee, and properly displayed;

(4) A visitor's permit authorized by the ~~((dean of student services or his designee))~~ vice president of administration or designee, and properly displayed; or

(5) A shop permit authorized by a vocational-technical instructor and properly displayed.

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

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-100 Transfer of parking permits. Parking permits are ~~((not))~~ transferable. If a vehicle is sold or traded, ~~((a new permit will be issued to))~~ the permit holder may transfer the parking permit to the new vehicle if the vehicle is registered with the plant operations office when it is first driven onto campus. ~~((at no additional cost if the permit holder does the following~~

(1) Records permit number;

(2) Removes permit from vehicle which has been traded or sold.))

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 82-1, filed 10/11/82)]

WAC 132S-50-110 Parking permit revocation. Parking permits are the property of the college and may be recalled by the ~~((dean of student services))~~ vice president of administration for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists;

(2) When a permit is used by an unregistered vehicle or by an unauthorized individual;

(3) Falsification on a parking permit application;

(4) Continued violations of parking regulations; or

(5) Counterfeiting or altering a parking permit.

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-115 Parking permit revocation—Hearing provided. Cancellation or revocation of any parking permit because of any of the causes stated in WAC 132S-50-110 (2) through (5) may be appealed to the ~~((dean of student services))~~ vice president of administration, who shall then refer the matter to a hearing before a special hearing officer designated by the ~~((dean of student services))~~ vice president of administration. The hearing shall conform to the due process requirements of the Columbia Basin College student code and the decision of the hearing officer shall be final. The same appeal procedure as above shall be utilized in the case where the revoked permit has been held by an administrator or faculty member.

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

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-120 Allocation of parking space. The parking space available on campus shall be designated and allocated by the ~~((dean of student services or his designee))~~ vice president of administration or designee, in such a manner as will best effectuate the objectives of the rules and regulations in this chapter.

(1) Faculty and staff spaces will be so designated for their use; provided, physically handicapped students and others designated by the ~~((dean of student services))~~ vice president of administration or ~~((his appointed))~~ designee may be granted special permits to park in close proximity to the classroom used by such students.

(2) Parking spaces will be designated for use of visitors on campus.

(3) Handicap parking spaces will be designated. The allocated parking spaces are exclusively for use by those designated, provided that the appropriate parking permits are obtained by the users and are displayed properly upon their vehicles. People with disabilities - staff, visitors, and students - shall be given parking priority whenever possible within close proximity to offices, classrooms, or access ways. No student or staff member shall park in a handicapped designated parking space without possessing either a Washington state permanent handicapped permit or a CBC temporary handicapped parking permit approved by the vice president of administration or designee. A fine may be imposed for non-handicap users parking in a designated handicap parking space.

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 82-1, filed 10/11/82)

WAC 132S-50-125 Parking within designated spaces. (1) All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.

(2) In areas marked for diagonal parking, vehicles shall be parked at a forty-five degree angle, facing head in.

(3) In areas marked for parallel or right-angle parking, space or stall markings will be observed, and vehicles will park facing head in.

(4) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(5) No vehicle shall be parked on the campus except in those areas set aside and designated pursuant to WAC 132S-50-120.

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

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-140 Regulatory signs and directions. The ~~((dean of student services or his appointed designee))~~ vice president of administration or designee is authorized to erect signs, barricades and other structures and to paint marks or other directions upon the entry ways and streets on campus and upon the various parking lots owned or operated by the college. Such signs, barricades, structures, markings, and directions, shall be so made and placed as in the opinion of the ~~((dean of student services, or his designee))~~ vice president of administration or designee, will best effectuate the rules and regulations contained in this chapter. Drivers of vehicles shall observe and obey the signs, barricades, structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions given them by the campus patrolman in the control and regulation of traffic.

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-160 Report of accidents. The operator of any vehicle involved in an accident on campus resulting in injury to, or death, of any person or total of claimed damage to either or both vehicles exceeding one hundred dollars, shall immediately report such accident to the ~~((dean of student services))~~ vice president of administration and shall within twenty-four hours after such accident, file a State of Washington motor vehicle accident report.

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.

PROPOSED

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-170 Delegation of authority. The authority and powers conferred upon the ~~((dean of student services))~~ vice president of administration by these regulations shall be subject to delegation ~~((by him))~~ to ~~((his))~~ appointed designees.

AMENDATORY SECTION (Amending Order 82-1, filed 10/11/82)

WAC 132S-50-185 Pet control. In order to assure the health and safety of all persons on properties owned or controlled by Columbia Basin College, the following rules and regulations regarding pet control are hereby promulgated: No person will be permitted to bring any pet upon properties owned or controlled by Columbia Basin College unless such pet is a service dog as defined in RCW 70.84.020 and is under the immediate control of such person. ~~((provided, however, under no circumstances will pets be permitted to enter into buildings owned or controlled by Columbia Basin College, except))~~ Only service dogs as defined in RCW 70.84.020 will be permitted to enter buildings owned or controlled by Columbia Basin College.

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 82-1, filed 10/11/82)

WAC 132S-50-195 ~~((Smoking regulations for campus buildings. Smoking of tobacco substances are subject to the provisions of this chapter, insofar as it designates where such smoking is permitted or prohibited.~~

~~(1) Smoking is permitted in the following areas:~~

- ~~(a) Office (at the discretion of the assigned occupants);~~
- ~~(b) Meeting rooms (at the option of the group);~~
- ~~(c) Lounges;~~
- ~~(d) Public lavatories;~~
- ~~(e) Designated corridors.~~

~~(2) The president of Columbia Basin College or his designee may prohibit smoking in the following areas:~~

- ~~(a) Classrooms during scheduled classes;~~
- ~~(b) Laboratories;~~
- ~~© Library;~~
- ~~(d) Auditoriums;~~
- ~~(e) Storerooms;~~
- ~~(f) Places deemed fire hazard areas by the city of Pasco fire department.~~

~~(3) The responsibility of fire prevention is the smokers.))~~

Smoke and Tobacco-Free Environment.

(1) Smoking and tobacco products are not allowed inside any building or vehicle operated by Columbia Basin College.

(2) Smoking materials and related tobacco supplies will not be available for sale or vended on the campuses.

(3) Smoking and tobacco use by students and nonstudents, including visitors, are prohibited within at least 50 feet of building openings (i.e., doors, air intakes, windows), and spaces near outdoor work areas.

(4) Smoking is prohibited in any location where the airflow carries smoke directly into a facility work area.

(5) Smokers must dispose of smoking and tobacco refuse in ash cans or other containers specifically designed and placed for such disposal.

(6) CBC shall ensure, through proper posting, that outside smoking and tobacco use areas are at least 50 feet from doorways and air intakes.

(7) Any student, staff or faculty member who violates the college smoking policy may be subject to disciplinary action. In addition, violations of the college smoking policy may be subject to enforcement by the Pasco Police Department.

Last update: 10/11/82

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

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

WSR 05-17-041

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed August 9, 2005, 12:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-12-100.

Title of Rule and Other Identifying Information: Chapter 458-61 WAC, Real estate excise tax, provides tax-reporting information for persons selling real estate located in Washington, and for persons selling a controlling interest in an entity that owns real estate in Washington. The chapter explains who is liable for the tax, how and when it must be paid, which transactions are taxable, what exemptions are available, and the record-keeping requirements.

Hearing Location(s): Capital Plaza Building, 1025 Union Avenue S.E., Olympia, WA 98504, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: October 5, 2005.

Submit Written Comments to: Margaret J. Partlow, P.O. Box 47453, Olympia, WA 98504-7453, e-mail margaretpa@dor.wa.gov, fax (360) 586-5543, by September 27, 2005.

Assistance for Persons with Disabilities: Contact Sandy Davis at (360) 725-7499, no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is filing the repealer for chapter 458-61 WAC, that was inadvertently omitted from WSR 05-17-025, which was filed on August 5, 2005.

Reasons Supporting Proposal: See WSR 05-17-025.

Statutory Authority for Adoption: RCW 82.32.300, 82.04.060, and 82.45.150.

Statute Being Implemented: Chapter 82.45 RCW.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret J. Partlow, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6123; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6131.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not impose any new performance requirement or administrative burden on small business that is not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules as defined by RCW 34.05.328.

August 9, 2005
 Margaret J. Partlow
 Project Counsel
 Acting ITA Manager

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 458-61-015 General information.
- WAC 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state.
- WAC 458-61-030 Definitions.
- WAC 458-61-050 Payment of tax—County treasurer as agent for the state.
- WAC 458-61-060 Disposition of proceeds.
- WAC 458-61-070 Affidavit batch transmittal.
- WAC 458-61-080 Affidavit requirements.
- WAC 458-61-090 Date of sale—Interest and penalty.
- WAC 458-61-100 Refunds of tax paid.
- WAC 458-61-120 Evasion penalty.
- WAC 458-61-130 Department audit responsibility.
- WAC 458-61-150 Supplemental statements.
- WAC 458-61-200 Apartments.
- WAC 458-61-210 Assignments—Purchasers.
- WAC 458-61-220 Assignments—Sellers.
- WAC 458-61-225 Assumption of debt.
- WAC 458-61-230 Bankruptcy.

- WAC 458-61-235 Boundary line adjustments.
- WAC 458-61-250 Cemetery lots or graves.
- WAC 458-61-255 Clearing title.
- WAC 458-61-290 Contract.
- WAC 458-61-300 Contractor.
- WAC 458-61-330 Foreclosure—Deeds in lieu of foreclosure.
- WAC 458-61-335 Easements, development rights, water rights and air rights.
- WAC 458-61-340 Community property—Dissolution of marriage/divorce.
- WAC 458-61-370 Exchanges—Trades.
- WAC 458-61-374 Exemption—Transfers made "subject to."
- WAC 458-61-375 Exemption—Mere change in identity or form—Family corporations and partnerships.
- WAC 458-61-376 Exemption—Transfers where gain is not recognized under the Internal Revenue Code.
- WAC 458-61-400 Creation, assignment and release of security interests.
- WAC 458-61-410 Gifts.
- WAC 458-61-411 Exemption—Irrevocable trusts.
- WAC 458-61-412 Exemption—Inheritances.
- WAC 458-61-420 Government transfers.
- WAC 458-61-425 Growing crops.
- WAC 458-61-430 Sale of improvements to land.
- WAC 458-61-450 Indian (American), transfers to or from.
- WAC 458-61-470 Irrigation equipment.
- WAC 458-61-480 IRS "tax deferred" exchange.
- WAC 458-61-510 Leases.
- WAC 458-61-520 Mineral rights and mining claims.
- WAC 458-61-540 Mobile and floating home sales.
- WAC 458-61-545 Mortgage insurers.
- WAC 458-61-550 Nominee.
- WAC 458-61-553 Nonprofit organizations.

PROPOSED

WAC 458-61-555	Option to purchase.
WAC 458-61-590	Rescission of sale.
WAC 458-61-600	Relocation service.
WAC 458-61-610	Rerecord.
WAC 458-61-640	Sheriff's sale.
WAC 458-61-650	Tenants in common and joint tenants.
WAC 458-61-660	Timber, standing.
WAC 458-61-670	Trade-in credit.

WSR 05-17-044
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed August 9, 2005, 1:32 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-840-420 Authorized prescriptions by the ARNP with prescriptive authority, 246-840-421 How do advanced registered nurse practitioners qualify for prescriptive authority for Schedule II-IV drugs?, 246-840-422 Criteria for joint practice arrangement, 246-840-423 Endorsement of joint practice arrangements for ARNP licensure, 246-840-424 Process for joint practice arrangement termination, 246-840-426 Education for prescribing Schedule II-IV drugs, and 246-840-427 Jurisdiction.

Hearing Location(s): Nursing Care Quality Assurance Commission Meeting, The Comfort Inn Conference Center, 1620 74th Avenue S.W., Tumwater, WA 98501, on November 4, 2005, at 10:00 a.m.

Date of Intended Adoption: November 4, 2005.

Submit Written Comments to: Kendra Pitzler, P.O. Box 47864, Olympia, WA 98504-7864, rules comment web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4738, by October 28, 2005.

Assistance for Persons with Disabilities: Contact Kendra Pitzler by October 21, 2005, TTY (800) 833-6388 or (360) 236-4723.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule changes is to implement HB 1479, chapter 28, Laws of 2005. This legislation rescinds the requirement for advanced registered nurse practitioners (ARNPs) to have a joint practice arrangement when prescribing Schedule II through IV drugs.

The existing rules allow an ARNP with prescriptive authority to independently prescribe controlled substances listed in Schedule IV provided that they have prescriptive authority and have registered with the Drug Enforcement Agency (DEA). To prescribe those drugs listed in Schedules II through IV, an ARNP is required to obtain a joint practice arrangement in writing with a physician or osteopathic physician as well as register with the DEA. That written arrange-

ment must be submitted to the department in order to obtain an endorsement to prescribe those drugs.

The proposal amends the current rules to include independent prescriptive authority of Schedule II through IV controlled substances without a joint practice arrangement as long as the ARNP is registered with the DEA. The proposal repeals rules that pertain to joint practice arrangements.

Reasons Supporting Proposal: The proposal implements 2005 legislation (HB 1479, chapter 28, Laws of 2005) by eliminating the need for ARNPs to acquire and submit joint practice arrangements in order to receive an endorsement from the department allowing them to prescribe drugs on Schedules II through IV. By eliminating this requirement, the proposed changes will help increase consumer access to primary care.

Statutory Authority for Adoption: RCW 18.79.240 and chapter 28, Laws of 2005.

Statute Being Implemented: Chapter 28, Laws of 2005.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Kendra Pitzler, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4723; and Enforcement: Paula Meyer, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4713.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not conduct a small business [economic] impact statement under RCW 19.85.025 because the chapter does not apply to rules that adopt or incorporate by reference and without material changes Washington state statutes per RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 (5)(b)(iii) because the proposal adopts a Washington state statute by reference and without material changes.

August 9, 2005

Judith D. Personnett, Chair

Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-420 Authorized prescriptions by the ARNP with prescriptive authority. (1) Prescriptions for drugs (~~shall~~) must comply with all applicable state and federal laws.

(2) The prescriber must sign all prescriptions (~~shall be signed by the prescriber with~~) and include the initials ARNP.

(3) (~~Prescriptions for~~) An ARNP may not, under RCW 18.79.240(1) and chapter 69.50 RCW, prescribe controlled substances in Schedule((s)) I (~~(through IV are prohibited by RCW 18.79.240(1)(r)).~~)

(4) Any ARNP with prescriptive authorization who prescribes (~~Schedule V~~) controlled substances (~~shall~~) must register with the drug enforcement administration.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-840-421	How do advanced registered nurse practitioners qualify for prescriptive authority for Schedule II - IV drugs?
WAC 246-840-422	Criteria for joint practice arrangement.
WAC 246-840-423	Endorsement of joint practice arrangements for ARNP licensure.
WAC 246-840-424	Process for joint practice arrangement termination.
WAC 246-840-426	Education for prescribing Schedule II - IV drugs.
WAC 246-840-427	Jurisdiction.

WSR 05-17-045**PROPOSED RULES****DEPARTMENT OF HEALTH**

(Occupational Therapy Practice Board)

[Filed August 9, 2005, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-029.

Title of Rule and Other Identifying Information: WAC 246-847-065 Continued competency, these rules set the continuing competency requirements for licensed occupational therapists and occupational therapy assistants. The proposed changes will create additional options for therapists to maintain competence and clarify existing requirements. The legislature has mandated that the Occupational Therapy Practice Board establish and administer requirements for continuing competency as a prerequisite for the renewal of an occupational therapist or occupational therapy assistant license.

Hearing Location(s): Red Lion Hotel Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, on October 21, 2005, at 2:30 p.m.

Date of Intended Adoption: October 21, 2005.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 30, 2005.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by September 30, 2005, TTY (800) 833-6388 or (360) 236-4847.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes are intended to provide greater flexibility for occupational therapy practitioner to complete their continuing education requirements. The proposed changes will create additional options for therapists to maintain competence and

clarify existing requirements. The legislature has mandated that the Occupational Therapy Practice Board establish and administer requirements for continuing competency as a prerequisite for the renewal of an occupational therapist or occupational therapy assistant license. The proposed changes assure continued protection of consumers from incompetent occupational therapy, while clarifying existing requirements and improving flexibility for occupational therapy practitioners to maintain competency.

Reasons Supporting Proposal: Practitioners will benefit by the board creating clearer guidance about acceptable continuing competency requirements. The detail listing of activities provides practitioners with clear understandable guidelines. By including occupational therapy assistants in the rule better ensures all occupational therapy practitioners are receiving ongoing continuing competency to provide safe, skilled, and competent care to the public. The proposed language provides a detailed list of thirteen continued competency activities that will be accepted, and states the required documentation needed.

Statutory Authority for Adoption: RCW 18.59.130 and 18.59.090.

Statute Being Implemented: Chapter 18.59 RCW.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Briefly describe the proposed rule: The proposed rule amendments seek to set minimum hours of continuing education as a prerequisite for the renewal of an occupational therapist and occupational therapy assistant license. Current rule language does not provide any specific details for continued competency. The proposed rule language describes acceptable continued competency activities in detail and obligations of practitioners to maintain appropriate documentation of these activities as follows:

- Clarify language for current requirements.
- Require occupational therapy assistants to adhere to the same continuing education requirements as occupational therapists.
- Require a minimum of twenty hours of continuing education to be directly related to the practice of occupational therapy.
- Allow the remaining ten hours of continuing education to be in professional development activities.
- Insist the required thirty contact hours to be obtained through two or more of the activities listed in this section.
- Require documentation for all activities to include the licensee's name, date of activity, and number of hours.

- Add a detailed list of both practicing and professional continuing education activities that will fulfill continuing education requirements.

2. Is a small business economic impact statement (SBEIS) required for this rule? Yes, the Department of

Health (DOH) has reviewed this proposal and has determined that an SBEIS is required.

3. Which industries are affected by this rule? In preparing this SBEIS, the DOH used the following SIC codes:

Table 1

SIC	Description	No. of Units	No. of Employees	Threshold (\$)
8049	Offices of health practitioners, nec	913	5,450	66.1
8051	Skilled nursing care facilities	281	26,407	195.6
8052	Intermediate care facilities	29	1,651	66.1
8059	Nursing and personal care, nec	110	4,081	66.1
8062	General medical & surgical hospital	146	78,593	396.6
8069	Specialty hospitals exc. Psychiatrist	23	4,106	237.9
8082	Home health care services	169	7,408	122.9
8093	Specialty outpatient clinics, nec	245	7,530	116.3
8099	Health and allied services, nec	93	1,484	66.1

4. What are the costs of complying with this rule for small businesses (those with fifty or fewer employees) and for the largest 10% of businesses affected? The associated costs for each practitioner is the costs of requirement to complete at least two continuing education activities. With reference to the list, ten hours of "self study," (number 12 in the list) and ten hours of "fieldwork direct supervision" (number 13) can be completed on practitioners' own time at no costs. The remaining ten hours can be completed through "in-service training" at no costs or at the maximum opportunity costs of ten hours of practitioner's earnings. Assuming \$23.71 hourly wage for occupational therapists and \$15.56 for occupational therapist assistants, these costs translate into \$231 and \$160 respectively.

5. Does the rule impose a disproportionate impact on small businesses?

SIC	Description	Avg.	Avg.	Assumed	Avg.	Avg.
		Employees	Employees		Costs	Costs
		< 50	Top 10%	Costs of Compliance	Employees < 50	Employees Top 10%
8049	Offices of health practitioners, ne	4.5	102.9	231	51.8	2.2
8051	Skilled nursing care facilities	14.7	116.0	231	15.8	2.0
8052	Intermediate care facilities	22.3	99.8	231	10.4	2.3
8059	Nursing and personal care, nec	18.0	98.8	231	12.8	2.3
8062	General medical & surgical hospital	11.1	758.4	231	20.9	0.3
8069	Specialty hospitals exc. psychiatric	15.4	167.7	231	15.0	1.4
8082	Home health care services	14.2	109.3	231	16.3	2.1
8093	Specialty outpatient clinics, nec	9.3	113.5	231	24.9	2.0
8099	Health and allied services, nec	7.0	64.3	231	33.1	3.6

The last two columns in Table 2 show the possibility of a disproportionate impact on small businesses. This is based on the assumption that large businesses pay the costs of continued education for their practitioners. However, assuming each licensed practitioner is responsible for the costs of his/her continued education, the proposed rule changes do not impose a disproportionate impact on small businesses.

6. How are small businesses involved in the development of this rule? The DOH held open public rules workshops in coordination with state associations. All active state licensees were invited by mail.

A copy of the statement may be obtained by contacting Kris Waidely, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4847, fax (360) 664-9077, e-mail Kris.waidely@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be

obtained by contacting Kris Waidely, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4847, fax (360) 664-9077, e-mail Kris.waidely@doh.wa.gov.

July 7, 2005
Kris Waidely
Program Manager

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-847-065 Continued competency.
~~((Licensed occupational therapists must complete thirty hours of continuing education every two years as required in chapter 246-12 WAC, Part 7.))~~ As required in chapter 246-12 WAC, Part 7, licensed occupational therapists and licensed occupational therapy assistants must complete thirty hours of continuing education every two years. A minimum of twenty

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hours must be directly related to the practice of occupational therapy as defined in RCW 18.59.020 and WAC 246-847-010. The remaining ten hours may be in professional development activities that enhance the licensed occupational therapist or licensed occupational therapy assistant. The thirty contact hours must be obtained through two or more of the activities listed below. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:

(1) Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance.

(2) In-service training. The required documentation for this activity is a certificate or documentation of attendance.

(3) Professional conference or workshop. The required documentation for this activity is a certificate or documentation of attendance.

(4) Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript.

(5) Publications. The required documentation for this activity is a copy of the publication.

(6) Presentations. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period.

(7) Interactive online courses. The required documentation for this activity is a certificate or documentation of completion.

(8) Development of instructional materials incorporating alternative media such as: Video, audio and/or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media/software materials must be available if requested during audit process.

(9) Professional manuscript review. The required documentation for this activity is a letter from publishing organization verifying review of manuscript. A maximum of ten hours is allowed per reporting period for this category.

(10) Guest lecturer for occupational therapy related academic course work (academia not primary role). The required documentation for this activity is a letter or other documentation from instructor.

(11) Serving on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of ten hours is allowed per reporting period for this category.

(12) Self study of cassette, tape, video tape, or other multimedia device, or book. The required documentation for this activity is a two page synopsis of each item written by the licensee. A maximum of ten hours is allowed per reporting period for this category.

(13) Level II fieldwork direct supervision of an occupational therapy student or occupational therapy assistant student by site designated supervisor(s). The required documentation for this activity is a name of student(s), letter of verifi-

cation from school, and dates of fieldwork. A maximum of ten hours per supervisor is allowed per reporting period for this category.

WSR 05-17-046

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 9, 2005, 1:34 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: The proposed rule repeals all rules relating to joint practice arrangements, specifically: WAC 246-853-221 How do advanced registered nurse practitioners qualify for prescriptive authority for Schedule II-IV drugs?, 246-853-222 Criteria for joint practice arrangement, 246-853-223 Endorsement of joint practice arrangements for ARNP licensure, 246-853-224 Process for joint practice arrangement termination, 246-853-225 Seventy-two-hour limit, 246-853-226 Education for prescribing Schedule II-IV drugs, and 246-853-227 Jurisdiction.

Hearing Location(s): Board of Osteopathic Medicine and Surgery, St. Francis Hospital, 34515 9th Avenue South, Federal Way, WA 98003, on November 4, 2005, at 10 a.m.

Date of Intended Adoption: November 4, 2005.

Submit Written Comments to: Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7864, rules comment web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by October 28, 2005.

Assistance for Persons with Disabilities: Contact Arlene Robertson by October 21, 2005, TTY (800) 833-6388 or (360) 236-4945.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal repeals rules that pertain to joint practice arrangements between advanced registered nurse practitioners and osteopathic physicians for prescribing controlled substances, Schedules II-IV.

Reasons Supporting Proposal: The proposal implements HB 1479, chapter 28, Laws of 2005, by eliminating the need for ARNPs to acquire and submit joint practice arrangements in order to receive an endorsement from the department allowing them to prescribe drugs on Schedules II through IV. By eliminating this requirement, there is no longer a need for the joint practice arrangements. This will help increase access to care and reduce costs to the consumer.

Statutory Authority for Adoption: RCW 18.57.005, 18.57.280.

Statute Being Implemented: Chapter 28, Laws of 2005.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene A. Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

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No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not conduct a small business [economic] impact statement under RCW 19.85.025 because the chapter does not apply to rules that adopt or incorporate by reference and without material changes Washington state statutes per RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. A cost benefit analysis is not required under RCW 34.05.328 (5)(b)(iii) because it adopts a Washington state statute by reference and without material changes.

July 14, 2005

Maryella E. Jansen
for Blake T. Maresh
Executive Director
Board of Osteopathic
Medicine and Surgery

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-853-221	How do advanced registered nurse practitioners qualify for prescriptive authority for Schedule II - IV drugs?
WAC 246-853-222	Criteria for joint practice arrangement.
WAC 246-853-223	Endorsement of joint practice arrangements for ARNP licensure.
WAC 246-853-224	Process for joint practice arrangement termination.
WAC 246-853-225	Seventy-two-hour limit.
WAC 246-853-226	Education for prescribing Schedule II - IV drugs.
WAC 246-853-227	Jurisdiction.

WSR 05-17-047

PROPOSED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed August 9, 2005, 1:35 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: This proposed rule repeals all rules relating to joint practice arrangements, specifically: WAC 246-919-840 How do advanced registered nurse practitioners qualify for prescriptive authority for Schedule II-IV drugs?, 246-919-841 Criteria for joint practice arrangement, 246-919-842 Endorsement of joint practice arrangements for ARNP licensure, 246-919-

843 Process for joint practice arrangement termination, 246-919-844 Seventy-two hour limit, 246-919-845 Education for prescribing Schedule II-IV drugs, and 246-919-846 Jurisdiction.

Hearing Location(s): Medical Quality Assurance Commission Meeting, Holiday Inn Select, One South Grady Way, Renton, WA 98055, on November 18, 2005, at 8:00 a.m.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Beverly A. Thomas, Program Manager, P.O. Box 47866, Olympia, WA 98504-7864, rules comment web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4788, by October 28, 2005.

Assistance for Persons with Disabilities: Contact Beverly A. Thomas by October 21, 2005, TTY (800) 833-6388 or (360) 236-4788.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will repeal the rules that pertain to joint practice arrangements.

Reasons Supporting Proposal: The proposed rules implement 2005 legislation (HB 1479, chapter 28, Laws of 2005) by eliminating the need for advanced registered nurse practitioners to acquire and submit joint practice arrangements in order to receive an endorsement from the department allowing them to prescribe drugs on Schedules II through IV. By eliminating this requirement, the proposed changes will increase consumer access to health care.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.050(12).

Statute Being Implemented: Chapter 28, Laws of 2005.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Beverly A. Thomas, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4788.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not conduct a small business [economic] impact statement under RCW 19.85.025 because the chapter does not apply to rules that adopt or incorporate by reference and without material changes Washington state statutes per RCW 34.05.310 (4)(c).

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 (5)(b)(iii) because the proposal adopts a Washington state statute by reference and without material changes.

July 14, 2005

Maryella E. Jansen

Deputy Executive Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-919-840	How do advanced registered nurse practitioners qualify
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	for prescriptive authority for Schedule II - IV drugs?
WAC 246-919-841	Criteria for joint practice arrangement.
WAC 246-919-842	Endorsement of joint practice arrangements for ARNP licensure.
WAC 246-919-843	Process for joint practice arrangement termination.
WAC 246-919-844	Seventy-two-hour limit.
WAC 246-919-845	Education for prescribing Schedule II - IV drugs.
WAC 246-919-846	Jurisdiction.

WSR 05-17-048
PROPOSED RULES
DEPARTMENT OF HEALTH
 (Denturist)

[Filed August 9, 2005, 1:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-12-120.

Title of Rule and Other Identifying Information: Denturist, WAC 246-812-020 Continuing competency requirement.

Hearing Location(s): Department of Health, Point Plaza East, Room 202, 310 Israel Road S.E., Tumwater, WA 98501, on September 30, 2005, at 9:30 a.m.

Date of Intended Adoption: September 30, 2005.

Submit Written Comments to: Vicki Brown, P.O. Box 47867, Olympia, WA 98504-7867, e-mail <http://www3.doh.wa.gov/policyreview>, fax (360) 236-4865 by September 16, 2005.

Assistance for Persons with Disabilities: Contact Vicki Brown by September 16, 2005, TTY (800) 833-6388 or (360) 236-4865.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule implements RCW 18.30.065 (HB 2309, section 5, chapter 160, Laws of 2002) which required the denturist board to adopt rules for continuing competency requirements as a condition of license renewal. The proposed rules will clarify what activities and coursework the board will accept to fulfill the continuing competency requirements. The proposal does not affect existing rules.

Reasons Supporting Proposal: The proposed rule is necessary to implement law. Additionally, the proposed rule will help the denturist stay current with technology and improve the practice of the denturist.

Statutory Authority for Adoption: RCW 18.30.065.

Statute Being Implemented: Chapter 18.30 RCW.

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

Name of Proponent: Department of Health, Board of Denturists, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vicki Brown, Program Manager, Department of Health, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4865.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Briefly describe the proposed rule: The proposed rule seeks to set the minimum hours of continuing competency as a prerequisite for the renewal of a denturist license. There is no current rule language to provide any specific details for continued competency. The proposed rule language describes the acceptable continuing competency activities in detail and the obligations of practitioners to maintain appropriate documentation of these activities as follows:

- Add language for continuing competency requirements.
- Requires a minimum of thirty hours of continuing competency every two years.
- Requires a minimum of thirty hours of continuing competency to be related to the practice of denturism.
- Required thirty contact hours are to be obtained through two or more of the activities from a specific list of options.
- Require documentation from the individual or organization responsible for the continuing competency to provide certificates of attendance or documentation of attendance to the participants. The documentation is to include the licensee's name, date of activity, and number of hours.
- Lists both practicing and professional continuing education activities that will fulfill continuing competency requirements.

2. Is a small business economic impact statement (SBEIS) required for this rule? Yes, the Department of Health (DOH) has reviewed this proposal and has determined that an SBEIS is required. However, the majority of the rule will impose minimal costs to affected parties. The proposed rule generates minimal costs.

3. Which industries are affected by this rule? In preparing this SBEIS, the DOH used the following SIC codes:

SIC	Description	Minor Impact Threshold (\$)
8049	Offices of health practitioners, nec	66.10
8051	Skilled nursing care facilities	195.64
8052	Intermediate care facilities	66.10
8059	Nursing and personal care, nec	66.10
8062	General medical & surgical hospital	396.57
8069	Specialty hospitals exc. psychiatrist	237.94
8082	Home health care services	122.94
8093	Specialty outpatient clinics, nec	116.33
8099	Health and allied services, nec	66.10

It is important to note that the majority of affected parties are self-employed.

4. What are the costs of complying with this rule for small businesses (those with fifty or fewer employees) and for the largest 10% of businesses affected? The associated cost for each practitioner is the costs of requirement to com-

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plete at least two continuing competency activities from the list. With reference to the list, twelve hours of "preparing an article(s)", (number 4f in the list) and eight hours of "lecturing for an approved program", (number 4d in the list) can be completed on practitioners' own time at no costs. The remaining ten hours can be completed through "article review and testing", (number 4c in the list) at a cost of \$150.00. This course is available from the DART on-line self instruction program from the Academy of Dentistry.

The cost to both large and small businesses is the requirement of each practitioner to complete at least two continuing competency activities. Practitioners will be impacted by the associated costs of increased time to schedule, attend and complete at least two continuing competency activities. Some of the costs associated with attending a seminar that are not included in the projections are for: Lodging, meals and travel expenses.

The problem is the huge combination of possible pairs that constitutes the selection universe. Estimating the costs is not easy because the continuing competency activities can be selected from a wide list of possible pairs. The costs, therefore, depend upon the costs associated with the choice of activity.

A sample of the courses, hours and costs (in 2005) are represented below:

Practitioner 1			
Category 4a	Denturist Assn. Conference	10 hours	\$450.00
Category 4c	Article Review & Testing	10 hours	\$150.00
Category 4f	Preparing an article	12 hours	\$100.00
	TOTAL HOURS AND COST	32 hours	\$700.00
Practitioner 2			
Category 4f	Preparing an article	12 hours	\$ 0.00
Category 4d	Lecturer for an approved program	8 hours	\$ 0.00
Category 4b	Adult CPR and First Aid	8 hours	\$44.50
Category 4c	Article Review & Testing	2 hours	\$30.00
	TOTAL HOURS AND COST	30 hours	\$74.50
Practitioner 3			
Category 4	Correspondence course	36 hours	\$298.30
	TOTAL HOURS AND COST	36 hours	\$298.30
Practitioner 4			
Category 4b	OSHA training	10 hours	\$150.00
Category 4b	CPR/First Aid	8 hours	\$ 0.00
Category 4b	Bloodborne Pathogens by L & I	4 hours	\$ 0.00
Category 4c	Online Dental Didactic Courses	8 hours	\$64.00
	TOTAL HOURS AND COST	30 hours	\$214.00

5. Does the rule impose a disproportionate impact on small businesses? Assuming each licensed practitioner is responsible for the costs of his/her continued competency, the proposed rule does not impose a disproportionate impact on small businesses. However, the possibility of a disproportionate impact on small businesses can still exist if large businesses pay the costs of continuing competency education for their practitioners.

The cost of taking a continuing competency course and not being open for practice, results in a loss of income. The range of income per hour for a denturist is \$20.00 to \$50.00. The loss of income for attending a sixteen hour seminar ranges from \$320.00 to \$800.00. The costs for a seminar or course can range from free for CPR/First Aid to \$450.00 for a sixteen hour seminar.

6. How are small businesses involved in the development of this rule? The DOH held three open public rules workshops (one in Yakima, one in Tumwater and one in SeaTac). All one hundred forty-six active state licensees were surveyed by mail for input.

A copy of the statement may be obtained by contacting Vicki Brown, Department of Health, Denturist Program, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4865, fax (360) 664-9077, e-mail vicki.brown@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Vicki Brown, Department of Health, Denturist Program, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4865, fax (360) 664-9077, e-mail vicki.brown@doh.wa.gov.

July 12, 2005

Bruce C. Anderson

Chair, Board of Denturists

NEW SECTION

WAC 246-812-020 Continuing competency requirements. (1) Purpose. The board in agreement with the secretary of the department of health has determined that the public health, safety and welfare of the citizens of the state will be served by requiring all denturists, licensed under chapter 18.30 RCW, to continue their professional development via continuing competency after receiving their licenses.

(2) Effective date. The effective date for the continuing competency requirements for denturists is January 1, 2006. The reporting cycle for verifying completion of continuing competency hours will begin on January 1, 2008, and each renewal date thereafter.

(3) Requirements. A licensed denturist must complete thirty clock hours of continuing competency, every two years, prior to his or her biennial renewal date. The licensee must sign a declaration attesting to the completion of the required number of hours as part of the biennial renewal requirement. The department of health may randomly audit up to twenty-five percent of practitioners for compliance with these rules, after the credential is renewed as allowed by chapter 246-12 WAC, Part 7.

(4) Acceptable continuing competency—Qualification of courses for continuing competency credit. The board will not authorize or approve specific continuing competency courses. Continuing competency course work must contribute to the professional knowledge and development of the practitioner, or enhance services provided to clients.

For the purposes of this chapter, acceptable continuing competency means courses offered or authorized by industry recognized state, local, private, national and international organizations, agencies or institutions of higher learning.

Examples of sponsors or types of continuing competency courses include, but are not limited to:

(a) Courses offered or sponsored by the Washington State Denturist Association.

(b) Basic first aid, cardio pulmonary resuscitation, basic life support, advanced cardiac life support, or emergency related training such as courses offered or authorized by the American Heart Association, the American Cancer Society; training offered or sponsored by Occupational Safety and Health Administration (OSHA) or Washington Industrial Safety and Health Act (WISHA); or any other organizations or agencies.

(c) All forms of educational media related to denturism, available through internet, mail or independent reading, that include an assessment tool upon completion, may not exceed ten hours for the two-year period.

(d) A licensee who serves as a teacher or who lectures in continuing competency programs and/or courses, that contribute to the professional competence of a licensed denturist may accumulate the same number of hours obtained by licensed denturists attending the program and/or course may not exceed sixteen hours for the two-year period.

(e) Attendance at a continuing competency program with a featured speaker(s) may not exceed sixteen hours for the two-year period.

(f) Time spent preparing an original technical or clinical article for a professional publication may not exceed twelve hours for the two-year period.

(g) Nonclinical courses relating to denturist practice organization and management, patient management, or methods of health delivery may not exceed eight hours for the two-year period.

(h) Estate planning, financial planning, investments, and personal health courses are not acceptable.

(5) The board may disallow any claim of credit for a continuing competency course that does not meet the requirements of subsection (4) of this section.

(6) Failure to complete the continued competency requirements by time of license renewal, or failure to provide adequate documentation of completion, is grounds for denying renewal of his or her license until such time as the licensee demonstrates compliance.

(7) Documentation required. Credit for a continuing competency course may not be claimed by a licensee unless the course organizer provides the licensee with documentation of course attendance.

(8) Exceptions. The following are exceptions from the continuing competency requirements:

Upon a showing of good cause by the licensee, the board may waive the licensee from any, all, or part of the continuing competency requirements in this chapter or may grant additional time for the licensee to complete the requirements. Good cause includes, but is not limited to:

- (a) Illness;
- (b) Medical necessity or family emergency;
- (c) Hardship to practice; or
- (d) Other extenuating circumstances.

(9) The requirements of this section are in addition to the requirements in chapter 246-12 WAC, Part 7, related to continuing competency.

WSR 05-17-049

PROPOSED RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed August 9, 2005, 1:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-11-094.

Title of Rule and Other Identifying Information: WAC 246-847-210 Unprofessional conduct—Sexual misconduct.

Hearing Location(s): Red Lion Hotel Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, on October 21, 2005, at 2:30 p.m.

Date of Intended Adoption: October 21, 2005.

Submit Written Comments to: Department of Health, Kris Waidely, P.O. Box 47867, Olympia, WA 98504-7867, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 30, 2005.

Assistance for Persons with Disabilities: Contact Kris Waidely by September 30, 2005, TTY (800) 833-6388 or (360) 236-4847.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule protects the public from unethical occupational therapy practitioners who may inappropriately use their position as a health provider to foster an unprofessional, sexual relationship. The Occupational Therapy Practice Board (board) is empowered to adopt rules relating to standards of appropriateness of occupational therapy care. The Uniform Disciplinary Act of RCW 18.130.180 describes the proper conduct of the occupational therapy practitioner. The proposed rule addresses issues of unprofessional sexual misconduct with current and former occupational therapy clients. The proposed rule defines inappropriate and unprofessional sexual misconduct in the occupational therapy practitioner-client relationship. The Uniform Disciplinary Act does not provide adequate guidance on sexual misconduct. Setting clear guidelines will outline behaviors that are not acceptable and may be grounds for sanctions against licensure.

Reasons Supporting Proposal: Rules will provide clear guidance to occupational therapy practitioners, so they are better informed about appropriate contact with clients and former clients. By establishing these guidelines, the board will have the ability to take more appropriate action in cases of sexual misconduct as defined in the proposed rules.

Statutory Authority for Adoption: RCW 18.59.130 and 18.130.180.

Statute Being Implemented: Chapter 18.59 RCW.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has not conducted a small business [economic] impact statement. The

PROPOSED

proposed rule does not impose more than minor costs on small business per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

July 7, 2005

Kris Waidely
Program Manager

NEW SECTION

WAC 246-847-210 Unprofessional conduct—Sexual misconduct. (1) The occupational therapist and occupational therapy assistant shall never engage in sexual contact or sexual activity with current clients.

(2) Sexual contact or sexual activity is prohibited with a former client for two years after cessation or termination of professional services.

(3) The occupational therapist and occupational therapy assistant shall never engage in sexual contact or sexual activity with former clients if such contact or activity involves the abuse of the occupational therapy practitioner-client relationship. Factors which the board may consider in evaluating if the occupational therapy practitioner-client relationship has been abusive includes, but is not limited to:

- (a) The amount of time that has passed since therapy terminated;
- (b) The nature and duration of the therapy;
- (c) The circumstances of cessation or termination;
- (d) The former client's personal history;
- (e) The former client's current mental status;
- (f) The likelihood of adverse impact on the former client and others; and
- (g) Any statements or actions made by the occupational therapist or occupational therapy assistant during the course of therapy suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the former client.

(4) These rules do not prohibit:

(a) The provision of occupational therapy services on an urgent, unforeseen basis where circumstances will not allow an occupational therapist or occupational therapy assistant to obtain reassignment or make an appropriate referral;

(b) The provision of occupational therapy services to a spouse or any other person who is in a preexisting, established relationship with the occupational therapist or occupational therapy assistant where no evidence of abuse of the occupational therapy practitioner-client relationship exists.

WSR 05-17-050

PROPOSED RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed August 9, 2005, 1:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-11-095.

Title of Rule and Other Identifying Information: WAC 246-847-190 AIDs education and training; RCW 70.24.270 Rules for AIDs education and training, requires each profession to have rules that describe the appropriate education and training on the prevention, transmission and treatment of AIDs. WAC 246-12-260 Who must obtain AIDs education, from the Administrative Procedure Act and requirements for credentialed health care providers requires that all practitioners must demonstrate completion of four or seven clock hours of AIDs education prior to obtaining an initial health care credential. Currently, WAC 246-847-190 requires six hours. To bring consistency with WAC 246-847-190 AIDs education and training and 246-12-260 Who must obtain AIDs education, the proposed rule amendment requires seven clock hours of AIDs education and training.

Hearing Location(s): Red Lion Hotel Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, on October 21, 2005, at 2:30 p.m.

Date of Intended Adoption: October 21, 2005.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 30, 2005.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by September 30, 2005, TTY (800) 833-6388 or (800) 525-0127.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To establish the number of hours of AIDs education and training required prior to occupational therapy practitioners obtaining their initial credential. Seven hours of HIV/AIDs education and training was chosen because occupational therapists and occupational therapy assistants occasionally work with open wounds.

Reasons Supporting Proposal: RCW 70.24.270 requires each disciplining authority under chapter 18.130 RCW to adopt rules that require appropriate education and training for licensees on the prevention, transmission, and treatment of AIDs. Rules must be developed to establish the number of hours of AIDs education and training required for occupational therapy practitioners.

Statutory Authority for Adoption: RCW 18.59.130 and 70.24.270.

Statute Being Implemented: Chapter 18.59 RCW.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 246-4847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has not conducted a small business [economic] impact statement. The proposed rule does not impose more than minor costs on small business per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4847, fax (360) 664-9077, e-mail Kris.Waidely@doh.wa.gov.

July 7, 2005
Kris Waidely
Program Manager

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-847-190 AIDS education and training. Applicants must complete (~~six~~) seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

WSR 05-17-051

PROPOSED RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed August 9, 2005, 1:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-030.

Title of Rule and Other Identifying Information: WAC 246-847-170 Code of ethics and standards of professional conduct, this rule clarifies the professional responsibility of occupational therapists and occupational therapy assistants. The proposed language is currently in WAC 246-847-010 and is being moved to WAC 246-847-170 for better clarity. Treatment objectives and the therapeutic process must be formulated to ensure professional accountability. The rules require occupational therapists and occupational therapy assistants to establish, review and revise client treatment objectives at sufficient intervals to meet client needs.

Hearing Location(s): Red Lion Hotel Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, on October 21, 2005, at 2:30 p.m.

Date of Intended Adoption: October 21, 2005.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 664-9077, by September 30, 2005.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by September 30, 2005, TTY (800) 833-6388 or (800) 525-0127.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment to WAC 246-847-170 Code of ethics and standards of professional conduct, gives specific guidance related to the professional responsibility of an occupational therapist and occupational therapy assistant to establish, review and revise client treatment objectives to meet the client's needs. An existing standard in WAC 246-847-010(2) was moved to WAC 246-847-170(12) for better clarity. WAC 246-847-010 is currently being drafted with new language that does not include this specific responsibility. It was determined that

this professional responsibility should be required of all occupational therapy practitioners and should be listed in code of ethics standards of professional conduct. The clearer guidelines will ensure quality care to the public by providing the occupational therapy practitioner with specific guidance while ongoing treatment occurs. Establishing and reviewing treatment objectives is current practice in the field.

Reasons Supporting Proposal: The language further defines and clarifies professional responsibility. Proposed language will better ensure occupational therapists and occupational therapy assistants will provide informed quality care to clients/public.

Statutory Authority for Adoption: RCW 18.59.130 and 18.130.050.

Statute Being Implemented: Chapter 18.59 RCW.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has not conducted a small business [economic] impact statement. The proposed rule does not impose more than minor costs on small business per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4847, fax (360) 664-9077, e-mail Kris.Waidely@doh.wa.gov.

July 11, 2005
Kris Waidely
Program Manager

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

WAC 246-847-170 Code of ethics and standards of professional conduct. (1) It is the professional responsibility of occupational therapists and occupational therapy assistants to provide services for clients without regard to race, creed, national origin, gender, handicap or religious affiliation.

(2) Treatment objectives and the therapeutic process must be formulated to ensure professional accountability.

(3) Services shall be goal-directed in accordance with the overall educational, habilitation or rehabilitation plan and shall include a system to ensure professional accountability.

(4) Occupational therapists and occupational therapy assistants shall recommend termination of services when established goals have been met or when further services would not produce improved client performance.

(5) Occupational therapists and occupational therapy assistants shall accurately represent their competence, education, training and experience.

(6) Occupational therapists and occupational therapy assistants shall only provide services and use techniques for

which they are qualified by education, training, and experience.

(7) Occupational therapists and occupational therapy assistants shall accurately record information and report information as required by facility standards and state and federal laws.

(8) All data recorded in permanent files or records shall be supported by the occupational therapist or the occupational therapy assistant's observations or by objective measures of data collection.

(9) Client's records shall only be divulged as authorized by law or with the client's consent for release of information.

(10) Occupational therapists and occupational therapy assistants shall not delegate to other personnel those client-related services where the clinical skills and expertise of an occupational therapist or occupational therapy assistant are required.

(11) If, after evaluating the client, the case is a medical case, the occupational therapist shall refer the case to a physician for appropriate medical direction if such direction is lacking.

(a) Appropriate medical direction shall be sought on at least an annual basis.

(b) A case is not a medical case if the following is present:

- (i) There is an absence of pathology; or
- (ii) If a pathology exists, the pathology has stabilized; and
- (iii) The occupational therapist is only treating the client's functional deficits.

(12) Occupational therapists shall establish, review, or revise the client's treatment objectives at sufficient intervals to meet the client's needs. The occupational therapy assistant shall collaborate with the occupational therapist in this review of the client's treatment objectives.

WSR 05-17-055

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 9, 2005, 4:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-20-103.

Title of Rule and Other Identifying Information: New chapter 388-845 WAC, DDD home and community based services waiver, WAC 388-845-0001 through 388-845-4015.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, on October 11, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than October 12, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., October 11, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant by October 7, 2005, TTY (360) 664-6178 or (360) 664-6097, or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Division of Developmental Disabilities has received initial approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replaced the community alternatives program (CAP) waiver.

These rules will clarify eligibility, service array, utilization, provider qualifications, client appeal rights and access to services.

This filing includes a new chapter 388-845 WAC.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Statute Being Implemented: Chapter 71A.12 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Steve Brink, P.O. Box 5310, Olympia, WA 98507-5310, (360) 725-3416; Implementation: Shannon Manion, P.O. Box 5310, Olympia, WA 98507-5310, (360) 725-3445; and Enforcement: Sue Poltl, P.O. Box 5310, Olympia, WA 98507-5310, (360) 725-3454.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD has analyzed these proposed rules and concludes that the costs to small businesses would be minor. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Steve Brink, P.O. Box 5310, Olympia, WA 98507-5310, phone (360) 725-3416, fax (360) 407-0955, e-mail brinksc@dshs.wa.gov.

August 9, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-18 issue of the Register.

WSR 05-17-095

PROPOSED RULES

WASHINGTON STATE LOTTERY

[Filed August 15, 2005, 4:03 p.m.]

Continuance of WSR 05-03-060 [and 05-16-069].

Title of Rule and Other Identifying Information: Repealing chapter 315-37 WAC, Lotto Plus, Washington's Lottery

retired Lotto Plus draw game October 4, 2004. This chapter is no longer in use.

Hearing Location(s): Lottery Headquarters, Drawing Studio, 814 4th Avenue East, Olympia, WA 98506, on November 17, 2005, at 9:00 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98506, e-mail Cbuddeke@walottery.com, fax (360) 586-6586, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by November 11, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The lottery no longer has a draw game by the name of Lotto Plus.

Reasons Supporting Proposal: The rule is obsolete.

Statutory Authority for Adoption: Chapter 67.70 RCW.

Statute Being Implemented: RCW 67.70.040.

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

Name of Proponent: Washington's Lottery, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98506, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed repeal will not impose costs on industry businesses, and the lottery has not been asked to prepare a small business economic impact statement. See RCW 19.82.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98506, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

August 15, 2005
Ceil Buddeke
Rules Coordinator

WSR 05-17-096
PROPOSED RULES
WASHINGTON STATE LOTTERY

[Filed August 15, 2005, 4:08 p.m.]

Original Notice.

Expedited rule making—Proposed notice was filed as WSR 05-05-059.

Title of Rule and Other Identifying Information: Repealing chapter 315-36 WAC, Lucky For Life, Washington's lottery retire Lucky For Life draw game April 24, 2005. This is no longer in use.

Hearing Location(s): Lottery Headquarters, Drawing Studio, 814 4th Avenue East, Olympia, WA 98506, on November 17, 2005, at 9:00 a.m.

Date of Intended Adoption: November 17, 2005.

Submit Written Comments to: Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98506, e-mail Cbuddeke@walottery.com, fax (360) 586-6586, by November 11, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by November 11, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The lottery no longer has a draw game by the name of Lucky For Life.

Reasons Supporting Proposal: The rule is obsolete.

Statutory Authority for Adoption: Chapter 67.70 RCW.

Statute Being Implemented: RCW 67.70.040.

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

Name of Proponent: Washington's Lottery, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98506, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed repeal will not impose costs on industry businesses, and the lottery has not been asked to prepare a small business economic impact statement. See RCW 19.82.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ceil Buddeke, 814 4th Avenue East, Olympia, WA 98506, phone (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com.

August 15, 2005
Ceil Buddeke
Rules Coordinator

WSR 05-17-100
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Filed August 16, 2005, 8:40 a.m.]

WAC 173-503-020, 173-503-025, 173-503-051, 173-503-060, 173-503-071, 173-503-073, 173-503-074, 173-503-075, 173-503-080, 173-503-081, 173-503-090, 173-503-100, 173-503-110, 173-503-120, 173-503-130, 173-503-140 and 173-503-150, proposed by the Department of Ecology in WSR 05-04-108 appearing in issue 05-04 of the State Register, which was distributed on February 16 2005, 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 05-17-129
PROPOSED RULES
WASHINGTON STATE PATROL

[Filed August 19, 2005, 10:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-127.

Title of Rule and Other Identifying Information: WAC 446-65-010 Commercial motor vehicle regulations/transportation requirements.

PROPOSED

Hearing Location(s): General Administration Building, Commercial Vehicle Division Conference Room, 210 11th Avenue S.W., Olympia, WA 98504, on Tuesday, September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: September 27, 2005.

Submit Written Comments to: Ms. Christine Fox, Equipment and Standards Review Unit, P.O. Box 42614, Olympia, WA 98504-2614, e-mail Christine.Fox@wsp.wa.gov, fax (360) 586-8233, by September 26, 2005.

Assistance for Persons with Disabilities: Contact Ms. Christine Fox by September 26, 2005, (360) 753-3697.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Additional Title 49 Code of Federal Regulations is to be adopted to remain compliant with federal enforcement requirements.

Statutory Authority for Adoption: RCW 46.32.020.

Rule is necessary because of federal law, Title 49 Code of Federal Regulations.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ms. Christine Fox, General Administration Building, P.O. Box 42614, Olympia, WA 98504-2614, (360) 753-3697.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Additional Title 49 Code of Federal Regulations is to be adopted to remain compliant with federal enforcement requirements.

A cost-benefit analysis is not required under RCW 34.05.328. There will be no cost to the industry.

August 19, 2005

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 05-04-002, filed 1/19/05, effective 2/19/05)

WAC 446-65-010 Transportation requirements. (1) The Washington state patrol hereby adopts the following parts, and any amendments thereto, of Title 49 Code of Federal Regulations, for motor carriers used in intrastate or interstate commerce, in their entirety: Parts 350 Commercial motor carrier safety assistance program, 365 Rules governing applications for operating authority, 380 Special training requirements, 387 Minimum levels of financial responsibility for motor carriers, 390 General, 391 Qualification of drivers, 392 Driving of motor vehicles, 393 Parts and accessories necessary for safe operation, 395 Hours of service of drivers, 396 Inspection, repair, and maintenance, 397 Transportation of hazardous materials; driving and parking rules, provided, however, motor carriers operating vehicles with a gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating solely intrastate, and not used to transport hazardous materials in a quantity requiring placarding, are exempt from Parts 390 General, 391 Qualifications of drivers, 392 Driving of motor vehicles, 395 Hours of service, and 396 Inspection, repair, and maintenance.

(2) As provided in Part 395, exemption for agricultural transporters, the harvest dates are defined as starting February 1 and ending November 30 of each year.

(3) Agricultural operations exceptions:

(a) Agricultural operations transporting agricultural products other than Class 2 material (Compressed Gases), over roads, other than the National System of Interstate Defense Highways, between fields of the same farm, is excepted from part 397 when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier.

(ii) The movement of the agricultural product conforms to all other laws in effect on or before July 1, 1998, and 49 CFR 173.24, 173.24a, and 173.24b.

(b) The transportation of an agricultural product to or from a farm within one hundred fifty miles of the farm, is excepted from the requirements of 49 CFR part 172 subpart G (emergency response information) and H (training requirements) when:

(i) The agricultural product is transported by a farmer who is an intrastate private motor carrier;

(ii) The total amount of agricultural product being transported on a single vehicle does not exceed:

(A) Sixteen thousand ninety-four pounds of ammonium nitrate fertilizer properly classed as Division 5.1, PGIII, in bulk packaging; or

(B) Five hundred two gallons for liquids or gases, or five thousand seventy pounds for solids, of any other agricultural product;

(iii) The packaging conforms to the requirements of state law and is specifically authorized for transportation of the agricultural product by state law and such state law has been in effect on or before July 1, 1998; and

(iv) Each person having any responsibility for transporting the agricultural product or preparing the agricultural product for shipment has been instructed in the applicable requirements of 49 CFR adopted in this section.

(C) Formulated liquid agricultural products in specification packaging of fifty-eight gallon capacity or less, with closures manifolded to a closed mixing system and equipped with a positive dry disconnect device, may be transported by a private motor carrier between a final distribution point and an ultimate point of application or for loading aboard an airplane for aerial application.

(4) Copies of Title 49 CFR, parts 390 through 397, now in force are on file at the code reviser's office, Olympia and at the Washington state patrol headquarters, commercial vehicle enforcement section, Olympia. Additional copies may be available for review at Washington state patrol district headquarters offices, public libraries, Washington utilities and transportation commission offices, and at the United States Department of Transportation, Bureau of Motor Carrier Safety Office, Olympia. Copies of the CFR may be purchased through the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

WSR 05-17-130

PROPOSED RULES

WASHINGTON STATE PATROL

[Filed August 19, 2005, 10:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-126.

Title of Rule and Other Identifying Information: WAC 204-90-120 Suspension.

Hearing Location(s): General Administration Building, Commercial Vehicle Division Conference Room, 210 11th Avenue S.W., Olympia, WA 98504, on Tuesday, September 27, 2005, at 9:00 a.m.

Date of Intended Adoption: September 27, 2005.

Submit Written Comments to: Ms. Christine Fox, Equipment and Standards Review Unit, P.O. Box 42614, Olympia, WA 98504-2614, e-mail Christine.Fox@wsp.wa.gov, fax (360) 586-8233, by September 26, 2005.

Assistance for Persons with Disabilities: Contact Ms. Christine Fox by September 26, 2005, (360) 753-3697.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Office of Government and Media Relations and Equipment and Standards worked with Representative Jim Clements and other members of the House Transportation Committee, during 2005 legislative session to draft language relating to the use of aftermarket hydraulic or mechanical system to raise or lower the height of a motor vehicle. An error was found in the proposed language and the bill was vetoed. WSP was asked if the proposed language, once corrected, could be incorporated into an existing WAC. Yes.

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.320.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ms. Christine Fox, General Administration Building, P.O. Box 42614, Olympia, WA 98504-2614, (360) 753-3697.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed additions and amendments are optional and if installed how and when an aftermarket hydraulic or mechanical system that raises or lowers the height of a motor vehicle may be activated.

A cost-benefit analysis is not required under RCW 34.05.328. There will be no cost to the industry.

August 19, 2005

John R. Batiste

Chief

AMENDATORY SECTION (Amending WSR 98-04-052, filed 1/30/98, effective 3/2/98)

WAC 204-90-120 Suspension. The ground clearance for a special motor vehicle shall be such that the vehicle shall be able to be in motion on its four rims on a flat surface with no other parts of the vehicle touching that surface. Maximum ground clearance for a special motor vehicle shall be determined using the table contained in WAC 204-90-040(6) Bumpers.

The spring mounts and shackles shall be properly aligned and of sufficient strength so as to support the gross weight of the vehicle and provide free travel in an up and down movement under all conditions of operation. Rear coil

spring suspension systems shall incorporate anti-sway devices to control lateral movement.

A special motor vehicle shall have a suspension system that allows movement between the unsprung axles and wheels and the chassis body and shall be equipped with a damping device at each wheel location. The suspension system shall be capable of providing a minimum relative motion of plus and minus 2 inches. When any corner of the vehicle is depressed and released, the damping device shall stop vertical body motion within two cycles.

There shall be no heating or welding of coil springs, leaf springs, or torsion bars.

No special motor vehicle shall be constructed or loaded so that the weight on the wheels of any axle is less than 30% of the gross weight of the vehicle. ~~((No hydraulic system shall be activated while the vehicle is being operated on public roadways.))~~

Except when lawfully participating in a parade permitted by local jurisdiction, activation of an aftermarket hydraulic or mechanical system that raises or lowers the height of a motor vehicle is prohibited while the motor vehicle is in motion on a public roadway with a posted speed limit greater than twenty-five miles per hour and while the vehicle is traveling in excess of fifteen miles per hour. At no time may any portion of any tire of such motor vehicle leave the surface of the roadway or may any portion of the vehicle or component of the hydraulic system used to raise or lower the vehicle cause or emit sparks. A motor vehicle equipped with an aftermarket hydraulic or mechanical system must meet all suspension requirements as outlined in this section. Nothing in this section shall prohibit a county or city from enacting stricter regulations for aftermarket vehicle hydraulics on a public roadway.

A special motor vehicle shall be capable of stable, controlled operation while traversing a slalom-type path passing alternately to the left and right of at least four cones or markers arranged in a straight line and spaced 60 feet apart at a minimum speed of 25 MPH. Body lifts are permitted provided that they are manufactured by an after market manufacturer, designed for the make and model vehicle on which they are installed, and installed according to the manufacturer's recommendations. Body lifts may not use more than a three inch spacer and may not raise the body more than four inches above the frame when all components are installed.

WSR 05-17-131

PROPOSED RULES

SOUTHWEST

CLEAN AIR AGENCY

[Filed August 19, 2005, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-16-122.

Title of Rule and Other Identifying Information: SWCAA 400-045 Permit Application for Nonroad Engines, this is an existing section that identifies requirements for the submittal of permit applications for nonroad engine projects.

SWCAA 400-075 Emission Standards for Stationary Sources Emitting Hazardous Air Pollutants, this is an existing section that adopts by reference the federal standards relating to hazardous air pollutant standards contained in 40 C.F.R. Parts 63 and 65.

SWCAA 400-099 Per Capita Fees, this is an existing section that provides supplemental income to Southwest Clean Air Agency (SWCAA) by establishing and implementing a general "per capita" fee based on the proportional population of each component city, town, and county.

SWCAA 400-100 Registration Requirements, this is an existing section that identifies requirements for registration and inspection of air contaminant sources.

SWCAA 400-109 Air Discharge Permit Applications, this is an existing section that identifies requirements for submittal and a description of the process for submitting a notice of construction application.

SWCAA 400-115 Standards of Performance for New Sources, this is an existing section that adopts by reference the new source performance standards (NSPS) contained in 40 C.F.R. Part 60.

Hearing Location(s): Office of SWCAA, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682, on November 3, 2005, at 3:00 p.m.

Date of Intended Adoption: November 3, 2005.

Submit Written Comments to: Wess Safford, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682-2452, e-mail wess@swcleanair.org, fax (360) 576-0925, by October 24, 2005.

Assistance for Persons with Disabilities: Contact Mary Allen by October 26, 2005, TTY (360) 574-3058.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SWCAA 400-045 Permit Application for Nonroad Engines, the proposed changes adjust permit application fees to provide more funding in support of agency work to process the affected applications.

SWCAA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, the proposed changes update adoption reference dates and incorporate new federal regulations contained in 40 C.F.R. Parts 63 and 65.

SWCAA 400-099 Per Capita Fees, the proposed changes adjust the "per capita" assessment rate to provide additional funding for the agency.

SWCAA 400-100 Registration Requirements, the proposed changes adjust annual registration fees for air pollution sources to provide additional funding for the agency.

SWCAA 400-109 Air Discharge Permit Applications, the proposed changes adjust permit application fees to provide more funding in support of agency work to process the affected applications.

SWCAA 400-115 Standards of Performance for New Sources, the proposed changes update adoption reference dates and incorporate new federal regulations contained in 40 C.F.R. Part 60.

Reasons Supporting Proposal: SWCAA 400-045 Permit Application for Nonroad Engines, application fees are being adjusted in order to fund a budget shortfall associated with processing the affected permit applications and insure that permits continue to be processed in a timely fashion.

SWCAA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants, in order to maintain proper enforcement authority for the affected regulations, this section must occasionally be updated to reflect new and revised federal standards found in 40 C.F.R. Parts 61 and 63. United States EPA expects regular updates of this section to support federal delegation of these programs.

SWCAA 400-099 Per Capita Fees, the "per capita" assessment rate is being adjusted to provide funding for a general budget shortfall at the agency and insure that the agency can continue to respond to air pollution complaints.

SWCAA 400-100 Registration Requirements, annual registration fees are being adjusted to provide funding for a general budget shortfall at the agency and insure that the agency can continue to conduct compliance inspections of registered air pollution sources.

SWCAA 400-109 Air Discharge Permit Applications, application fees are being adjusted in order to fund a budget shortfall associated with processing the affected permit applications and insure that permits continue to be processed in a timely fashion.

SWCAA 400-115 Standards of Performance for New Sources, in order to maintain proper enforcement authority for the affected regulations, this section must occasionally be updated to reflect new and revised federal standards found in 40 C.F.R. Part 60. United States EPA expects regular updates of this section to support federal delegation of this program.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Southwest Clean Air Agency (SWCAA), governmental.

Name of Agency Personnel Responsible for Drafting: Wess Safford, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682, (360) 574-3058; Implementation: Paul Mairose, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682, (360) 574-3058; and Enforcement: Robert Elliott, 11815 N.E. 99th Street, Suite 1294, Vancouver, WA 98682, (360) 574-3058.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes proposed by SWCAA are consistent with federal or state rules already in effect. This agency is not subject to the small business economic impact provision of chapter 19.85 RCW. A fiscal analysis has been performed to establish the basis for any proposed fee increases. Copies of this analysis are available from SWCAA.

A cost-benefit analysis is not required under RCW 34.05.328. Pursuant to RCW 70.94.141(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. SWCAA is not voluntarily invoking section 201, chapter 403, Laws of 1995 for this action.

Robert D. Elliott
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-18 issue of the Register.

WSR 05-17-152
PROPOSED RULES
WASHINGTON STATE LOTTERY

[Filed August 22, 2005, 3:01 p.m.]

Continuance of WSR 05-12-009.

Preproposal statement of inquiry was filed as WSR [05-08-066 on] March 31, 2005.

Title of Rule and Other Identifying Information: WAC 315-06-125 Debts owed the state, changes to the rule will clarify the debt verification process.

Hearing Location(s): Lottery Headquarters, 214 4th Avenue East, Drawing Studio, Olympia, WA 98506, on November 17, 2005, at 9:00 a.m.

Date of Intended Adoption: November 10, 2005.

Submit Written Comments to: Ceil Buddeke, P.O. Box 43025, Olympia, WA 98504-3025, e-mail Cbuddeke@walottery.com, fax (360) 664-4833, by November 10, 2005.

Assistance for Persons with Disabilities: Contact Joan Reuell by November 10, 2005, TTY (360) 586-0933.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Washington's Lottery intends to recommend permanent amendment of this rule to clarify the verification requirements for debts owing to state agencies or political subdivisions.

Reasons Supporting Proposal: Lottery prizes are subject to off-set debts owed to the state. This rule will expedite collections of obligations through improved interagency cooperation.

Statutory Authority for Adoption: Chapter 67.70 RCW.

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

Name of Proponent: Washington's Lottery, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ceil Buddeke, 814 East 4th Avenue, Olympia, WA 98507, (360) 664-4833.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have a disproportionate impact on the state's small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Debt off set is mandated by statute. The rule is needed to achieve the general goals and specific objectives of RCW 67.70.255 to off set debts owing to state agencies or political subdivisions.

August 19, 2005

Ceil Buddeke
 Rules Coordinator

WSR 05-17-159
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 22, 2005, 4:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-134.

Title of Rule and Other Identifying Information: Amend WAC 388-531-2000 Increased payments for physician-related services for qualified trauma cases.

Hearing Location(s): Blake Office Park East (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 28, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. September 27, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by September 23, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to correct an unnecessarily restrictive element in current WAC that prohibits payments from the department's trauma care fund (TCF) to physicians for services provided to general assistance-unemployable (GA-U) and Alcohol and Drug Addition Treatment and Support Act (ADATSA) clients. It was never legislative intended to restrict TCF payments to physicians who provide services to GA-U and ADATSA clients, since no disproportionate share hospital (DSH) funds are used to pay physicians.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500.

Statute Being Implemented: RCW 74.08.090, 74.09.-500.

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

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

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1342; Implementation and Enforcement: Ayuni Wimpee, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1835.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendment and concludes that it will impose no new costs on small businesses. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ayuni Wimpee, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 725-1835, fax (360) 753-9152, e-mail wimpeah@dshs.wa.gov.

August 18, 2005

Andy Fernando, Manager
 Rules and Policies Assistance Unit

PROPOSED

AMENDATORY SECTION (Amending WSR 04-19-113, filed 9/21/04, effective 10/22/04)

WAC 388-531-2000 Increased payments for physician-related services for qualified trauma cases. (1) The department's trauma care fund (TCF) is an amount that is legislatively appropriated to DSHS each biennium for the purpose of increasing the ~~((medical assistance administration's (MAA's)))~~ department's payment to eligible physicians and other clinical providers for providing qualified trauma services to Medicaid, General assistance-Unemployable (GA-U), and Alcohol and Drug Addiction Treatment and Support Act (ADATSA) fee-for-service clients. Claims for trauma care provided to clients enrolled in ~~((MAA's))~~ the department's managed care programs are not eligible for increased payments from the TCF.

(2) Beginning with services provided after June 30, 2003, ~~((MAA))~~ the department makes increased payments from the TCF to physicians and other clinical providers who provide trauma services to Medicaid, GA-U, and ADATSA clients, subject to the provisions in this section. A provider is eligible to receive increased payments from the TCF for trauma services provided to a GA-U or ADATSA client during the client's certification period only. See WAC 388-416-0010.

(3) ~~((MAA))~~ The department makes increased payments from the TCF to physicians and other clinical providers who:

(a) Are on the designated trauma services response team of any department of health (DOH)-designated trauma service center;

(b) Meet the provider requirements in this section and other applicable WAC;

(c) Meet the billing requirements in this section and other applicable WAC; and

(d) Submit all information ~~((MAA))~~ the department requires to ensure trauma services are being provided.

(4) Except as described in subsection (5) of this section and subject to the limitations listed, ~~((MAA))~~ the department makes increased payments from the TCF to physicians and other eligible clinical providers:

(a) For only those trauma services that are designated by ~~((MAA))~~ the department as "qualified." These qualified services must be provided to eligible fee-for-service Medicaid, GA-U, and ADATSA clients. Qualified trauma services include care provided within six months of the date of injury for surgical procedures related to the injury if the surgical procedures were planned during the initial acute episode of injury.

(b) For hospital-based services only.

(c) Only for ~~((Medicaid))~~ trauma cases that meet the injury severity score (ISS) (a summary rating system for traumatic anatomic injuries) of:

(i) Thirteen or greater for an adult trauma patient (a client age fifteen or older); or

(ii) Nine or greater for a pediatric trauma patient (a client younger than age fifteen).

(d) On a per-client basis in any DOH designated trauma service center.

(e) At a rate of two and one-half times the current ~~((MAA))~~ department fee-for-service rate for qualified trauma services, subject to the following:

(i) ~~((MAA))~~ The department monitors the increased payments from the TCF during each state fiscal year (SFY) and makes necessary adjustments to the rate to ensure that total payments from the TCF for the biennium will not exceed the legislative appropriation for that biennium.

(ii) Laboratory and pathology charges are not eligible for increased payments from the TCF. (See subsection (6)(b) of this section.)

(5) When a trauma case is transferred from one hospital to another, ~~((MAA))~~ the department makes increased payments from the TCF to physicians and other eligible clinical providers, according to the ISS score as follows:

(a) If the transferred case meets or exceeds the appropriate ISS threshold described in subsection (4)(c) of this section, eligible providers who furnish qualified trauma services in both the transferring and receiving hospitals are eligible for increased payments from the TCF.

(b) If the transferred case is below the ISS threshold described in subsection (4)(c) of this section, only the eligible providers who furnish qualified trauma services in the receiving hospital are eligible for increased payments from the TCF.

(6) ~~((MAA))~~ The department distributes increased payments from the TCF only:

(a) When eligible trauma claims are submitted with the appropriate trauma indicator within the timeframes specified by ~~((MAA))~~ the department; and

(b) On a per-claim basis. Each qualifying trauma service and/or procedure on the physician's claim or other clinical provider's claim is paid at ~~((MAA's))~~ the department's current fee-for-service rate, multiplied by an increased TCF payment rate that is based on the appropriate rate described in subsection (4)(e) of this section. Charges for laboratory and pathology services and/or procedures are not eligible for increased payments from the TCF and are paid at ~~((MAA's))~~ the department's current fee-for-service rate.

(7) For purposes of the increased payments from the TCF to physicians and other eligible clinical providers, all of the following apply:

(a) ~~((MAA))~~ The department may consider a request for a claim adjustment submitted by a provider only if the claim is received by ~~((MAA))~~ the department within one year from the date of the initial trauma service;

(b) ~~((MAA))~~ The department does not allow any carry-over of liabilities for an increased payment from the TCF after a date specified by ~~((MAA))~~ the department as the last date to make adjustments to a trauma claim for an SFY. WAC 388-502-0150(7) does not apply in this case;

(c) All claims and claim adjustments are subject to federal and state audit and review requirements; and

(d) The total amount of increased payments from the TCF disbursed to providers by ~~((MAA))~~ the department in a biennium cannot exceed the amount appropriated by the legislature for that biennium. ~~((MAA))~~ The department has the authority to take whatever actions are needed to ensure ~~((MAA))~~ the department stays within the current TCF appropriation (see subsection (4)(e)(i) of this section).

WSR 05-17-160
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Health and Recovery Services Administration)
 [Filed August 22, 2005, 4:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-08-088.

Title of Rule and Other Identifying Information: WAC 388-501-0165 Determination process for coverage of medical equipment and medical or dental services.

Hearing Location(s): Blake Office Park East (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097), Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 28, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. September 27, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by September 23, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The robust development and availability of new drugs, treatments, and therapies calls for greater diligence in assuring that medical assistance clients will not be harmed by inappropriate service utilization, along with the recognition that limitations on available health care resources require that Medicaid funds be expended in a cost-efficient and effective manner to improve the health of clients.

The legislature, in enacting RCW 41.05.013, chapter 276, Laws of 2003, ESHB 1299, directed the department, the Department of Labor and Industries, and the Washington Health Care Authority to collaborate in the adoption and implementation of health services policies and procedures necessary to ensure prudent, cost-effective purchasing. Specifically, the agencies are mandated to (1) maximize efficiencies in administration of state purchased health care programs, (2) improve the quality of care provided through state purchased health care programs, and (3) reduce administrative burdens on health care providers participating in state purchased health care programs. Further, the legislature has directed that the policies and procedures adopted by each agency should be based, to the extent possible, on the best available scientific and medical evidence.

Currently, the department approves requests for Medicaid payment for health care services determined to be "medically necessary." This process utilizes the department's longstanding definition of medical necessity found in WAC 388-500-0005. The medically necessary definition provides that, in order to be approved, there must be (1) a requested service

determined to be (2) reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent the worsening of (3) a medical condition that endangers life or causes suffering, pain, illness, infirmity, physical deformity, or malfunction (4) where there is no other equally effective, less costly alternative.

In accordance with legislative directive of RCW 41.05.013 and evolving standards in the practice of medicine, the department proposes these amendments to clarify and strengthen the process and standards used to determine medical necessity. Specifically, the department is making these enhancements to the prior approval process by revising the existing medical necessity determination procedures to apply an evidentiary hierarchy that assigns weight to objective indicators of the validity and reliability of medical evidence. The hierarchy is based on factors such as the source of the evidence, the empirical characteristics of studies or trials on which it is based, the consistency of the evidence with the outcome of comparable studies, and, as to evidence and information specific to a client, to results such as previously tried and failed treatments or treatments demonstrating substantial clinical improvement.

In implementing the evidence-based review and approval process in the proposed amendments, the department will continue to determine whether a requested health care service is reasonably calculated to reduce the incidence of mortality and morbidity in the client and whether there is an equally effective but less costly alternative, appropriate to the client's clinical condition that the department will approve instead.

Under the proposed amendment, the department will determine medical necessity individually and to base its review of requested service on the particular needs of each client by evaluating all relevant and available clinical information and medical evidence. The amendments will, however, strengthen the medical necessity determination process and increase confidence in the results reached by the department, by requiring that medical necessity decisions be made using a consistent, transparent, objective, and evidence-based framework, sensitive to both sound medical practice and effective utilization of funds.

In situations where early observational studies show positive results, the proposed amendments will not prevent the department's Medicaid clients from benefiting from ongoing advances in medical knowledge while multiple and exhaustive clinical studies are being fully completed. Nor will they prevent approval of requests for services or treatments due to circumstances, such as the infrequent occurrence of a particular condition or disease, making it unlikely that extensive clinical studies will be undertaken within the time period relevant to the client's health care needs. In addition, the proposed amendment will allow for FDA humanitarian device exceptions and treatment prescribed in conjunction with internal review organizations.

In those infrequent situations, however, in which careful evaluation of an emerging treatment or therapy is required due to potentially serious or life threatening adverse consequences, the department may limit approval to situations in which the potential benefits and potential detrimental results to the individual client can be carefully identified, analyzed,

monitored, and subjected to peer review in an appropriate research setting. By doing so, the department, while not denying its clients access to emerging treatments or therapies, may provide a greater measure of protection from harm than might otherwise arise from inadequately designed, supervised, and nonpeer reviewed experimentation.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting: Kevin Sullivan, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1344; Implementation and Enforcement: Dr. Jeffrey Thompson, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1612.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendment and concludes that a small business economic impact statement is not required because the rule change will not impose new costs on small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kevin Sullivan, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344, fax (360) 586-9727, e-mail sullikm@dshs.wa.gov.

August 18, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-03-035, filed 1/12/00, effective 2/12/00)

~~WAC 388-501-0165 ((Determination process for coverage of medical equipment and medical or dental services))~~ Medical and dental coverage - fee-for-service (FFS) prior authorization - determination process for payment. ((This section applies to fee for service (FFS) requests for medical equipment and medical or dental services that require prior authorization.

(1) MAA evaluates requests on an individual basis, and bases the decision to approve or deny on submitted and obtainable evidence.

(2) MAA denies a request when MAA determines the service or equipment is not:

(a) Medically/dentally necessary;

(b) Covered; or

(c) Generally considered as acceptable treatment by the medical/dental profession based on the medical/dental standard of practice, or is investigative or experimental in nature. However, MAA may approve such a request if the provider submits sufficient objective clinical evidence demonstrating that a client's particular circumstances make the request medically/dentally necessary.

~~(3) Requests for covered services and equipment are approved when MAA determines that the service or equipment is medically necessary as defined in WAC 388-500-0005 or dentally necessary as defined in WAC 388-535-1050.~~

~~(4) The examining physician/dentist responsible for the client's diagnosis and/or treatment must submit specific evidence sufficient to determine if the covered service or equipment is medically/dentally necessary. Such evidence may include, but is not limited to:~~

~~(a) A client specific physiological description of the disease, injury, impairment, or other ailment;~~

~~(b) Pertinent laboratory findings;~~

~~(c) X-ray and/or imaging reports;~~

~~(d) Individual patient records pertinent to the case or request;~~

~~(e) Photographs and/or videos when requested by MAA;~~

~~(f) Dental X-rays; and~~

~~(g) Objective medical/dental information, including but not limited to medically/dentally acceptable clinical findings and diagnoses resulting from physical or mental examinations.~~

~~(5) MAA gives substantial weight to objective medical/dental information and resulting conclusions from an examining physician/dentist responsible for the client's diagnosis and/or treatment.~~

~~(a) MAA accepts the examining physician's/dentist's uncontradicted and adequately substantiated conclusion with respect to medical/dental necessity, unless MAA presents specific detailed reasons for rejecting that conclusion. MAA's reasons will be consistent with sound medical/dental practice and supported by objective medical/dental information in the client's file.~~

~~(b) If two or more examining physicians/dentists provide conflicting medical/dental information or conclusions about medical/dental necessity for the request under review, MAA will use all information submitted to reach a decision. If MAA concludes the request is not medically/dentally necessary, MAA will enumerate specific reasons, supported by objective medical/dental information in the client's file, for that decision.~~

~~(6) Within fifteen calendar days of receiving a request:~~

~~(a) MAA approves or denies the request; or~~

~~(b) Requests additional justifying information from the prescribing physician, dentist, specialty therapist, and/or service vendor if the documentation submitted is insufficient to reasonably determine medical or dental necessity. Examples of information that MAA may request are shown in subsection (4) of this section. MAA sends a copy of the request to the client at the same time.~~

~~(i) If MAA does not receive the information within thirty days of the date requested, MAA denies the original request within the next five working days on the basis of insufficient justification of medical/dental necessity;~~

~~(ii) If MAA receives the information within thirty days, MAA makes a final determination on the request within five working days of the receipt of that additional information.~~

~~(7) When MAA denies all or part of a request for a covered service(s) or equipment, MAA sends the client and the~~

provider written notice of the denial within five working days of the decision. The notice includes:

(a) The WAC reference(s) used as a basis for the decision;

(b) A summary statement of the specific facts MAA relied upon for the decision;

(c) An explanation of the reasons for the denial, including the reasons why the specific facts relied upon did not meet the requirements for approval;

(d) When required by subsection (5) of this section, a specific statement of the reasons and supporting facts for rejecting any medical/dental information or conclusions of an examining physician/dentist;

(e) Notice of the client's right to a fair hearing and filing deadlines;

(f) Instructions about how to request the hearing;

(g) A statement that the client may be represented at the hearing by legal counsel or other representative; and

(h) Upon the client's request, the name and address of the nearest legal services office.

(8) When MAA receives a request for a noncovered service(s) or equipment, MAA may:

(a) Approve the request as an exception to rule according to WAC 388-501-0160; or

(b) Deny the request as a noncovered service, and send the client and the provider written notice of the denial within five working days of the decision. The notice includes:

(i) The WAC reference(s) used as a basis for the decision;

(ii) The reason for the denial;

(iii) Notice of the client's right to a fair hearing and filing deadlines;

(iv) Instructions about how to request the hearing;

(v) A statement that the client may be represented at the hearing by legal counsel or other representative; and

(vi) Upon the client's request, the name and address of the nearest legal services office.

(9) If a fair hearing is requested, MAA or the client may request an independent medical/dental assessment. MAA will pay for the independent assessment if MAA agrees that it is necessary, or a fair hearing judge determines that the assessment is necessary)) (1) This section applies to fee-for-service (FFS) requests for medical or dental services and medical equipment that:

(a) Are identified as covered services; and

(b) Require prior authorization by the department.

(2) The following definitions and those found in WAC 388-500-0005 apply to this section:

"Controlled studies" - Studies in which defined groups are compared with each other to reduce bias.

"Credible evidence" - Type I-IV evidence or evidence-based information from any of the following sources:

• Clinical guidelines

• Government sources

• Independent Medical Evaluation (IME)

• Independent Review Organization (IRO)

• Independent technology assessment organizations

• Medical and hospital associations

• Policies of other health plans

• Regulating agencies (e.g., Federal Drug Administration or Department of Health)

• Treating provider

• Treatment pathways

"Evidence-based" - The ordered and explicit use of the best evidence available (see "hierarchy of evidence" in subsection (6)(a) of this section) when making health care decisions.

"Health outcome" - Changes in health status (mortality and morbidity) which result from the provision of health care services.

"Institutional Review Board (IRB)" - A board or committee responsible for reviewing research protocols and determining whether:

(1) The rights and welfare of human subjects are adequately protected;

(2) The risks to individuals are minimized and are not unreasonable;

(3) The risks to individuals are outweighed by the potential benefit to them or by the knowledge to be gained; and

(4) The proposed study design and methods are adequate and appropriate in the light of stated study objectives.

"Independent review organization (IRO)" - A panel of medical and benefit experts intended to provide unbiased, independent, clinical, evidence-based reviews of adverse decisions.

"Independent medical evaluation (IME)" - An objective medical examination of the client to establish the medical facts.

"Provider" - The individual who is responsible for diagnosing, prescribing, and providing medical, dental, or mental health services to department clients.

(3) The department authorizes, on a case-by-case basis, requests described in subsection (1) when the department determines the service or equipment is medically necessary as defined in WAC 388-500-0005. The process the department uses to assess medical necessity is based on:

(a) The evaluation of submitted and obtainable medical, dental, or mental health evidence as described in subsections (4) and (5) of this section; and

(b) The application of the evidence-based rating process described in subsections (6) and (7) of this section.

(4) The department reviews available evidence relevant to a medical, dental, or mental health service or equipment to:

(a) Determine its efficacy, effectiveness, and safety;

(b) Determine its impact on health outcomes;

(c) Identify indications for use;

(d) Evaluate pertinent client information;

(e) Compare to alternative technologies; and

(f) Identify sources of credible evidence that use and report evidence-based information.

(5) The department considers and evaluates all available clinical information and credible evidence relevant to the client's condition. At the time of request, the provider responsible for the client's diagnosis and/or treatment must submit credible evidence specifically related to the client's condition, including but not limited to:

(a) A client-specific physiological description of the disease, injury, impairment, or other ailment;

(b) Pertinent laboratory findings;

(c) Pertinent x-ray and/or imaging reports;
 (d) Individual patient records pertinent to the case or request;

(e) Photographs and/or videos when requested by the department; and

(f) Objective medical/dental/mental health information such as medically/dentally acceptable clinical findings and diagnoses resulting from physical or mental examinations.

(6) The department uses the following processes to determine whether a requested service described in subsection (1) is medically necessary:

(a) **Hierarchy of evidence.** The department uses a hierarchy of evidence to determine the weight given to available data. The weight of medical evidence depends on objective indicators of its validity and reliability including the nature and source of the evidence, the empirical characteristics of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies. The hierarchy (in descending order with Type I given the greatest weight) is:

(i) Type I: Meta-analysis done with multiple, well-designed controlled studies;

(ii) Type II: One or more well-designed experimental studies;

(iii) Type III: Well-designed, quasi-experimental studies such as non-randomized controlled, single group pre-post, cohort, time series, or matched case-controlled studies;

(iv) Type IV: Well-designed, non-experimental studies, such as comparative and correlation descriptive, and case studies (uncontrolled); and

(v) Type V: Credible evidence submitted by the provider.

(b) **Evaluation of effectiveness and safety.** Based on the quality of available evidence, the department determines if the requested service is effective and safe for the client by classifying it as an "A," "B," "C," or "D" level of evidence:

(i) **"A" level evidence:** Shows the requested service or equipment is a proven benefit to the client's condition by strong scientific literature and well-designed clinical trials such as Type I evidence or multiple Type II, III or IV evidence with consistent results. An "A" rating cannot be based on Type III or Type IV evidence alone.

(ii) **"B" level evidence:** Shows the requested service or equipment has some proven benefit supported by:

(A) Multiple Type II, III or IV evidence with generally consistent findings of effectiveness and safety. A "B" rating cannot be based on Type IV evidence alone; or

(B) Singular Type II, III, or IV evidence in combination with clinical guidelines or treatment pathways or guidelines that use the hierarchy of evidence in establishing the rationale for existing standards, as recognized by the department.

(iii) **"C" level evidence:** Shows only weak and inconclusive evidence regarding safety and/or efficacy such as:

(A) Type II, III, or IV evidence with inconsistent findings; or

(B) Only Type V evidence is available.

(iv) **"D" level evidence:** Is not supported by any evidence regarding its safety and efficacy.

(7) The department:

(a) Approves "A" and "B" rated requests if the service or equipment:

(i) Does not place the client at a greater risk of mortality or morbidity than an equally effective alternative treatment; and

(ii) Is not more costly than an equally effective alternative treatment.

(b) Approves a "C" rated request only if the provider can demonstrate that the evidence supporting the "C" rating fails to adequately address the client's specific condition or treatment needs, and the requested service:

(i) Does not place the client at a greater risk of mortality or morbidity than an equally effective alternative treatment; and

(ii) Is less costly to the department than an equally effective alternative treatment; and

(iii) Is the next reasonable step for the client in a well-documented tried-and-failed attempt at evidence-based care.

(c) Denies "D" rated requests unless:

(i) The requested service or equipment has a humanitarian device exemption from the Food and Drug Administration (FDA); or

(ii) There is a local Institutional Review Board (IRB) protocol addressing issues of efficacy and safety of the requested service that satisfies both the department and the requesting provider.

(8) Within fifteen days of receiving the request and supporting medical evidence from the client's provider, the department:

(a) Approves the request;

(b) Denies the request if the evidence submitted is sufficient to reasonably determine that the requested service is not medically necessary; or

(c) Requests additional justifying information from the prescribing physician, dentist, specialty therapist, and/or service vendor if the documentation submitted is insufficient to reasonably determine medical necessity. The department sends a copy of the request to the client at the same time.

(i) If the department does not receive the information within thirty days of the original request date, the department denies the original request within the next five business days on the basis of insufficient justification of medical necessity (see subsection (8) for further details); or

(ii) If the department receives the information within thirty days of the original request date, the department makes a final determination on the request within five business days of the receipt of that additional information.

(9) When the department denies all or part of a request for a covered service(s) or equipment, the department sends the client and the provider written notice, within ten business days of the date the information is received, that:

(a) Includes a statement of the action the department intends to take;

(b) Includes the specific factual basis for the intended action;

(c) Includes reference to the specific WAC provision upon which the denial is based;

(d) Is in sufficient detail to enable the recipient to:

(i) Learn why the department's action was taken; and

(ii) Prepare an appropriate response.

(e) Is in sufficient detail to determine what additional or different information might be provided to challenge the department's determination;

(f) Includes the client's administrative hearing rights;

(g) Includes an explanation of the circumstances under which the denied service is continued or reinstated if a hearing is requested; and

(h) Includes examples(s) of "lesser cost alternatives" that permit the affected party to prepare an appropriate response.

(10) If an administrative hearing is requested, the department or the client may request an Independent Review Organization (IRO) or Independent Medical Examination (IME) to provide an opinion regarding whether the requested service or equipment is medically necessary. The department will pay for the independent assessment if the department agrees that it is necessary, or an administrative law judge orders the assessment.

WSR 05-17-166

PROPOSED RULES

SKAGIT VALLEY COLLEGE

[Filed August 23, 2005, 9:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-10-101.

Title of Rule and Other Identifying Information: WAC 132D-120-230 Student grievances.

Hearing Location(s): Skagit Valley College, Ford Hall 101, 2405 East College Way, Mount Vernon, WA 98273 on October 4, at 3:00 - 4:30 p.m.; and at the Skagit Valley College Whidbey Island Campus, Oak Hall 306, 1900 S.E. Pioneer Way, Oak Harbor, WA 98273 [98273], on October 7, at 12:30 p.m. - 2:00 p.m.

Date of Intended Adoption: December 1, 2005.

Submit Written Comments to: Alan Muia, Skagit Valley College, 2405 East College Way, Mount Vernon, WA 98273, e-mail Alan.Muia@skagit.edu, fax (360) 416-7676, by October 3, 2005.

Assistance for Persons with Disabilities: Contact Eric Anderson by October 3, 2005, TTY (360) 416-7718 or (360) 416-7818.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This change to the Skagit Valley College policy on student grievances would clarify grievance procedures and timelines, updates language in policy and procedures, and corrects position titles referenced in the code.

Reasons Supporting Proposal: This change to the Skagit Valley College policy on student grievances would clarify grievance procedures and timelines, updates language in policy and procedures, and corrects position titles referenced in the code.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This change to the Skagit Valley College policy

on student grievances would clarify grievance procedures and timelines, updates language in policy and procedures, and corrects position titles referenced in the code.

Name of Proponent: Skagit Valley College, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alan Muia, 2405 East College Way, (360) 416-7633.

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

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

August 17, 2005

Lisa Radeleff

Executive Assistant

AMENDATORY SECTION (Amending WSR 94-01-028, filed 12/6/93, effective 1/6/94)

WAC 132D-120-230 Student grievances. The purpose of this section is to protect each student's freedom of expression in the classroom; to protect each student against improper disclosure of the students' views, beliefs and political associations; to protect each student from improper, arbitrary or capricious academic evaluation as evidenced by the student's ((final)) course grade; and to afford each student reasonable protection against arbitrary or capricious actions taken outside the classroom by other members of the college community.

Skagit Valley College is committed to protecting the rights and dignity of each individual in the campus community. Therefore, the college will not tolerate discrimination of any kind, at any level.

~~((Further, it is the policy of Skagit Valley College to provide an environment in which students can work and study free from sexual harassment or sexual intimidation. Sexual harassment is a form of sexual discrimination. As such, it is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments.~~

~~Sexual harassment of a student is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when: (a) Submission to the conduct is either explicitly or implicitly a term or condition of an individual's academic standing; and/or (b) submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting that individual; and/or (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.)~~ Students may follow ~~((procedures found at WAC 132D-300-040))~~ the college policy on sexual harassment and/or may file complaints with outside agencies, as referenced in WAC 132D-300-040(9). Students should determine the time deadlines that apply to the filing of complaints with such outside agencies, as the college's internal processing of student complaints may not toll such time periods.

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AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-240 Grievances excluded from this section. (1) A student may not use the provisions of this section as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in ~~((earlier))~~ sections of the code of student ((rights and responsibilities code)) conduct.

(2) Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community ~~((college education))~~ and technical colleges or the board of trustees of Community College District No. 4 shall not be grievable matters. College personnel actions are considered confidential. Results may not be made available for review.

AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-250 Grievance ~~((procedures—Generally))~~. If a student believes he or she has been unfairly treated by an officer of the college, faculty member or a member of the college staff, the student may ~~((pursue the matter on two levels. First, the student may follow an informal procedure. Second, if the informal procedure fails to satisfy the grievant, he or she may file an official grievance and request a hearing before the grievance review committee. The student may waive his or her right to have the matter resolved informally. In either case,))~~ follow the grievance procedures in the order outlined below. The student must initiate proceedings with the college within ~~((twenty))~~ thirty working days of the occurrence ((which)) that gave rise to the grievance. The college may choose to take appropriate corrective action at any time based on a student report whether or not the student chooses to pursue the grievance process.

AMENDATORY SECTION (Amending WSR 94-01-028, filed 12/6/93, effective 1/6/94)

WAC 132D-120-260 ~~((Informal))~~ Grievance procedure. (1) The grievance procedures set forth in this section concern only those grievances that do not involve violation of Title IX of the Education Amendments of 1972 (sex discrimination) or section 504 of the Rehabilitation Act of 1973 (handicapped discrimination).

(2) A student wishing to pursue ~~((an informal))~~ a resolution to his or her ~~((grievance))~~ concern may ~~((first))~~ contact the ~~((student activities office))~~ counseling center. That office will serve as a source of information and direction for grievants ~~((and shall advise students as to the most effective means of resolving their grievance. This service is optional)).~~

~~((2))~~ (3) A student ~~((may instead, as a first step in the informal grievance procedure,))~~ shall contact the faculty or staff member with whom he or she has a ~~((grievance))~~ concern and attempt to resolve the matter through direct discussion. A student may ask a support person to accompany him or her in this discussion.

~~((3))~~ (4) If direct discussion does not resolve the ~~((grievance))~~ concern to the student's satisfaction, the student shall take the matter to the faculty/staff member's immediate

supervisor. The supervisor shall ~~((serve as a mediator and will))~~ attempt to resolve the matter promptly and fairly.

~~((4))~~ (5) If the ~~((efforts of the supervisor also fail to satisfy the grievant))~~ issue is not resolved, the supervisor shall forward the complaint to the appropriate ~~((associate dean))~~ administrator who shall meet with the student and, within three working days, ~~((decide how best to resolve the grievance. The associate dean shall issue a written opinion))~~ write a letter to the student involved and copied to the faculty or staff member involved that details the resolution she/he proposes.

~~((5))~~ ~~The student shall be notified of this decision and shall also be informed of his or her right to file a petition to have the grievance heard before the grievance review committee.)~~

(6) The ~~((informal grievance))~~ procedure outlined in steps one through four shall be completed in ~~((fifteen))~~ twenty working days unless all parties agree to more time.

(7) The student shall be notified of this decision and shall also be informed of his or her right to file a petition to have the grievance heard before the grievance review committee. The student must submit this request to the office of the registrar within five days of his/her receipt of the administrator's letter. Any student alleging a violation of Title IX of the 1972 Education Amendments concerning sexual harassment may avail himself or herself of the ~~((procedures in chapter 132D-300 WAC))~~ college's sexual harassment policy.

AMENDATORY SECTION (Amending WSR 94-01-028, filed 12/6/93, effective 1/6/94)

WAC 132D-120-270 ~~((Informal))~~ Grievance procedure—Sex and ~~((handicapped))~~ disability discrimination. (1) Any student alleging a violation of Title IX of the Education Amendments of 1972 (sex discrimination) ~~((of))~~ or section 504 of the Rehabilitation Act of 1973 ~~((handicapped))~~ disability discrimination shall, as a first step in the ~~((informal))~~ grievance procedure, contact the Title IX ~~((of))~~ or Sec. 504 officer. The student may contact the ~~((student activities))~~ counseling office for the name and location of the Title IX ~~((of))~~ or Sec. 504 officer. Any student alleging a violation of Title IX of the 1972 Education Amendments concerning sexual harassment by a college faculty or staff member may avail himself or herself of the college's sexual harassment complaint procedures ((in chapter 132D-300 WAC)).

(2) The Title IX ~~((of))~~ or Sec. 504 officer shall:

(a) Provide information about informal and formal options within and outside the college.

(b) Intervene, if requested by either party, in order to resolve the problem to the satisfaction of all.

(3) If the Title IX ~~((of))~~ or Sec. 504 officer is unable to resolve the grievance, the student may ~~((file an official grievance requesting))~~ request a hearing before the grievance review committee and is entitled to all appeals beyond that committee.

(4) Consultations with the Title IX ~~((of))~~ and Sec. 504 officer shall be strictly confidential ~~((until the Title IX/Sec. 504 officer begins to act as mediator)).~~

AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-280 Grievance review committee procedures. (1) Any grievance not resolved (~~((informally))~~) by an administrator or the Title IX or Sec. 504 officer may be appealed to the grievance review committee for a hearing. The grievant or respondent shall petition the committee by obtaining an official grievance form from the (~~((student activities))~~) counseling office. That petition shall be made within five working days of the notice of decision in the (~~((informal))~~) previous proceedings.

(2) When a petition for review is filed, the student shall either:

(a) Be assigned an (~~((advocate,))~~) advisor by the college or choose an advisor of his/her own; or

(b) Waive his or her right to an (~~((advocate,))~~) advisor; or

(c) Notify the college of his or her retention of an attorney at least one week prior to a scheduled grievance hearing. Where the student is (~~((represented))~~) accompanied by an attorney, the college may be represented by an assistant attorney general.

(3) The student's completed official grievance form shall be distributed to all members of the grievance review committee.

(4) The registrar shall chair the grievance review committee and its members shall be chosen as follows:

(a) Two faculty members appointed by the (~~((executive dean))~~) vice-president of educational services; and

(b) Two students appointed by the president of the associated students of Skagit Valley College; and

(c) Two classified staff members appointed by the classified staff (~~((training committee))~~) designated leadership.

(5) The grievance review committee may call any witnesses and hear any testimony needed to reach a prompt, fair resolution of the grievance. The proceedings before the committee shall not be considered a formal(~~(?)~~) trial-type hearing. (~~((However, where requested by the student and approved by the president, or where required by RCW 28B.19.110, a formal hearing (to be conducted in accordance with WAC 132D-120-120) may be granted.))~~)

(6) Within three working days of the conclusion of the hearing, the committee shall issue a written recommendation. All parties shall receive a copy of this recommendation.

(7) In the case of instructional grievances, the committee's recommendations shall be sent to the (~~((executive dean))~~) vice-president of educational services. In all other cases, the committee's recommendations shall be forwarded to the (~~((dean of administrative and student services))~~) vice-president responsible for the area in which the faculty or staff member is employed. The appropriate (~~((dean))~~) vice-president shall, within (~~((three))~~) five working days, accept, modify, or reject the recommendations of the grievance review committee and notify all parties.

~~((8) All parties shall be notified of the dean's decision within five working days.))~~

AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-290 Final decision regarding the appeal procedure—Extra-institutional appeals. (1) Where the student is not satisfied by the (~~((dean's))~~) vice-president's decision, he or she may appeal that decision to the president of the college provided that such appeal is made within five working days of the student's receipt of notice of the decision.

(2) The president will review the record of the case prepared by the committee together with any appeal statement and will deliver a written acceptance of the (~~((registrar's))~~) vice-president's decision or directions as to what other course of action shall be taken, within ten instructional days after receiving the appeal.

~~((2))~~ (3) This decision shall constitute final agency action by the college.

~~((3))~~ (4) A student who (~~((was granted a formal hearing by the president of the college and who))~~) feels aggrieved by the institution's final decision, may petition for judicial review of that decision according to the provisions of RCW 28B.19.150.

~~((4))~~ (5) For further review in sexual or handicapped discrimination cases, the grievant may send appeals or inquiries to:

~~((a) Regional Director, Office of Civil Rights, HEW; 2901 3rd Avenue, M.S. 510, Seattle, WA 98121;~~

~~((b) The Equal Opportunity Commission; 1321 2nd Avenue, Seattle, WA 98101;~~

~~((c) Human Rights Commission; 402 Evergreen Plaza Building, 7th and Capitol Way, Olympia, WA 98504.))~~

(a) U.S. Department of Education

Office for Civil Rights Region X

915 Second Avenue, Room 3310

Seattle, WA 98174

206-220-7900

(b) Washington State Human Rights Commission

Third Avenue

Seattle, Washington 98101

206-464-6500

(c) Department of Justice Civil Rights Division

1424 New York Avenue, Room 5041

Washington, D.C. 20005

202-307-0818 (TTD), or 800-514-0383 (voice)

AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-320 Administrative, faculty and staff grievances. Any administrator, faculty member or staff member who is the subject of a student's grievance and who is dissatisfied with the results of any level of the student grievance proceedings (~~((shall))~~) may file a grievance under the appropriate grievance procedure established by Skagit Valley College.

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AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-330 Prior rules. The rules contained within this chapter supersede all former rules relating to ((student conduct and)) student grievances.

AMENDATORY SECTION (Amending Order 88-01, filed 12/1/88, effective 1/1/89)

WAC 132D-120-350 Effective date of the rules of conduct. The rules contained within this chapter shall become effective ((January 1, 1989)) July 1, 2005.

**WSR 05-17-167
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**
[Filed August 23, 2005, 11:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-141.

Title of Rule and Other Identifying Information: Chapter 296-46B WAC, Electrical safety standards, administration, and installation.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S119/S118, Tumwater, WA, on September 27, 2005, at 9:00 a.m.

Date of Intended Adoption: October 18, 2005.

Submit Written Comments to: Sally Elliott, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by September 27, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by September 15, 2005, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule making is to make clarifications to chapter 296-46B WAC. The department is proposing the following changes:

- WAC 296-46B-030, will be amended to include manufacturing training facilities.
- WAC 296-46B-110, will be amended to allow class B electricians to install thermostats, security systems, intercoms, and other specific types of low voltage systems. This will align inspection practices to reflect safety issues and inspections.
- WAC 296-46B-900, will be amended to include low risk types of installations into the list of work where no inspection is required.
- WAC 296-46B-905, will be amended to update definitions. We will not be increasing fees with this rule making.
- WAC 296-46B-915, will be amended to allow the program to issue warnings for certain violations. If an entity continues to violate the rules after a warning a subsequent violation may be considered to be serious in nature and have a higher penalty.

- WAC 296-46B-920, will be amended to clarify that most specialty electricians cannot perform any plumbing work regulated under chapter 18.106 RCW.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.281, 19.28.311, 19.28.321, 19.28.400, 19.28.420, 19.28.490, 19.28.551.

Statute Being Implemented: Chapter 19.28 RCW.

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

Name of Proponent: Department of Labor and Industries, governmental.

Name of Agency Personnel Responsible for Drafting: Ron Fuller, Tumwater, (360) 902-5249; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department determined the proposed rules do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law since the proposed changes are updating the rule based upon Washington state statutes and clarifying the rule for ease of use and understanding. See RCW 34.05.310 (4)(c) and (d).

A cost-benefit analysis is not required under RCW 34.05.328. The department determined the proposed changes do not require a cost-benefit analysis because the costs associated with the proposed changes are exempted by law since the proposed changes are updating the rule based upon Washington state statutes and clarifying the rule for ease of use and understanding. See RCW 34.05.328 (5)(b)(iii) and (iv).

August 23, 2005

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-030 Industrial control panel and industrial utilization equipment inspection. Specific definitions.

(1) Specific definitions for this section:

(a) "**Department evaluation**" means a review in accordance with subsection (2)(c) of this section.

(b) "**Food processing plants**" include buildings or facilities used in a manufacturing process, but do not include:

- (i) Municipal or other government facilities;
- (ii) Educational facilities or portions thereof;
- (iii) Institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(c) In RCW 19.28.010, "**industrial control panel**" means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and aux-

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iliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a manufacturing process in a food processing or industrial plant.

(d) **"Industrial plants"** include buildings or facilities used in a manufacturing process or a manufacturing training facility (e.g., educational shop area in an educational or institutional facility), but do not include:

- (i) Municipal or other government facilities;
- (ii) Other educational facilities or portions thereof;
- (iii) Other institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(e) **"Industrial utilization equipment"** means equipment directly used in a manufacturing process in a food processing or industrial plant, in particular the processing, treatment, moving, or packaging of a material. Industrial utilization equipment does not include: Cold storage, warehousing, or similar storage equipment.

(f) **"Manufacturing process"** means to make or process a raw material or part into a finished product for sale using industrial utilization equipment. A manufacturing process does not include the storage of a product for future distribution (e.g., cold storage, warehousing, and similar storage activity).

(g) **"Normal department inspection"** is a part of the department electrical inspection process included with the general wiring inspection of a building, structure, or other electrical installation. Normal department inspection will only be made for equipment solely using listed or field evaluated components and wired to the requirements of the NEC. Fees for the normal department inspections required under this chapter are included in the electrical work permit fee calculated for the installation and are not a separate inspection fee. However, inspection time associated with such equipment is subject to the progress inspection rates in WAC 296-46B-905.

(h) For the purposes of this section, **"panel"** means a single box or enclosure containing the components comprising an industrial control panel. A panel does not include any wiring methods connecting multiple panels or connecting a panel(s) and other electrical equipment.

Safety standards.

(2) Industrial control panels and industrial utilization equipment will be determined to meet the minimum electrical safety standards for installations by:

(a) Listing, or field evaluation of the entire panel or equipment;

(b) Normal department inspection for compliance with codes and rules adopted under this chapter; or

(c) By department evaluation showing compliance with appropriate standards. Appropriate standards are NEMA, ANSI, NFPA 79, UL 508A or International Electrotechnical Commission 60204 or their equivalent. Industrial utilization equipment is required to conform to a nationally or interna-

tionally recognized standard applicable for the particular industrial utilization equipment. Compliance must be shown as follows:

(i) The equipment's manufacturer must document, by letter to the equipment owner, the equipment's conformity to an appropriate standard(s). The letter must state:

- (A) The equipment manufacturer's name;
- (B) The type of equipment;
- (C) The equipment model number;
- (D) The equipment serial number;
- (E) The equipment supply voltage, amperes, phasing;
- (F) The standard(s) used to manufacture the equipment.

Except for the reference of construction requirements to ensure the product can be installed in accordance with the National Electrical Code, the National Electrical Code is not considered a standard for the purposes of this section;

(G) Fault current interrupting rating of the equipment or the owner may provide documentation showing that the fault current available at the point where the building wiring connects to the equipment is less than 5,000 AIC; and

(H) The date the equipment was manufactured. Equipment that was manufactured prior to January 1, 1985, is not required to meet (c)(i)(F) of this subsection.

(ii) The equipment owner must document, by letter to the chief electrical inspector, the equipment's usage as industrial utilization equipment as described in this section and provide a copy of the equipment manufacturer's letter described in (c)(i) of this subsection. The owner's letter must be accompanied by the fee required in WAC 296-46B-905(14).

For the purposes of this section, the owner must be a food processing or industrial plant as described in this section.

(iii) The chief electrical inspector will evaluate the equipment manufacturer's letter, equipment owner's letter, and the individual equipment.

If the equipment is determined to have had electrical modifications since the date of manufacture, the chief electrical inspector will not approve equipment using this method.

(iv) If required by the chief electrical inspector, the owner must provide the department with a copy, in English, of the standard(s) used and any documentation required by the chief electrical inspector to support the claims made in the equipment manufacturer's or owner's letter. At the request of the owner, the department will obtain a copy of any necessary standard to complete the review. If, per the owner's request, the department obtains the copy of the standard, the owner will be billed for all costs associated with obtaining the standard.

If the industrial utilization equipment has been determined to be manufactured to a standard(s) appropriate for industrial utilization equipment as determined by the chief electrical inspector per RCW 19.28.010(1), the equipment will be marked with a department label.

The department will charge a marking fee as required in WAC 296-46B-905(14). Once marked by the department, the equipment is suitable for installation anywhere within the state without modification so long as the equipment is being used as industrial utilization equipment. If payment for marking is not received by the department within thirty days of

marking the equipment, the department's mark(s) will be removed and the equipment ordered removed from service.

(v) If the equipment usage is changed to other than industrial utilization equipment or electrical modifications are made to the equipment, the equipment must be successfully listed or field evaluated by a laboratory approved by the department.

(vi) The equipment must be permanently installed at the owner's facility and inspected per the requirements of RCW 19.28.101.

(3) The department may authorize, on a case-by-case basis, use of the industrial control panel or equipment, for a period not to exceed six months or as approved by the chief electrical inspector after use is begun, before its final inspection, listing, or evaluation.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-110 General—Requirements for electrical installations.

012 Mechanical execution of work.

(1) Unused openings. Unused openings in boxes, raceways, auxiliary gutters, cabinets, cutout boxes, meter socket enclosures, equipment cases, or housings shall be effectively closed to afford protection substantially equivalent to the wall of the equipment. Where metallic plugs or plates are used with nonmetallic enclosures, they shall be recessed at least 6 mm (1/4") from the outer surface of the enclosure. Unused openings do not include weep holes, unused mounting holes, or any other opening with less than .15 square inches of open area.

016 Flash protection.

(2) The flash protection marking required by NEC 110.16 must be an identification plate or label approved by the electrical inspector and may be installed either in the field or in the factory. The plate or label may be mounted using adhesive.

022 Identification of disconnecting means.

(3) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker/fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the disconnect.

(4) Where electrical equipment is installed to obtain a series combination rating, the identification as required by NEC 110.22, must be in the form of an identification plate that is substantially yellow in color. The words "CAUTION - SERIES COMBINATION RATED SYSTEM" must be on the label in letters at least 13 mm (1/2") high.

030 Over 600 volts - general.

(5) Each cable operating at over 600 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

(6) Only licensed electrical contractors can use the Class B basic electrical inspection - random inspection process. Health care, large commercial, or industrial facilities using an employee who is a certified electrician(s) can use the Class B basic electrical inspection - random inspection process after permission from the chief electrical inspector.

(7) If the Class B basic electrical inspection - random inspection process is used, the following requirements must be met:

(a) The certified electrician/telecommunications worker performing the installation must affix a Class B installation label on the cover of the panelboard or overcurrent device supplying power to the circuit or equipment prior to beginning the work.

(b) The job site portion of the label must include the following:

(i) Date of the work;

(ii) Electrical/telecommunication contractor's name;

(iii) Electrical/telecommunication contractor's license number;

(iv) Installing electrician's certificate number; and

(v) Short description of the work.

(c) The contractor portion of the label must include the following:

(i) Date of the work;

(ii) Electrical/telecommunication contractor's license number;

(iii) Installing electrician's certificate number, except for telecommunication work;

(iv) Job site address;

(v) Contact telephone number for the job site (to be used to arrange inspection); and

(vi) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The electrical/telecommunication contractor must return the contractor's portion of the label to the Department of Labor & Industries, Electrical Section, Chief Electrical Inspector, P.O. 4460, Olympia, WA 98506-4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

(8) Class B basic installation labels will be sold in blocks. Installations where a Class B basic installation label is used will be inspected on a random basis as determined by the department.

(a) If any such random inspection fails, a subsequent installation in the block must be inspected.

(b) If any such subsequent installation fails inspection, all installations in the block must be inspected.

(9) Any electrical/telecommunication contractor or other entity using the Class B basic electrical inspection - random inspection process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(10) Class B basic electrical work means work other than Class A basic electrical work. See WAC 296-46B-900(8) for Class A definition. A cover inspection is required for all fire-wall penetrations.

(a) Class B basic electrical work includes the following:

~~((a))~~ (i) Extension of not more than one branch electrical circuit limited to one hundred twenty volts and twenty amps each where:

~~((i))~~ (A) No cover inspection is necessary; and

~~((ii))~~ (B) The extension does not supply more than two devices or outlets as defined by the NEC~~((i))~~. A device allowed in an extended circuit includes: General use snap switches/receptacles, luminaires, thermostats, speakers, etc., but does not include wiring/cabling systems, isolating switches, magnetic contactors, motor controllers, etc.

~~((b))~~ (ii) Like-in-kind replacement of ~~((a single luminaire not exceeding two hundred seventy seven volts and twenty amps;))~~:

(A) A single luminaire not exceeding two hundred seventy-seven volts and twenty amps;

(B) A motor larger than ten horsepower; or

(C) The internal wiring of a furnace, air conditioner, refrigeration unit or household appliance;

(D) An electric/gas/oil furnace not exceeding 240 volts and 100 amps when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

(E) An individually controlled electric room heater (e.g., baseboard, wall, fan forced air, etc.), air conditioning unit or refrigeration unit not exceeding 240 volts, 30 minimum circuit amps when the unit is connected to an existing branch circuit;

(F) Circuit modification required to install not more than five residential load control devices in a residence where installed as part of an energy conservation program sponsored by an electrical utility and where the circuit does not exceed 240 volts and 30 amps.

~~((e))~~ Like-in-kind replacement of a motor larger than ten horsepower;

~~((d))~~ (iii) The following low voltage systems:

~~((i))~~ (A) Repair and replacement of devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings;

~~((ii))~~ (B) Repair and replacement of devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC.

~~((e))~~ The like-in-kind replacement of an:

~~((i))~~ Electric/gas/oil furnace not exceeding 240 volts and 100 amps when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

~~((ii))~~ Unit heater, air conditioning unit or refrigeration unit not exceeding 240 volts, 30 minimum circuit amps when the unit is connected to an existing branch circuit;

~~((f))~~ (C) The installation of device(s) or wiring for Class 2 or 3 thermostat, audio, security, burglar alarm, intercom, amplified sound, public address, or access control systems. This does not include fire alarm, nurse call, lighting control, industrial automation/control or energy management systems; or

(D) Telecommunications cabling and equipment requiring inspection in RCW 19.28.470;

~~((iv))~~ The replacement of not more than ten standard receptacles with GFCI receptacles;

~~((g))~~ ~~((v))~~ The ~~((combination replacement))~~ conversion of not more than ten ~~((switches or))~~ snap switches to dimmers ~~((used for))~~ for the use of controlling a luminaire(s) conversion.~~((i and~~

~~((h))~~ ~~The installation of a thermostat and/or thermostat cable where the thermostat cable is fished or extended in an existing building.~~

~~A device allowed in an extended circuit includes: General use snap switches/receptacles, luminaires, thermostats, speakers, etc., but does not include wiring/cabling systems, isolating switches, magnetic contactors, motor controllers, etc.)~~

~~((b))~~ Class B basic electrical work does not include any work in:

~~((a))~~ (i) Areas classified as Class 1, Class 2, Class 3, or Zone locations per ~~((the))~~ NEC 500;

~~((b))~~ (ii) Areas regulated by NEC 517 or 680; ~~((or))~~

~~((e))~~ (iii) Any work where electrical plan review is required~~((i))~~; or

(iv) Fire alarm, nurse call, lighting control, industrial automation/control or energy management systems.

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-900 Electrical work permits and fees. General.

(1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made, equipment must not be energized, or services connected unless:

(a) A valid electrical work permit is completely and legibly filled out and readily available;

(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;

(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and

(d) Driving directions and/or a legible map is provided for the inspectors' use.

(2) An electrical work permit is valid for only one specific site address.

(3) Except as provided in subsection (8) of this section, a valid electrical work permit must be posted on the job site at a readily accessible and conspicuous location prior to beginning electrical work and at all times until the electrical inspection process is completed.

Permit - responsibility for.

(4) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed by that entity. Each electrical work permit application must be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other

entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a handwritten signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department.

(5) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.

(6) Except for emergency repairs to existing electrical systems, electrical work permits must be obtained and posted at the job site prior to beginning the installation or alteration. An electrical work permit for emergency repairs to existing electrical systems must be obtained and posted at the job site no later than the next business day after the work is begun.

(7) Fees must be paid in accordance with the inspection fee schedule, WAC 296-46B-905. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review.

Permit - requirements for.

(8) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems or equipment except for:

(a) Travel trailers;

(b) Class A basic electrical work which includes:

(i) The like-in-kind replacement of a: Contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; component(s) of electric signs, outline lighting, skeleton neon tubing when replaced on-site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; ten horsepower or smaller motor; ((and))

(ii) Induction detection loops described in WAC 296-46B-300(2) and used to control gate access devices;

(iii) Heat cable repair; and

(iv) Embedding premanufactured heat mats in tile grout where the mat is listed by an approved testing laboratory and comes from the manufacturer with preconnected lead-in conductors. All listing marks and lead-in conductor labels must be left intact and visible for evaluation and inspection by the installing electrician and the electrical inspector.

Unless specifically noted, the exemptions listed do not include: The replacement of an equipment unit that contains multiple components (e.g., an electrical furnace/heat pump, industrial milling machine, etc.) containing various control components or any appliance/equipment described in WAC 296-46B-110(10) for Class B permits.

A provisional electrical work permit label may be posted in lieu of an electrical work permit. If a provisional electrical work permit label is used, an electrical work permit must be obtained within two working days after posting the provisional electrical work permit label.

(9) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four-pair cables or more than one twenty-five-pair cable. Therefore, installations of greater than sixty standard four-pair cables or ten standard twenty-five-pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single-family, duplex, and multi-family dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross-connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

Permit - inspection and approval.

(10) Requests for inspections.

(a) Requests for inspections must be made no later than three business days after completion of the electrical/telecommunications installation or one business day after any part of the installation has been energized, whichever occurs first.

(b) Requests for after hours or weekend inspections must be made by contacting the local electrical inspection supervisor at least three working days prior to the requested date of inspection. The portal-to-portal inspection fees required for after hours or weekend inspections are in addition to the cost of the original electrical work permit.

(c) Emergency requests to inspect repairs necessary to preserve life and equipment safety may be requested at any time.

(d) Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

(11) Final inspection approval will not be made until all inspection fees are paid in full.

Permit - duration/refunds.

(12) Electrical work permits will expire one year after the date of purchase unless electrical work is actively and consistently in progress and inspections requested. Refunds are not available for:

- (a) Expired electrical work permits;
- (b) Electrical work permits where the electrical installation has begun; or
- (c) Any electrical work permit where an electrical inspection or electrical inspection request has been made.

Permit - annual telecommunications.

(13) The chief electrical inspector can allow annual permits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full-time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit.

Permit - annual electrical.

(14) The chief electrical inspector can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a single plant or building location. This type of permit does not include new or increased service or new square footage.

Provisional electrical work permit - use/duration/refunds.

(15) Only licensed electrical or telecommunications contractors can use provisional electrical work permits.

(16) If a provisional electrical work permit label is used, the following requirements must be met:

(a) Prior to beginning the work, the certified electrician or telecommunications worker performing the installation must affix the provisional electrical work permit label on the cover of the panelboard, overcurrent device, or telecommunications equipment supplying the circuit or equipment.

(b) The job site portion of the label must include the following:

- (i) Date the work is begun;

(ii) Contractor's name;

(iii) Contractor's license number; and

(iv) Short description of the work.

(c) The contractor portion of the label must include the following:

(i) Date the work is begun;

(ii) Contractor's license number;

(iii) Job site address;

(iv) Owner's name; and

(v) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The contractor must return the contractor's portion of the label to the department of labor and industries, electrical section office having jurisdiction for the inspection, within two working days after the job site portion of the label is affixed. Either receipt by department of labor and industries or postmark to a valid department of labor and industries electrical address is acceptable for meeting this requirement.

(f) The contractor must return the contractor's portion of the label to the Department of Labor & Industries, Chief Electrical Inspector, within five working days after destroying or voiding any label.

(g) The contractor is responsible for safekeeping of all purchased labels.

(17) Refunds are not available for provisional electrical work permit labels.

(18) Provisional electrical work permit labels will be sold in blocks of twenty.

(19) Any contractor purchasing a provisional electrical work permit label may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

Class B electrical work permit - use.

(20) The electrical contractor must return the contractor's portion of the Class B label to the department of labor and industries, chief electrical inspector, within five working days after destroying or voiding any label.

(21) The electrical contractor is responsible for safekeeping of all purchased Class B labels.

AMENDATORY SECTION (Amending WSR 04-21-086, filed 10/20/04, effective 11/22/04)

WAC 296-46B-905 Inspection fees. To calculate inspection fees, the amperage is based on the conductor ampacity or the overcurrent device rating. The total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) of this section, PROGRESS INSPECTIONS.

The amount of the fee due is calculated based on the fee effective at the date of a department assessed fee (e.g., plan review or fee due) or when the electrical permit is purchased.

PROPOSED

(1) Residential.

(a) Single- and two-family residential (new construction).

Notes:

- (1) Square footage is the area included within the surrounding exterior walls of a building exclusive of any interior courts. (This includes any floor area in an attached garage, basement, or unfinished living space.)
- (2) "Inspected with the service" means that a separate service inspection fee is included on the same electrical work permit.
- (3) "Inspected at the same time" means all wiring is to be ready for inspection during the initial inspection trip.
- (4) An "outbuilding" is a structure that serves a direct accessory function to the residence, such as a pump house or storage building. Outbuilding does not include buildings used for commercial type occupancies or additional dwelling occupancies.

- (i) First 1300 sq. ft. \$73.00
 - Each additional 500 sq. ft. or portion of \$23.40
 - (ii) Each outbuilding or detached garage - inspected at the same time as a dwelling unit on the property \$30.50
 - (iii) Each outbuilding or detached garage - inspected separately \$48.10
 - (iv) Each swimming pool - inspected with the service \$48.10
 - (v) Each swimming pool - inspected separately \$73.00
 - (vi) Each hot tub, spa, or sauna - inspected with the service \$30.50
 - (vii) Each hot tub, spa, or sauna - inspected separately \$48.10
 - (viii) Each septic pumping system - inspected with the service \$30.50
 - (ix) Each septic pumping system - inspected separately \$48.10
- (b) Multifamily residential and miscellaneous residential structures, services and feeders (new construction).**

Each service and/or feeder

Ampacity	Service/Feeder	Additional Feeder
0 to 200	\$78.70	\$23.40
201 to 400	\$97.80	\$ 48.10
401 to 600	\$134.30	\$66.90
601 to 800	\$172.30	\$91.80
801 and over	\$245.70	\$184.30

(c) Single or multifamily altered services or feeders including circuits.

(i) Each altered service and/or altered feeder

Ampacity	Service or Feeder
0 to 200	\$66.90
201 to 600	\$97.80
601 and over	\$147.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$36.30

(d) Single or multifamily residential circuits only (no service inspection).

Note:

Altered or added circuit fees are calculated per panelboard. Total cost of the alterations in an individual panel should not exceed the cost of a complete altered service or feeder of the same rating, as shown in subsection (1) RESIDENTIAL (c) (table) of this section.

- (i) 1 to 4 circuits (see note above) \$48.10
- (ii) Each additional circuit (see note above) \$5.30

(e) Mobile homes, modular homes, mobile home parks, and RV parks.

- (i) Mobile home or modular home service or feeder only \$48.10
- (ii) Mobile home service and feeder \$78.70

(f) Mobile home park sites and RV park sites.

Note:

For master service installations, see subsection (2) COMMERCIAL/INDUSTRIAL of this section.

- (i) First site service or site feeder \$48.10
- (ii) Each additional site service; or additional site feeder inspected at the same time as the first service or feeder \$30.50

(2) Commercial/industrial.

(a) New service or feeder, and additional new feeders inspected at the same time (includes circuits).

Note:

For large COMMERCIAL/INDUSTRIAL projects that include multiple feeders, "inspected at the same time" can be interpreted to include additional inspection trips for a single project. The additional inspections must be for electrical work specified on the permit at the time of purchase. The permit fee for such projects must be calculated from (2)(a)(table) of this section. However, the total fee must not be less than the number of progress inspection (one-half hour) units times the progress inspection fee rate from subsection (8) PROGRESS INSPECTIONS of this section.

Service/feeders

Ampacity	Service/Feeder	Additional Feeder
0 to 100	\$78.70	\$48.10
101 to 200	\$95.80	\$61.30
201 to 400	\$184.30	\$73.00
401 to 600	\$214.80	\$85.80
601 to 800	\$277.70	\$116.90
801 to 1000	\$339.00	\$141.40
1001 and over	\$369.80	\$197.30

(b) Altered services or feeders (no circuits).

(i) Service/feeders

Ampacity	Service or Feeder
0 to 200	\$78.70
201 to 600	\$184.30
601 to 1000	\$277.70
1001 and over	\$308.40

(ii) Maintenance or repair of a meter or mast (no alterations to the service or feeder) \$66.90

(c) Circuits only.

Note:

Altered/added circuit fees are calculated per panelboard. Total cost of the alterations in a panel (or panels) should not exceed the cost of a new feeder (or feeders) of the same rating, as shown in subsection (2) COMMERCIAL/INDUSTRIAL (2)(a)(table) above.

- (i) First 5 circuits per branch circuit panel \$61.30
 - (ii) Each additional circuit per branch circuit panel \$5.30
 - (d) Over 600 volts surcharge per permit. \$61.30
- (3) Temporary service(s).**

Note:

(1) See WAC 296-46B-527 for information about temporary installations.
 (2) Temporary stage or concert inspections requested outside of normal business hours will be subject to the portal-to-portal hourly fees in subsection (11) OTHER INSPECTIONS. The fee for such after hours inspections shall be the greater of the fee from this subsection or the portal-to-portal fee.

Temporary services, temporary stage or concert productions.

Ampacity	Service or Feeder	Additional Feeder
0 to 60	\$42.20	\$21.60
61 to 100	\$48.10	\$23.40
101 to 200	\$61.30	\$30.50

PROPOSED

201 to 400	\$73.00	\$36.40
401 to 600	\$97.80	\$48.10
601 and over	\$110.90	\$55.30

(4) Irrigation machines, pumps, and equipment.

Irrigation machines.

- (a) Each tower - when inspected at the same time as a service and feeder from (2) COMMERCIAL/INDUSTRIAL \$5.30
- (b) Towers - when not inspected at the same time as a service and feeders - 1 to 6 towers \$73.00
- (c) Each additional tower \$5.30

(5) Miscellaneous - commercial/industrial and residential.

(a) A Class 2 low-voltage thermostat((s-controlling-a-single-piece-of-utilization-equipment)) and its associated cable controlling a single piece of utilization equipment or a single furnace and air conditioner combination.

- (i) First thermostat \$36.40
- (ii) Each additional thermostat inspected at the same time as the first \$11.40

(b) Class 2 or 3 low-voltage systems and telecommunications systems. Includes all telecommunications installations, fire alarm ((and burglar alarm)), nurse call, ((intercom, security systems,)) energy management control systems, ((HVAC/refrigeration control systems (other than thermostats above,)) industrial and automation control systems, lighting control systems, ((stand-alone sound systems, public address,)) and similar Class 2 or 3 low-energy circuits and equipment not included in WAC 296-46B-110 for Class B work.

- (i) First 2500 sq. ft. or less \$42.20
- (ii) Each additional 2500 sq. ft. or portion thereof \$11.40

(c) Signs and outline lighting.

- (i) First sign (no service included) \$36.40
- (ii) Each additional sign inspected at the same time on the same building or structure \$17.30

(d) Berth at a marina or dock.

Note:

Five berths or more shall be permitted to have the inspection fees based on appropriate service and feeder fees from section (2) COMMERCIAL/INDUSTRIAL (a) (i) above.

- (i) Berth at a marina or dock \$48.10
- (ii) Each additional berth inspected at the same time \$30.50

(e) Yard pole, pedestal, or other meter loops only.

- (i) Yard pole, pedestal, or other meter loops only \$48.10
- (ii) Meters installed remote from the service equipment and inspected at the same time as a service, temporary service or other installations \$11.40

(f) Emergency inspections requested outside of normal working hours.

Regular fee plus surcharge of: \$91.80

(g) Generators.

Note:

Permanently installed generators: Refer to the appropriate residential or commercial new/alterd service or feeder section.

Portable generators: Permanently installed transfer equipment for portable generators \$66.90

(h) Electrical - annual permit fee.

Note:

See WAC 296-46B-900(14).

For commercial/industrial location employing full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor. Note, all yearly maintenance contracts must detail the number of contractor electricians necessary to complete the work required under the contract. This number will be used as a basis for calculating the appropriate fee. Each inspection is based on a 2-hour maximum.

	Inspections	Fee
1 to 3 plant electricians	12	\$1,765.50
4 to 6 plant electricians	24	\$3,532.80
7 to 12 plant electricians	36	\$5,298.90
13 to 25 plant electricians	52	\$7,066.20
More than 25 plant electricians	52	\$8,833.50

(i) Telecommunications - annual permit fee.

Note:

- (1) See WAC 296-46B-900(13).
- (2) Annual inspection time required may be estimated by the purchaser at the rate for "OTHER INSPECTIONS" in this section, charged portal-to-portal per hour.

For commercial/industrial location employing full-time telecommunications maintenance staff or having a yearly maintenance contract with a licensed electrical/telecommunications contractor.

- 2-hour minimum \$146.10
- Each additional hour, or portion thereof, of portal-to-portal inspection time \$73.00

(j) Permit requiring ditch cover inspection only.

Each 1/2 hour, or portion thereof \$36.40

(k) Cover inspection for elevator/conveyance installation. This item is only available to a licensed/registered elevator contractor.

(6) Carnival inspections.

(a) First carnival field inspection each calendar year.

- (i) Each ride and generator truck \$17.30
- (ii) Each remote distribution equipment, concession, or gaming show \$5.30
- (iii) If the calculated fee for first carnival field inspection above is less than \$89.00, the minimum inspection fee shall be: \$91.80

(b) Subsequent carnival inspections.

- (i) First ten rides, concessions, generators, remote distribution equipment, or gaming show \$91.80
- (ii) Each additional ride, concession, generator, remote distribution equipment, or gaming show \$5.30

(c) Concession(s) or ride(s) not part of a carnival.

- (i) First field inspection each year of a single concession or ride, not part of a carnival \$73.00
- (ii) Subsequent inspection of a single concession or ride, not part of a carnival \$48.10

(7) Trip fees.

- (a) Requests by property owners to inspect existing installations. (This fee includes a maximum of one hour of inspection time. All inspection time exceeding one hour will be charged at the rate for progressive inspections.) \$73.00

(b) Submitter notifies the department that work is ready for inspection when it is not ready. \$36.40

(c) Additional inspection required because submitter has provided the wrong address or incomplete, improper or illegible directions for the site of the inspection. \$36.40

(d) More than one additional inspection required to inspect corrections; or for repeated neglect, carelessness, or improperly installed electrical work. \$36.40

(e) Each trip necessary to remove a noncompliance notice. \$36.40

(f) Corrections that have not been made in the prescribed time, unless an exception has been requested and granted. \$36.40

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(g) Installations that are covered or concealed before inspection.	\$36.40
(8) Progress inspections.	
Note:	
The fees calculated in subsections (1) through (6) of this section will apply to all electrical work. This section will be applied to a permit where the permit holder has requested additional inspections beyond the number supported by the permit fee calculated at the rate in subsections (1) through (6) of this section.	
On partial or progress inspections, each 1/2 hour.	\$36.40
(9) Plan review.	
Fee is thirty-five percent of the electrical work permit fee as determined by WAC 296-46B-905, plus a plan review submission and shipping/handling fee of:	\$61.30
(a) Supplemental submissions of plans per hour or fraction of an hour of review time.	\$73.00
(b) Plan review shipping and handling fee.	\$17.30
(10) Out-of-state inspections.	
(a) Permit fees will be charged according to the fees listed in this section.	
(b) Travel expenses:	
All travel expenses and per diem for out-of-state inspections are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in subsection (11) of this section.	
(11) Other inspections.	
Inspections not covered by above inspection fees must be charged portal-to-portal per hour:	\$73.00
(12) Refund processing fee.	
All requests for permit fee refunds will be assessed a processing fee. (Refund processing fees will not be charged for electrical contractors, using the contractor deposit system, who request less than twenty-four refunds during a rolling calendar year.)	\$11.40
(13) Variance request processing fee.	
Variance request processing fee. This fee is nonrefundable once the transaction has been validated.	\$73.00
(14) Marking of industrial utilization equipment.	
(a) Standard(s) letter review (per hour of review time).	\$73.00
(b) Equipment marking - charged portal-to-portal per hour:	\$73.00
(c) All travel expenses and per diem for in/out-of-state review and/or equipment marking are billed following completion of each inspection(s). These expenses can include, but are not limited to: Inspector's travel time, travel cost and per diem at the state rate. Travel time is hourly based on the rate in (b) of this subsection.	
(15) Class B basic electrical work labels.	
(a) Block of twenty Class B basic electrical work labels (not refundable).	\$200.00
(b) Reinspection of Class B basic electrical work to assure that corrections have been made (per 1/2 hour).	\$36.40
(16) Provisional electrical work permit labels.	
(a) Block of twenty provisional electrical work permit labels.	\$200.00

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-915 Civil penalty schedule.

Each day that a violation occurs will be a separate offense.

Once a violation of chapter 19.28 RCW or chapter 296-46B WAC becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the following tables.

In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW or this chapter, or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW or this chapter the department may double the penalty amounts shown in subsections (1) through (13) of this section.

Continued or repeated violation may occur if the person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW, chapter 296-46B WAC has received one or more written warnings of a similar violation within a one-year period.

A person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW or chapter 296-46B WAC is liable for a civil penalty based upon the following schedule.

- (1) Offering to perform, submitting a bid for, advertising, installing or maintaining cables, conductors or equipment:**
 - (a) That convey or utilize electrical current without having a valid electrical contractor's license.
 - (b) Used for information generation, processing, or transporting of signals optically or electronically in telecommunications systems without having a valid telecommunications contractor's license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000
- (2) Employing an individual for the purposes of chapter 19.28 RCW who does not possess a valid certificate of competency or training certificate to do electrical work.**

First offense:	\$250
Each offense thereafter:	\$500
- (3) Performing electrical work without having a valid certificate of competency or electrical training certificate.**

First offense:	\$250
Each offense thereafter:	\$500
- (4) Employing electricians and electrical trainees for the purposes of chapter 19.28 RCW in an improper ratio. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.**

First offense:	\$250
Each offense thereafter:	\$500
- (5) Failing to provide proper supervision to an electrical trainee as required by chapter 19.28 RCW. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.**

First offense:	\$250
Each offense thereafter:	\$500

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(6) Working as an electrical trainee without proper supervision as required by chapter 19.28 RCW.

First offense:	\$50 (see note E)
Second offense:	\$250
Each offense thereafter:	\$500

(7) Offering, bidding, advertising, or performing electrical or telecommunications installations, alterations or maintenance outside the scope of the firm's specialty electrical or telecommunications contractors license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which are not listed by an approved laboratory.

First offense:	\$500
Second offense:	\$1,000
Each offense thereafter:	\$2,000

Definition:

The sale or exchange of electrical equipment associated with hot tubs, spas, swimming pools or hydromassage bathtubs includes to: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) Covering or concealing installations prior to inspection.

First offense:	\$250 (see note E)
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(10) Failing to make corrections within fifteen days of notification by the department.

Exception:

Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(11) Failing to obtain or post an electrical/telecommunications work permit or provisional electrical work permit label prior to beginning the electrical/telecommunications installation or alteration.

Exception:

In cases of emergency repairs to existing electrical/telecommunications systems, this penalty will not be charged if the permit is obtained and posted no later than the business day following beginning work on the emergency repair.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(12) Violating chapter 19.28 RCW duties of the electrical/telecommunications administrator or master electrician.

(a) Failing to be a member of the firm or a supervisory employee and shall be available during working hours to carry out the duties of an administrator or master electrician.

First offense:	\$1,000
Second offense:	\$1,500
Each offense thereafter:	\$3,000

(b) Failing to ensure that all electrical work complies with the electrical installation laws and rules of the state.

First offense:	\$100
Second offense:	\$250
Third offense:	\$1,000
Each offense thereafter:	\$3,000

(c) Failing to ensure that the proper electrical safety procedures are used.

First offense:	\$500
Second offense:	\$1,500
Each offense thereafter:	\$3,000

(d) Failing to ensure that all electrical labels, permits, and certificates required to perform electrical work are used.

First offense:	\$250
Each offense thereafter:	\$500

(e) Failing to ensure that all electrical licenses, required to perform electrical work are used (i.e., work performed must be in the allowed scope of work for the contractor).

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(f) Failing to see that corrective notices issued by an inspecting authority are complied with within fifteen days.

Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(g) Failing to notify the department in writing within ten days if the master electrician or administrator terminates the relationship with the electrical contractor.

First offense:	\$500
Second offense:	\$1,000
Each offense thereafter:	\$3,000

(13) Violating any of the provisions of chapter 19.28 RCW or chapter 296-46B WAC which are not identified in subsections (1) through (12) of this section.

RCW 19.28.161 through 19.28.271 and the rules developed pursuant to them.

First offense:	\$250
Each offense thereafter:	\$500

All other chapter 19.28 RCW provisions and the rules developed pursuant to them.

First offense:	\$250
Second offense:	\$750
Each offense thereafter:	\$2,000

E: Upon written request to the chief electrical inspector, the penalty amount will be waived for the first citation issued within a three-year period. The written request must be received by the department no later than twenty days after notice of penalty. If a subsequent citation is issued within a three-year period and found to be a final judgment, the penalty amount for the first citation will be reinstated and immediately due and payable. Penalty waivers will not be granted for any citation being appealed under WAC 296-46B-995(11).

AMENDATORY SECTION (Amending WSR 05-10-024, filed 4/26/05, effective 6/30/05)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations and minor plumbing under RCW 18.106.150.

(2) All specialties listed in this subsection may perform the electrical work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. Except for residential (02), the scope of work for these specialties does not include plumbing work regulated under chapter 18.106 RCW. See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty. **Specialty (limited) electrical licenses and/or certificates** are as follows:

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings not exceeding three stories above grade. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring occupancies defined in WAC 296-46B-010 (14), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores.

(iii) See RCW 18.106.150 for plumbing exceptions for the residential (02) specialty.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection.

(c) **Domestic well (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems.

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, or repair

exterior luminaires that are mounted on a pole or other structure with like-in-kind components.

(i) Electrical licensing/certification is not required to:

(A) Clean the nonelectrical parts of an electric sign;

(B) To form or pour a concrete pole base used to support a sign;

(C) To operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) To assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

(f) **HVAC/refrigeration systems:**

(i) See WAC 296-46B-020 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard (see Figure 920-1 and Figure 920-2);

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no lim-

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itation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;

- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other (see Figure 920-2); or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) HVAC/refrigeration (06A):

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three stories on/above grade; or Regardless of the number of stories above grade if the installation:

- Does not pass between stories;
- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;

- Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of stories on/above grade.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

(vi) HVAC/refrigeration - restricted (06B):

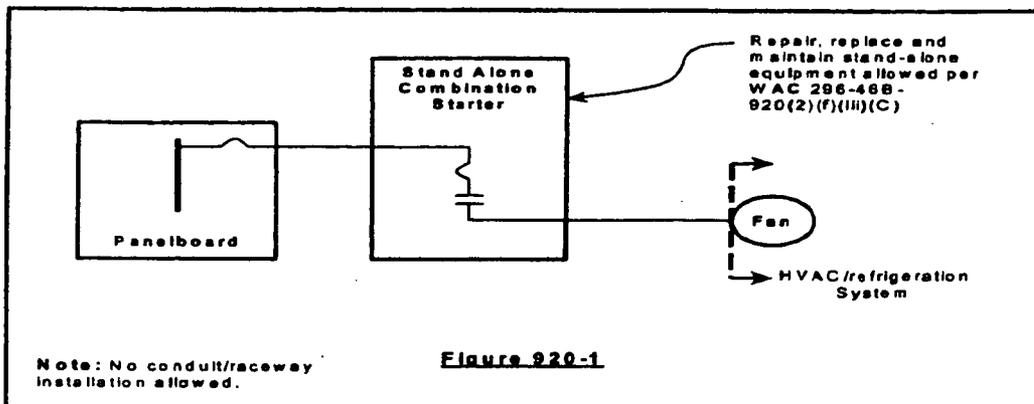
(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three stories on/above grade.

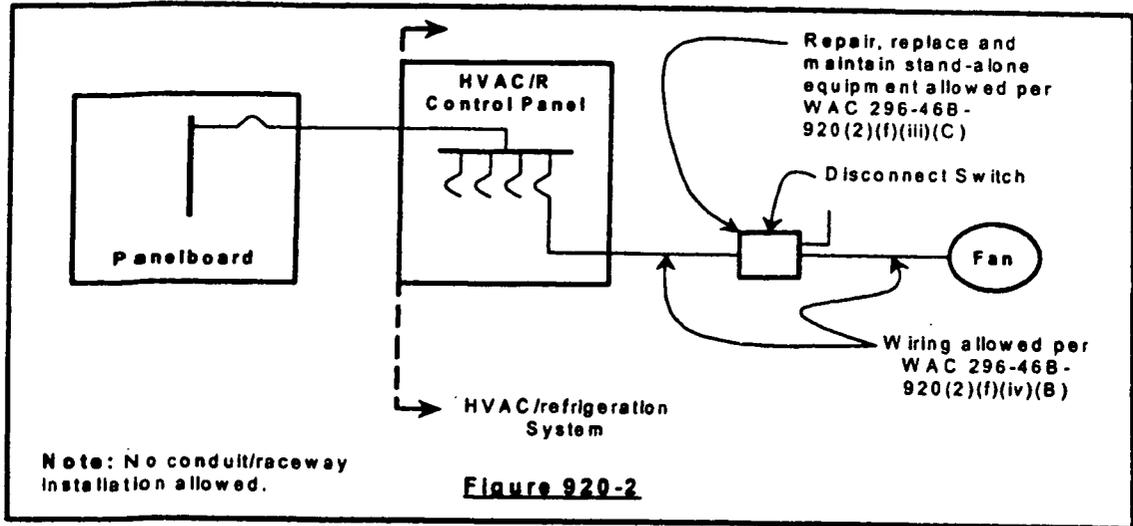
(C) This specialty may not install, repair, replace, or maintain:

- The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or

- Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).



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(g) **Nonresidential maintenance (07):** Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential (02) specialty electrician examination.

This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection.

(h) **Nonresidential lighting maintenance and lighting retrofit (07A):** Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B):** This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing (~~luminaires, water heating equipment, ranges, electric heaters, similar household type appliances~~) electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-900.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing (~~luminaires, water heating equipment, ranges, electric heaters, similar household type appliances~~) electrical utilization equipment, and all permit exempted work as defined in WAC 296-46B-900 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection.

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small electrical utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or electrical utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and electrical utilization equipment include, but are not limited to: (~~Dish washers,~~) Ovens(~~;~~ ~~water heating equipment~~), office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(c) Any plumbing work regulated under chapter 18.106 RCW.

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions. This specialty cannot perform any plumbing work regulated under chapter 18.106 RCW.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detec-

tion, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

- There are no modifications to the characteristics of the branch circuit/feeder;

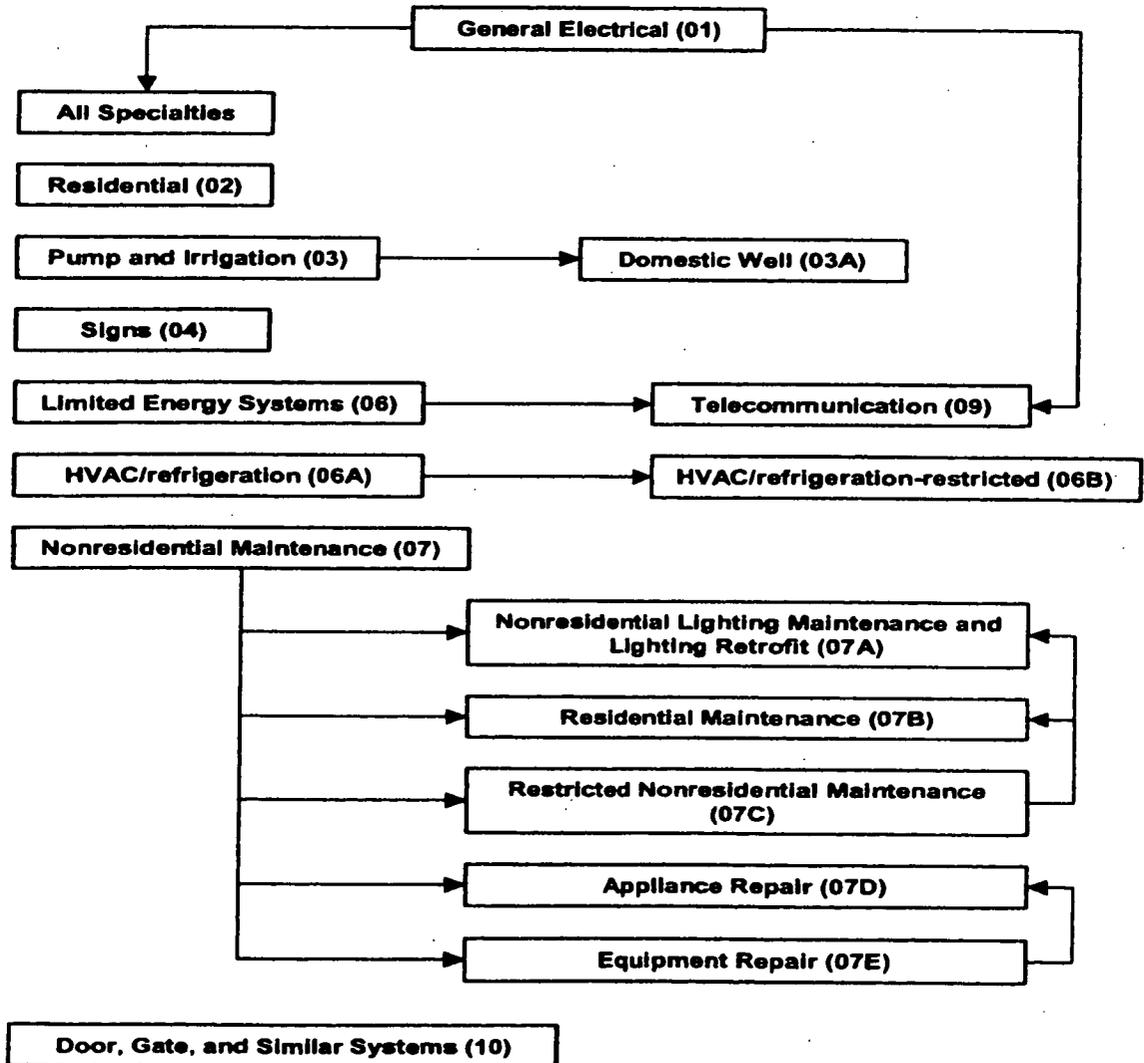
- The circuit/feeder does not exceed 600 volts, 20 amperes; and

- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

Table 920-1 Allowed Scope of Work Crossover



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.

PROPOSED

WSR 05-17-173
 PROPOSED RULES
FOREST PRACTICES BOARD

[Filed August 23, 2005, 3:14 p.m.]

Small Business Economic Impact Statement

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-11-061.

Title of Rule and Other Identifying Information: Forest road construction and maintenance (Title 222 WAC), the rule making consists of forest road maintenance and abandonment planning for small forest landowners and clarifications of the definitions, "road construction" and "road maintenance."

Hearing Location(s): Sun Valley Restaurant, Omak, on November 17, 2005, at 6 p.m.; at the Community College of Spokane, Colville, on November 29, 2005, at 6 p.m.; at the Kelso Red Lion, Kelso, on December 1, 2005, at 6 p.m.; at the Walla Walla Community College of Spokane, Walla Walla, on December 14, 2005, at 6 p.m.; and at the Inn at Port Gardner, Everett, on December 15, 2005, at 6 p.m.

Date of Intended Adoption: May 10, 2006.

Submit Written Comments to: Patricia Anderson, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@wadnr.gov, fax (360) 902-1428 by 5 p.m. on December 16, 2005.

Assistance for Persons with Disabilities: Contact Forest Practices Division at (360) 902-1400 or TTY (360) 902-1125 by November 1, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2SHB 1095 (2003 legislation) amended portions of chapter 76.09 RCW, "Forest Practices," and chapter 76.13 RCW, "Stewardship of Nonindustrial Forests and Woodlands," to limit the burden on small forest landowners from forest road maintenance and abandonment requirements. The proposed permanent rule changes pertain to those statutory amendments. Rule changes will also clarify definitions of "road construction" and "road maintenance" for all landowners subject to Washington state forest practices rules.

Statutory Authority for Adoption: RCW 76.09.040.

Statute Being Implemented: RCW 76.09.020, [76.09]-410, [76.09].420, [76.09].450, and 76.13.150.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The permanent rules will replace emergency rules effective October 31, 2003.

Name of Proponent: Forest Practices Board, public.

Name of Agency Personnel Responsible for Drafting: Kathy Murray, 1111 Washington Street S.E., Olympia, (360) 902-1414; Implementation: Jed Herman, 1111 Washington Street S.E., Olympia, (360) 902-1684; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

OBJECTIVES: In 2003 the Washington state legislature enacted 2SHB 1095 to assist small forest landowners with the forest road maintenance and abandonment plan (RMAP) elements of forest practices law (RCW 76.09.410). It authorized the Forest Practices Board to adopt emergency rules by October 2003 to remain in effect until permanent rules could be adopted. This economic analysis is being completed in anticipation of permanent rule making. The RMAP forest practices rules were based on recommendations from the forests and fish report, a discussion of which follows. The objectives of this economic analysis are to determine whether the benefits of the proposed rules exceed the costs, and whether the compliance costs of the proposed rules will disproportionately affect the state's small businesses.

Completion of a cost-benefit analysis (CBA) prior to rule adoption is required by the Administrative Procedure Act (chapter 34.05 RCW)¹ in order to demonstrate that probable benefits of the proposed new rule exceed its probable costs and, further, to demonstrate that the proposed rule change is the most cost-effective means of achieving the goal of the rule change. Completion of a small business economic impact statement (SBEIS) is required by the Regulatory Fairness Act (chapter 19.85 RCW)² to reduce the disproportionate impact of state administrative rules on small businesses, defined as those with fifty or fewer employees. An SBEIS compares the costs of compliance for small businesses with the cost of compliance for the 10% of businesses that are the largest businesses required to comply with the proposed rules.

This economic analysis combines the SBEIS and the CBA and complies with the legislative requirements for these analyses as part of the rule-making process.

HISTORICAL CONTEXT: The Forests and Fish Report and the 1999 Salmon Recovery Act, in November 1997, in anticipation of the federal listing of several subspecies of Washington salmon as threatened or endangered, participants in timber, fish, and wildlife (TFW) began negotiating a proposal for new forest practices rules. The goal of this proposal was to protect and restore riparian habitat on nonfederal forest lands in compliance with the Endangered Species Act and the Clean Water Act, while maintaining the economic viability of Washington's timber industry. Participants in the TFW process included the federal government, state government, tribal governments, and various interest and constituency groups. The participants agreed to a proposed concept for new forest practice rules to protect salmon habitat on nonfederal forestlands in Washington. The process became known as the "forests and fish" negotiations and the stakeholders' recommendations became known as the "forests and fish report," which is the foundation for the forestry module portion of the Washington state salmon recovery plan.

In 1999 the legislature recognized the forests and fish report by passing the 1999 Salmon Recovery Act (chapter 4, Laws of 1999, 1st sp.s.). To address salmon recovery this act directed the Forest Practices Board to adopt rules related to riparian habitat management, including the maintenance and abandonment of forest roads to prevent sedimentation and fish blockages in water bodies, and landowners' planning of related management activities.

PROPOSED

PROPOSED

Road Maintenance and Abandonment Plans (RMAPs): The forests and fish rules required that all forest landowners submit a detailed RMAP to the Department of Natural Resources (DNR) by December 31, 2005, or concurrent with an application for a forest practice, whichever occurs sooner, and to report work accomplishments annually (WAC 222-24-051). Subsequent to the enactment of the 1999 Salmon Recovery Act and adoption of the forests and fish rules it became apparent that RMAP requirements "may cause an unforeseen and unintended disproportionate financial hardship on small forest landowners." The legislature addressed this by enacting 2SHB 1095, which required emergency rule making by October 2003, to be followed by permanent rule making to assist small forest landowners with the forest road maintenance and abandonment plan (RMAP) elements of the forest practices rules (RCW 76.09.410). This analysis is focused on proposed permanent rules for small forest landowners' RMAPs requirements.

PROPOSED RULES SUMMARY: The proposed rules simplify small forest landowners' road maintenance and abandonment planning requirements, define "small forest landowner," revise the terms "forest road" and "forest land" for small forest landowners, and describe a cost-share program available to them for the removal or repair of fish passage barriers.

In contrast to standard RMAP requirements (WAC 222-24-051), under the proposed rules small forest landowners are allowed to file a simplified checklist RMAP upon applying for a permit to harvest or salvage timber and they are exempted from annual reporting of progress on road maintenance and fish passage barrier removal (WAC 222-24-0511).

"Small forest landowner" is generally defined as a person or entity who harvests less than two million board feet per year. The definition includes a hardship clause allowing a landowner to harvest more than two million board feet if the DNR is satisfied that the harvest limits were exceeded to raise funds for estate taxes or other unexpected obligations.

Definitions of "forest road" and "forest land" as they relate to small forest landowners are revised. "Forest road" excludes residential driveways and "forest land" excludes agricultural crop lands, pastures and orchards, ensuring RMAP exemptions in those areas.

Also, small forest landowners are relieved of continuing forest land obligations under (proposed WAC 222-20-055) and small forest landowners who own a total of eighty acres or less of forest land are not required to submit an RMAP for any tract of land that is twenty contiguous acres or less in size (proposed new section WAC 222-24-0511).

In addition to simplified planning, the proposed rules provide for state financial and technical assistance for removal of fish passage barriers through the FFFPP to small forest landowners who sign up for this DNR program. Participants are relieved of any obligation to remove a fish passage barrier until the state determines the barrier is a high priority, and a forest practices application will not be denied solely on the grounds that fish blockages have not been removed if the landowner agrees to remove the fish blockages when cost-share funding is available. The participating landowner will be able to conduct all otherwise permissible forest practices

until the cost-share program provides funding for the removal of blockages.

The most a landowner must pay is 25% of project costs, or \$5,000, whichever is less. The state will pay 100% of project costs if:

- A forest practices application or hydraulic project approval was provided for the existing barrier, or
- A forest practices application for timber harvest has not been submitted by the landowner between May 14, 2003, and the time the project has been selected for funding.

2SHB 1095 allowed that if a landowner corrects more than one barrier in a calendar year, the maximum required matching contribution varies according to the average annual timber volume harvested from the landowner's lands in Washington during the three preceding calendar years and whether the barrier is in eastern or western Washington. The following table shows the maximum cost-share required by a small forest landowner who corrects more than one fish barrier in the same year.

**TABLE 1
MAXIMUM ANNUAL SMALL FOREST LANDOWNER MATCH**

Average Annual Board Feet Harvested	Maximum Match Required Per Calendar Year	
	Western Washington	Eastern Washington
Less than 500,000	\$8,000	\$2,000
Between 500,000 and 999,999	\$16,000	\$4,000
Between 1,000,000 and 1,499,999	\$24,000	\$12,000
Greater than or equal to 1,500,000	\$32,000	\$16,000

Project match may be a direct money payment or in-kind services. In-kind services may include labor, equipment, materials, and other services determined by the state to have an appropriate value to the removal of a particular fish passage barrier.

ECONOMIC ANALYSIS: This economic analysis is in response to:

- The Administrative Procedure Act (APA), which requires agencies to assess whether probable benefits of a proposed new rule exceed its probable costs and whether the proposed rule change is the most cost-effective means of achieving the goal of the rule change; and
- The Regulatory Fairness Act (RFA), which requires that an SBEIS be prepared for proposed rules that will impose more than minor costs on businesses in an industry.

To comply with the APA and RFA this analysis identifies potentially affected industries, defines small and large businesses and determines the compliance cost for these businesses. It then estimates the total cost of compliance with the proposed rules and compares the cost of compliance for small

businesses with large businesses. If there is a disproportionate economic impact on small businesses, the RFA requires that the cost imposed by the rule on small businesses be reduced where legal and feasible to meet the statute's objective. If steps are not taken to reduce the costs on small businesses, the agency must provide reasonable justification.

The proposed rules amend existing forest practices rules. Benefits and costs and their effects on small business are therefore calculated using the provisions of the forest practices rules as the base case. A CBA and an SBEIS were completed in 2001 for the forest practices rules that implemented the forests and fish report.³ This economic analysis utilizes the approach developed by Dr. John Perez-Garcia et al. for those analyses, which were based on a sample of private forest acreage identified by DNR. The methodology is discussed below.

Potentially Affected Industries: Businesses that own or control the cutting rights on forest land are the rule-complying community. Aside from the landowner, potentially affected industries include those holding timber cutting rights, so the complying community is defined broadly as those with the right to dispose of the timber. Even though forest landowners may have other aspects to their business such as agriculture, manufacturing, or other land-based businesses and maybe classified as a different type of business than forest based, they comprise the potentially affected industries in this analysis. The term "forest business" is used to define this rule-complying community.

Small Businesses Versus Large Businesses: The RFA defines a "small business" as one with fifty or fewer employees. The 2001 forests and fish SBEIS applied this definition by using the business identification number associated with a land parcel to determine the number of employees associated with that business. All others were categorized as "large businesses."

Benefits and Costs Included in the Analysis: To ensure compatibility, the benefits and costs that are analyzed in this analysis are restricted to quantified costs in the 2001 forests and fish CBA and SBEIS. RMAP reporting requirements were not quantified and are thereby not quantified in this economic analysis. Revising the definitions "forest road" and "forest land" may have some effect on benefits and costs, but they are difficult to quantify and most likely minimal on the statewide level. This analysis is focused on the costs of replacing fish passage barriers for the state and small business, particularly the cost savings accrued by small businesses eligible to receive financial assistance from the FFFPP for fish passage barriers.

There are no changes to the provisions regarding elimination of fish passage barriers under the proposed rules. This analysis assumes that all fish passage barriers on private forest land will be removed in accordance with existing statute. The proposed rules effectuate a transfer of a portion of the costs of fish passage barrier elimination from small forest landowners to the state. The cost benefit analysis therefore focuses on the dollar amount of this transfer.

Compliance Cost for Businesses: The proposed rules do not impose additional costs on small business. Small forest landowners who enroll in the FFFPP will receive financial benefits for fish passage barrier removal. Simplified RMAP

reporting requirements and limiting the definitions of "forest road" and "forest land" may result in some further cost savings, but these are not analyzed in this economic analysis. By virtue of less rigorous planning requirements, it is anticipated that this translates into a cost savings.

Involvement of Concerned Stakeholders: The RFA requires the SBEIS to include a description of small business involvement in the development of the rule. The stakeholder group includes representatives from government agencies, tribes, landowner organizations and environmental organizations. Small forest landowners are represented by the Washington Farm Bureau, the Okanogan Farm Bureau, Washington Farm Forestry Association, and the Forest Practices Board's Small Forest Landowner Advisory Committee. Several meetings for permanent rule development have been held and follow-up meetings are planned subsequent to the rule-making public comment period in Fall 2005 and the SEPA public comment period in Winter 2006.

METHODS OF ANALYSIS: This analysis uses the cost per \$100 of sales to estimate the effect of the rule changes on forest businesses in western and eastern Washington. The effects on small businesses are calculated using the existing forest practices rules as the base case, which require that all fish passage barriers will be replaced on privately owned forest acreage at the owner's expense. The state's contribution to fish passage barrier removal is estimated statewide and reported as a net benefit to small businesses on a percentage of revenue basis, according to the requirements of the RFA.

The state contribution to fish passage barrier elimination on small business forest acreage is based on the analysis of sample sections completed for the 2001 forests and fish SBEIS. For that analysis, DNR collected detailed spatial information for one hundred fifty-eight random sections within Washington state. Ninety-two sections were sampled in western Washington and sixty-six sections were sampled in eastern Washington. Selection criteria were that the section must include private ownership, it must contain some forest land, and it must not be entirely within a habitat conservation plan area or an urban growth area. The GIS data for the sections included section boundaries, parcel information from county assessors' offices, timber stand/land cover information from photo interpretation, buffer zones for the proposed 2001 rules and past rules, and new water type and road information.

The process to determine the costs and benefits of the proposed RMAPs rules and the net benefit to small businesses is similar to the process used in the 2001 forests and fish SBEIS, except this analysis expands on the 2001 analysis by including an estimate of the state contribution to fish passage barrier elimination on small forest landowner parcels from the FFFPP. The analysis process includes:

- Step 1. The sample sections were photo-interpreted to determine forested acreage in the sample sections and count the number of fish passage barriers.
- Step 2. Data on uniform business identification (UBI) and employment from county records was collected by DNR and incorporated into the GIS database. Each parcel was assigned to one of two categories (large or small business) depending on whether or not

there were more than fifty employees in the business.

- Step 3. Acreage and the incidence of fish passage barriers were calculated for small and large business parcels.
- Step 4. Forest acreage and the number of fish passage barriers on small and large business parcels were extrapolated to the statewide level based on the proportion of statewide private forest acreage in the sample sections.
- Step 5. Average per-unit costs of fish passage barriers (including bridges, culverts and arches) were identified, based on costs of recently replaced barriers.
- Step 6. The proportion of statewide small business forest acreage that meets the qualifications for "small forest landowner" was estimated.
- Step 7. The statewide cost of eliminating fish passage barriers on small business parcels was calculated by multiplying the estimated number of fish passage barriers (Step 4) by the average per-unit cost of fish barriers (Step 5).
- Step 8. The cost share of fish passage barrier elimination was determined for the state and small businesses, as well as for the subset of small forest landowners.
- Step 9. Net benefit to small business was calculated as a percentage of revenue and compared to large businesses.

To ensure compatibility with the 2001 forests and fish CBA and SBEIS, small business revenue is defined as total timber asset value, calculated in the 2001 documents as follows: The (sample) parcel's timber value is determined using data on the average value per acre for the last three years of timber sales from each county. The present value for pole timber is determined using a 5.8% discount rate and thirty year maturity date. The present value calculation for recently cut areas (reproduction acres) uses a 5.8% discount rate and fifty-year maturity date.

Total timber asset value for the sample sections was then extrapolated statewide based on the percentage of small business forest acreage contained in the sample section parcels.

ANALYSIS:

Sample Section Findings (Steps 1, 2 and 3): Table 2 summarizes the forest acreage and number of fish passage barriers included in the sample sections. Large businesses account for more than half the acreage in western Washington, but only about 20% in eastern Washington. The density of fish passage barriers is higher in western than in eastern Washington and is significantly greater on large business acreage than on small business acreage – more than double in western Washington and more than four times in eastern Washington.

**TABLE 2
SAMPLE SECTION FINDINGS**

	Acreage	% of Total	Fish passage barriers	Barriers per 1000 acres
Western Washington				
TOTAL	45,900	100	210	4.6
Large Businesses	25,860	58.6	161	6.0

**TABLE 2
SAMPLE SECTION FINDINGS**

	Acreage	% of Total	Fish passage barriers	Barriers per 1000 acres
Small Businesses	19,040	41.5	49	2.6
Eastern Washington				
TOTAL	28,739	100	35	1.2
Large Businesses	5,597	19.5	18	3.2
Small Businesses	23,142	80.5	17	0.7

Statewide Extrapolation of Sample Section Findings

(Step 4): Forest acreage and the number of fish passage barriers on small and large business parcels are extrapolated to the statewide level based on the proportion of statewide private forest acreage in the sample sections. This calculation is done separately for western and eastern Washington. The use of this methodology is predicated on the assumption that sample sections identified for the 2001 forests and fish SBEIS and utilized for this economic analysis represent the statewide apportionment of small and large business ownership acreage, and that the incidence of fish passage barriers on small and large business parcels are likewise representative. The sample size (ninety-eight sections in western Washington and sixty-six sections in eastern Washington) is considered sufficient to ensure representation of the state's private sector forest acreage.

The sources of statewide private forest acreage data are the USDA Forest Service (USFS) reports, "Timber Resource Statistics for Non-National Forest Land in Western Washington, 2001" for western Washington, and "Washington's Public and Private Forests," Resource Bulletin #PNW-RB-218; (1992 data) for eastern Washington. The USFS forest acreage data is considered the most reliable source of such data for the state of Washington. Data for western Washington has only recently been released, and an update for eastern Washington is underway but not yet available. Although data for eastern Washington dates from 1992, according to USFS staff, private forest acreage has not changed significantly since then.

Estimates of large and small private forest acreage are generated by taking the USFS data on private forest acreage - approximately 5.1 million acres in western Washington and 2.2 million acres in eastern Washington - and apportioning it between large and small businesses based on the proportions of acreage found in the sample sections. Table 3 presents the results of these calculations.

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TABLE 3
ESTIMATED STATEWIDE SMALL BUSINESS FOREST ACREAGE
AND NUMBER OF FISH PASSAGE BARRIERS

	Acreage	% of Total	Total private forest acreage	% Sampled	Survey fish passage barriers	Extrapolated total fish passage barriers
Western Washington						
Total	45,900	100	5,122,000	0.9	210	23,434
Large Businesses	25,860	58.5	2,997,000	0.9	161	17,966
<i>Small Businesses</i>	19,040	41.5	2,125,000	0.9	49	5,468
Eastern Washington						
Total	28,739	100	2,170,000	1.3	35	2,643
Large Businesses	5,597	19.5	423,000	1.3	18	1,359
<i>Small Businesses</i>	23,142	80.5	1,747,000	1.3	17	1,284

About 59% of the sample forest acreage in western Washington is allocated to large businesses based on sample sections, and 41% is allocated to small businesses. This contrasts sharply with the proportions in eastern Washington, where small businesses account for a large majority of private forest acreage - more than 80%. The sample sections from eastern Washington account for a higher proportion of private forest acreage than in western Washington. Approximately 1.3% of eastern Washington's private forest acreage is included in the sample sections compared to 0.9% in western Washington.

The number of fish passage barriers on small business forest acreage is calculated by extrapolating the number of barriers identified on sample parcels to western and eastern Washington. There are an estimated 5,468 fish passage barriers on small business forest acreage in western Washington and 1,284 in eastern Washington.

Estimating the Per-unit Cost of Replacing Fish Passage Barriers (Step 5): The 2001 forests and fish CBA and SBEIS estimates of the per-unit costs of replacing fish passage barriers were derived from personal communications between DNR and representatives from large and small enterprises in western and eastern Washington. For fish-bearing streams, these were \$40,000 in western Washington and \$41,000 in eastern Washington. Since then, more than 1,200 fish passage barriers have been replaced in Washington, providing more recent data on expected costs. The average cost for removing fish passage barriers has been \$42,300 on DNR-managed lands and \$41,027 for Department of Fish and Wildlife projects. The average cost for the FFFPP projects completed to date has been \$33,190. The estimates used in the 2001 forests and fish SBEIS are in the range of recent projects and are retained for this analysis.

Determining the Small Forest Landowner Proportion of Small Business Forest Acreage (Step 6): Efforts are underway to establish a small forest landowner database, but at this time small forest landowner forest acreage is unknown. It is also subject to change, as forests are converted to other uses, and since the definition of a small forest landowner is based on timber harvest volume, individual owners may base their business decisions on qualifying for small forest landowner status. Under these circumstances,

USFS other private lands forest acreage, defined as private forest lands not owned by forest industry firms, is considered the best proxy for small forest landowner acreage.

The proposed rules provide a revenue increase to landowners who qualify for the FFFPP by meeting the definition of small forest landowner. The proportion of small business acreage that is also small forest landowner acreage is calculated by dividing the other private lands forest acreage for western and eastern Washington (excluding Native American forest land) by the small business forest acreage calculated previously. The sources of this data are those used and mentioned in Step 4 above, and results are presented in Table 4.

TABLE 4
SMALL FOREST LANDOWNER PROPORTION
OF SMALL BUSINESS FOREST ACREAGE

	Statewide Total	Western Washington	Eastern Washington
Total Private Forest Acreage	7,292,000	5,122,000	2,170,000
Small Business Acreage ⁵	3,872,000	2,125,000	1,747,000
Small Forest Landowner (SFL) Acreage	2,928,000	1,636,000	1,292,000
SFL % of Small Business Acreage	75.6	77.0	73.9

Small forest landowner acreage accounts for about three-fourths of small business acreage in both western and eastern Washington; this portion is eligible for state assistance for removal of fish passage barriers. Fish passage barrier removal on the remaining one-fourth of small business forest acreage is not eligible for state assistance.

State and Small Business Cost Share (Steps 7 and 8): The total cost of replacing fish passage barriers and the small business/state cost share are calculated based on the assumption that small forest landowners would pay 25% of project costs, or \$5,000, whichever is less, for each fish passage barrier on their property. Using an average cost per barrier of \$40,000 in western Washington and \$41,000 in eastern

PROPOSED

Washington, the small business cost share is calculated at \$5,000 per fish passage barrier for small businesses who qualify as small forest landowners and \$40,000 and \$41,000 (for eastern and western Washington, respectively) for small businesses that don't qualify for small forest landowner des-

ignation. The state's share is \$35,000 and \$36,000 per fish passage barrier in western and eastern Washington for small forest landowners, and zero for small businesses that are not small forest landowners.

TABLE 5
TOTAL AND PROPORTIONATE SHARES
OF FISH PASSAGE BARRIER REMOVAL ON SMALL BUSINESS FOREST ACREAGE
(millions of dollars)

	Statewide Total	Western Washington	Eastern Washington
Total cost of removing fish barriers on small businesses	\$271.3	\$218.7	\$52.6
State contribution	\$181.5	\$147.4	\$34.2
state portion of cost share	67%	67%	65%
Small business contribution	\$89.8	\$71.4	\$18.5
small business portion of cost share	33%	33%	35%
Small business, not SFLs, contribution	\$64.0	\$50.3	\$13.7
state portion of cost share	0%	0%	0%
small business portion of cost share	100%	100%	100%
Small forest landowner contribution	\$25.8	\$21.1	\$4.7
state portion of cost share	88%	88%	88%
small forest landowner portion of cost share	12%	12%	12%

Table 5A
Proportionate Shares of Fish Passage Barrier Removal
Western Washington

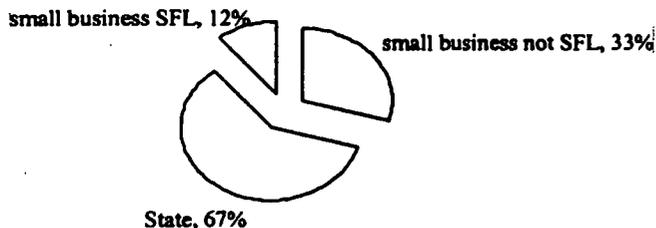
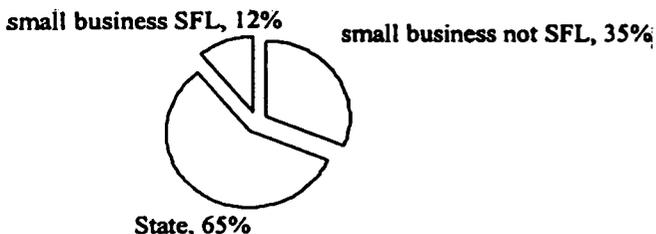


Table 5B
Proportionate Shares of Fish Passage Barrier Removal
Eastern Washington



In western Washington, the total cost of replacing fish passage barriers on small business forest acreage is estimated at \$218.7 million, of which \$147.4 million, or 67%, will be funded by the state through the FFFPP. Small businesses contribute the remaining \$71.4 million, of which \$21.1 million is from small forest landowners and \$50.3 million from small businesses that are not small forest landowners.

In eastern Washington, the total cost of replacing fish passage barriers on small business forest acreage is estimated at \$52.6 million, of which \$34.2 million, or 65%, will be funded by the state through the FFFPP. Small businesses contribute the remaining \$18.5 million, of which \$4.7 million is from small forest landowners and \$13.7 million from small businesses that are not small forest landowners.

From the perspective of a small forest landowner, the FFFPP contributes a substantial portion of the costs of replacing fish passage barriers. At a minimum, the state contributes 88% on small forest landowner parcels. The state's contribution will likely be higher, as some barriers are eligible for total state funding, and some landowners may meet the maximum annual contribution levels established for the FFFPP, described on page 2.

Net Benefit to Small Business as a Percentage of Revenue and Comparison to Large Businesses (Step 9): This analysis uses the cost per \$100 of sales to report the effect of the rule changes on forest businesses. The 2001 forests and fish CBA and SBEIS and this economic analysis use total timber asset value as a proxy for sales. Total timber asset value for small business parcels for western and eastern Washington was calculated by apportioning the statewide timber asset value reported in the 2001 forests and fish CBA to small and large businesses based on the proportion of small/large total asset value.

TABLE 6
CHANGE IN REVENUE PER \$100 OF SALES

	Statewide Total	Western Washington	Eastern Washington
Timber Asset Value (\$millions)	\$6,183.1	\$5,657.6	\$525.5
Small business revenue change (\$millions)	181.5	147.4	34.2

TABLE 6
CHANGE IN REVENUE PER \$100 OF SALES

	Statewide Total	Western Washington	Eastern Washington
Change in revenue per \$100 of sales	\$2.94	\$2.60	\$6.50

The proposed rules accrue a net benefit to small businesses of \$2.60 per \$100 of timber asset value (revenue) in western Washington, and \$6.50 in eastern Washington. This is a decrease of 47 and 43% in costs from the road maintenance and stream crossing costs reported in the 2001 forests and fish SBEIS for western and eastern Washington, which

were \$5.50 and \$15.20, respectively. The percentage decrease is lower than for fish passage barriers because the road maintenance and stream crossing costs reported in the 2001 forests and fish SBEIS included road maintenance, which is not addressed in the proposed rules. The cost of road maintenance and stream crossings decreases to \$2.90 per \$100 of revenue in western Washington and \$8.70 in eastern Washington. For large businesses, which are ineligible for FFFPP assistance, it remains the same, at \$6.90 per \$100 of timber asset value in western Washington and \$17.00 in eastern Washington.

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TABLE 7
COMPARISON OF EFFECTS OF PERMANENT RULES
ON SMALL AND LARGE BUSINESSES
Road Maintenance and Stream Crossings

	LARGE BUSINESS		SMALL BUSINESS	
	Western Washington	Eastern Washington	Western Washington	Eastern Washington
Base Case ⁶	\$6.90	\$17.00	\$5.50	\$15.20
Permanent Rule	6.90	17.00	2.90	8.70
Change	0	0	2.60	6.50
% Reduction	0	0	47%	43%

It is important to note that fish passage barrier removals are one-time, nonrecurring expenditures. No attempt has been made to annualize the expenditures, which would have yielded much lower annual values.

Conclusions: The proposed rules do not change forests and fish road maintenance and abandonment standards, and thus have no impact on the benefits of existing regulations. Impacts on costs are positive for the small forest landowner sector of the rule-complying community: (1) Planning costs are minimized by a simplified planning process; and (2) financial assistance available from the FFFPP transfers fish passage barrier repair-related costs of forest and fish RMAP compliance from small forest landowners to the state, providing a benefit to the 75% of small businesses that qualify as small forest landowners. This benefit is substantial, since the FFFPP contributes a minimum of 75% of the cost of fish passage barrier repair.

In terms of cost per \$100 of revenue, the proposed rules accrue a benefit of \$2.60 per \$100 to western Washington small businesses and \$6.50 to eastern Washington small businesses. The proposed rules have no effect on large businesses because they don't qualify for small forest landowner status.

⁶ Forests and fish requirements pertaining to road maintenance and stream crossings. Source: 2001 forests and fish SBEIS.

A copy of the statement may be obtained by contacting Gretchen Robinson, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@wadnr.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Gretchen Robinson, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@wadnr.gov. See small business economic impact statement above. Note: The preliminary cost-benefit analysis and small business economic impact statement are combined in the attached draft economic analysis.

August 22, 2005
Pat McElroy
for Mark Kahley, Chair

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-16-010 *General definitions. Unless otherwise required by context, as used in these rules:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Alluvial fan" see "sensitive sites" definition.

¹ For CBA requirements, see RCW 34.05.328 - The Washington State Legislature.

² For SBEIS requirements, see RCW 19.85.040 - The Washington State Legislature.

³ The CBA can be accessed at <http://www.dnr.wa.gov/sflo/publications/cba.pdf>. The SBEIS can be accessed at <http://www.dnr.wa.gov/sflo/publications/sbeis.pdf>.

⁴ The FFFPP also provides technical assistance to small forest landowners, but these benefits have not been factored in to this analysis.

⁵ Defined as other private lands forest acreage, excluding Native American forest land.

"Appeals board" means the forest practices appeals board established in the act.

"Aquatic resources" means water quality, fish, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*) and their respective habitats.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section. (See board manual section 2.)

"Bankfull width" means:

(a) For streams - the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross-section (see board manual section 2).

(b) For lakes, ponds, and impoundments - line of mean high water.

(c) For tidal water - line of mean high tide.

(d) For periodically inundated areas of associated wetlands - line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

"Basal area" means the area in square feet of the cross section of a tree bole measured at 4 1/2 feet above the ground.

"Bedrock hollows" (colluvium-filled bedrock hollows, or hollows; also referred to as zero-order basins, swales, or bedrock depressions) means landforms that are commonly spoon-shaped areas of convergent topography within unchannelled valleys on hillslopes. (See board manual section 16 for identification criteria.)

"Board" means the forest practices board established by the act.

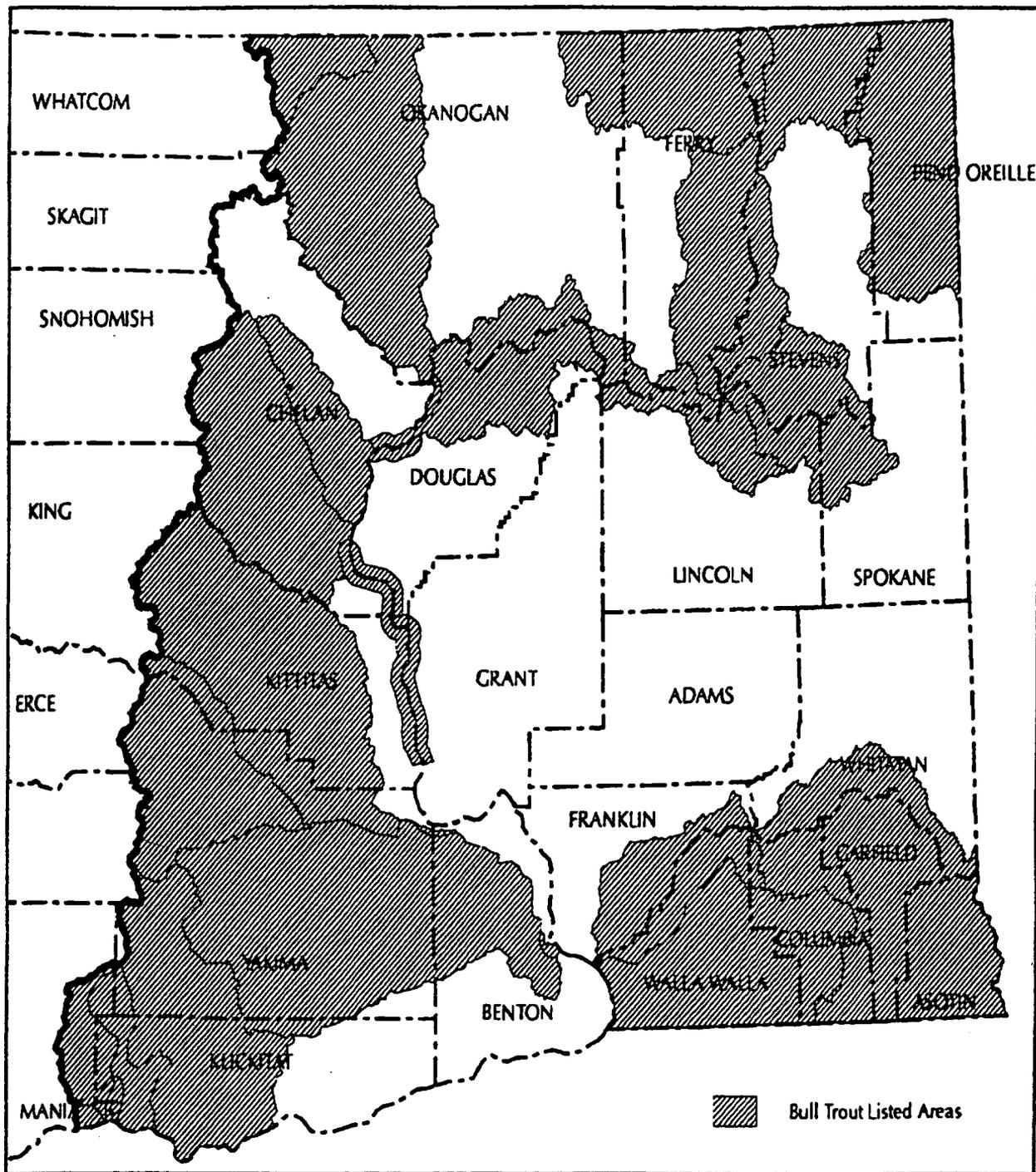
"Bog" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, Labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western hemlock, lodgepole pine, western red cedar, western white pine, Oregon crabapple, or quaking aspen, and may be associated with open water. This includes nutrient-poor fens. (See board manual section 8.)

"Borrow pit" means an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Bull trout habitat overlay" means those portions of Eastern Washington streams containing bull trout habitat as identified on the department of fish and wildlife's bull trout map. Prior to the development of a bull trout field protocol

and the habitat-based predictive model, the "bull trout habitat overlay" map may be modified to allow for locally-based corrections using current data, field knowledge, and best professional judgment. A landowner may meet with the departments of natural resources, fish and wildlife and, in consultation with affected tribes and federal biologists, determine whether certain stream reaches have habitat conditions that are unsuitable for supporting bull trout. If such a determination is mutually agreed upon, documentation submitted to the department will result in the applicable stream reaches no longer being included within the definition of bull trout habitat overlay. Conversely, if suitable bull trout habitat is discovered outside the current mapped range, those waters will be included within the definition of "bull trout habitat overlay" by a similar process.

Bull Trout Overlay Map



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"Channel migration zone (CMZ)" means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream, except as modified by a permanent levee or dike. For this purpose, near-term means the time scale required to grow a mature forest. (See board manual section 2 for descriptions and illustrations of CMZs and delineation guidelines.)

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"CRGNSA special management area" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"CRGNSA special management area guidelines" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: Provided, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Convergent headwalls" (or headwalls) means tear-drop-shaped landforms, broad at the ridgetop and terminating where headwaters converge into a single channel; they are broadly concave both longitudinally and across the slope, but may contain sharp ridges separating the headwater channels. (See board manual section 16 for identification criteria.)

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local governmental entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative habitat enhancement agreement (CHEA)" see WAC 222-16-105.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or Commerce under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practices activities which would reasonably be expected to cause significant damage to a public resource.

"Deep-seated landslides" means landslides in which most of the area of the slide plane or zone lies below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See board manual section 16 for identification criteria.)

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Desired future condition (DFC)" is a reference point on a pathway and not an endpoint for stands. DFC means the stand conditions of a mature riparian forest at 140 years of age, the midpoint between 80 and 200 years. Where basal area is the only stand attribute used to describe 140-year old stands, these are referred to as the "Target Basal Area."

"Diameter at breast height (dbh)" means the diameter of a tree at 4 1/2 feet above the ground measured from the uphill side.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat

found within RMZs, WMZs or other required and voluntary leave areas.

"Drainage structure" means a construction technique or feature that is built to relieve surface runoff and/or intercepted ground water from roadside ditches to prevent excessive buildup in water volume and velocity. A drainage structure is not intended to carry any typed water. Drainage structures include structures such as: Cross drains, relief culverts,

ditch diversions, water bars, or other such structures demonstrated to be equally effective.

"Eastern Washington" means the geographic area in Washington east of the crest of the Cascade Mountains from the international border to the top of Mt. Adams, then east of the ridge line dividing the White Salmon River drainage from the Lewis River drainage and east of the ridge line dividing the Little White Salmon River drainage from the Wind River drainage to the Washington-Oregon state line.

Eastern Washington Definition Map



"Eastern Washington timber habitat types" means elevation ranges associated with tree species assigned for the purpose of riparian management according to the following:

Timber Habitat Types	Elevation Ranges
ponderosa pine	0 - 2500 feet
mixed conifer	2501 - 5000 feet
high elevation	above 5000 feet

"Edge" of any water means the outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Equipment limitation zone" means a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water. It applies to all perennial and seasonal nonfish bearing streams.

"Erodible soils" means those soils that, when exposed or displaced by a forest practices operation, would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

- Clearcuts;
- Seed tree harvests in which twenty or fewer trees per acre remain after harvest;
- Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;
- Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;
- Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;
- Partial cutting in which fewer than fifty trees per acre remain after harvest;
- Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and
- Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting

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green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities.

"Fish" means for purposes of these rules, species of the vertebrate taxonomic groups of *Cephalospidomorphi* and *Osteichthyes*.

"Fish habitat" means habitat, which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish, which could be recovered by restoration or management and includes off-channel habitat.

"Fish passage barrier" means any artificial in-stream structure that impedes the free passage of fish.

"Flood level - 100 year" means a calculated flood event flow based on an engineering computation of flood magnitude that has a 1 percent chance of occurring in any given year. For purposes of field interpretation, landowners may use the following methods:

Flow information from gauging stations;

Field estimate of water level based on guidance for "Determining the 100-Year Flood Level" in the forest practices board manual section 2.

The 100-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. For small forest landowner road maintenance and abandonment planning only, the term "forest land" excludes the following:

(a) Residential home sites. A residential home site may be up to five acres in size, and must have an existing structure in use as a residence;

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production, preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

"Forest land owner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner (~~:- Provided, That~~). However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land. The following definitions apply only to road maintenance and abandonment planning:

(a) "Large forest landowner" is a forest landowner who is not a small forest landowner.

(b) "Small forest landowner" is a forest landowner who at the time of submitting a forest practices application or notification:

• Has an average annual timber harvest level of two million board feet or less from their own forest lands in Washington state; and

• Has not exceeded this harvest level for the past three years; and

• Certifies to the department this annual harvest level will not be exceeded for the next ten years.

Except the department will agree an applicant is a small forest landowner if the landowner can demonstrate the harvest levels were exceeded in order to raise funds to pay estate taxes or to meet equally compelling and unexpected obligations such as court-ordered judgments and extraordinary medical expenses.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest road" means ways, lanes, roads, or driveways on forest land used since 1974 for forest practices (~~(or forest management activities such as fire control)~~). "Forest roads" does not include skid trails, highways, or (~~(county)~~) local government roads except where the (~~(county)~~) local governmental entity is a forest landowner (~~(or operator)~~). For road maintenance and abandonment planning purposes only, "forest road" does not include forest roads used exclusively for residential access located on a small forest landowner's forest land.

"Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than 15 years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"Full bench road" means a road constructed on a side hill without using any of the material removed from the hillside as a part of the road. This construction technique is usually used on steep or unstable slopes.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Ground water recharge areas for glacial deep-seated slides" means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See board manual section 16 for identification criteria.)

"Headwater spring" means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Horizontal distance" means the distance between two points measured at a 0% slope.

"Hyporheic" means an area adjacent to and below channels where interstitial water is exchanged with channel water and water movement is mainly in the downstream direction.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Inner gorges" means canyons created by a combination of the downcutting action of a stream and mass movement on the slope walls; they commonly show evidence of recent movement, such as obvious landslides, vertical tracks of disturbance vegetation, or areas that are concave in contour and/or profile. (See board manual section 16 for identification criteria.)

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practices activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

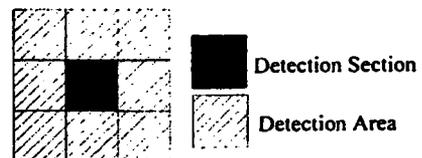
"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local governmental entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.



"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Multiyear permit" means a permit to conduct forest practices which is effective for longer than two years but no longer than five years.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

- Status 1:** Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.
- Status 2:** Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.
- Status 3:** Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- (a) A nest is located; or
- (b) Downy chicks or eggs or egg shells are found; or
- (c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or
- (d) Birds calling from a stationary location within the area; or
- (e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) and (2) above, the sites will be presumed to be occupied based upon observation of circling described in (1)(e), unless a two-year survey following the

2003 Pacific Seabird Group (PSG) protocol has been completed and an additional third-year of survey following a method listed below is completed and none of the behaviors or conditions listed in (1)(a) through (d) of this definition are observed. The landowner may choose one of the following methods for the third-year survey:

(a) Conduct a third-year survey with a minimum of nine visits conducted in compliance with 2003 PSG protocol. If one or more marbled murrelets are detected during any of these nine visits, three additional visits conducted in compliance with the protocol of the first nine visits shall be added to the third-year survey. Department of fish and wildlife shall be consulted prior to initiating third-year surveys; or

(b) Conduct a third-year survey designed in consultation with the department of fish and wildlife to meet site specific conditions.

(4) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(5) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(6) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" means any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: Provided, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the

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ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide, but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Preferred tree species" means the following species listed in descending order of priority for each timber habitat type:

Ponderosa pine habitat type	Mixed conifer habitat type
all hardwoods	all hardwoods
ponderosa pine	western larch
western larch	ponderosa pine
Douglas-fir	western red cedar
western red cedar	western white pine
	Douglas-fir
	lodgepole pine

"Public resources" means water, fish, and wildlife and in addition means capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:
Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and
Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian function" includes bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

"Riparian management zone (RMZ)" means:

(1) **For Western Washington**

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Western Washington Total RMZ Width
I	200'
II	170'
III	140'
IV	110'
V	90'

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-021(2).)

(2) **For Eastern Washington**

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Eastern Washington Total RMZ Width
I	130'
II	110'
III	90' or 100'*
IV	75' or 100'*
V	75' or 100'*

* Dependent upon stream size. (See WAC 222-30-022.)

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-022(2).)

(3) **For exempt 20 acre parcels**, a specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

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"RMZ core zone" means:

(1) **For Western Washington**, the 50 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021.)

(2) **For Eastern Washington**, the 30 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-022.)

"RMZ inner zone" means:

(1) **For Western Washington**, the area measured horizontally from the outer boundary of the core zone of a Type S or F Water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

(2) **For Eastern Washington**, the area measured horizontally from the outer boundary of the core zone 45 feet (for streams less than 15 feet wide) or 70 feet (for streams more than 15 feet wide) from the outer boundary of the core zone. (See WAC 222-30-022.)

"RMZ outer zone" means the area measured horizontally between the outer boundary of the inner zone and the RMZ width as specified in the riparian management zone definition above. RMZ width is measured from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

"Road construction" means (~~the establishment of any new sub-grade including widening, realignment, or modification of an existing road prism, with the exception of replacing or installing drainage structures, for the purposes of managing forest land under Title 222 WAC~~);

(a) Establishing any new forest road;

(b) Road work located outside an existing forest road prism, except for road maintenance.

~~"Road maintenance" means (any road work specifically related to maintaining water control or road safety and visibility (such as; grading, spot rocking, resurfacing, road-side vegetation control, water barring, ditch clean out, replacing or installing relief culverts, cleaning culvert inlets and outlets) on existing forest roads);~~

(a) All road work located within an existing forest road prism;

(b) Road work located outside an existing forest road prism specifically related to maintaining water control, road safety, or visibility, such as:

• Maintaining, replacing, and installing drainage structures;

• Controlling road-side vegetation;

• Abandoning forest roads according to the process outlined in WAC 222-24-052(3).

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Sensitive sites" are areas near or adjacent to Type Np Water and have one or more of the following:

(1) **Headwall seep** is a seep located at the toe of a cliff or other steep topographical feature and at the head of a Type Np Water which connects to the stream channel network via overland flow, and is characterized by loose substrate and/or fractured bedrock with perennial water at or near the surface throughout the year.

(2) **Side-slope seep** is a seep within 100 feet of a Type Np Water located on side-slopes which are greater than 20 percent, connected to the stream channel network via overland flow, and characterized by loose substrate and fractured bedrock, excluding muck with perennial water at or near the surface throughout the year. Water delivery to the Type Np channel is visible by someone standing in or near the stream.

(3) **Type Np intersection** is the intersection of two or more Type Np Waters.

(4) **Headwater spring** means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

(5) **Alluvial fan** means a depositional land form consisting of cone-shaped deposit of water-borne, often coarse-sized sediments.

(a) The upstream end of the fan (cone apex) is typically characterized by a distinct increase in channel width where a stream emerges from a narrow valley;

(b) The downstream edge of the fan is defined as the sediment confluence with a higher order channel; and

(c) The lateral margins of a fan are characterized by distinct local changes in sediment elevation and often show disturbed vegetation.

Alluvial fan does not include features that were formed under climatic or geologic conditions which are not currently present or that are no longer dynamic.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site class" means a grouping of site indices that are used to determine the 50-year or 100-year site class. In order to determine site class, the landowner will obtain the site class index from the state soil survey, place it in the correct index range shown in the two tables provided in this definition, and select the corresponding site class. The site class will then drive the RMZ width. (See WAC 222-30-021 and 222-30-022.)

(1) **For Western Washington**

Site class	50-year site index range (state soil survey)
I	137+
II	119-136
III	97-118

Site class	50-year site index range (state soil survey)
IV	76-96
V	<75

(2) For Eastern Washington

Site class	100-year site index range (state soil survey)	50-year site index range (state soil survey)
I	120+	86+
II	101-120	72-85
III	81-100	58-71
IV	61-80	44-57
V	≤60	<44

(3) For purposes of this definition, the site index at any location will be the site index reported by the *Washington State Department of Natural Resources State Soil Survey*, (soil survey) and detailed in the associated forest soil summary sheets. If the soil survey does not report a site index for the location or indicates noncommercial or marginal forest land, or the major species table indicates red alder, the following apply:

(a) If the site index in the soil survey is for red alder, and the whole RMZ width is within that site index, then use site class V. If the red alder site index is only for a portion of the RMZ width, or there is on-site evidence that the site has historically supported conifer, then use the site class for conifer in the most physiographically similar adjacent soil polygon.

(b) In Western Washington, if no site index is reported in the soil survey, use the site class for conifer in the most physiographically similar adjacent soil polygon.

(c) In Eastern Washington, if no site index is reported in the soil survey, assume site class III, unless site specific information indicates otherwise.

(d) If the site index is noncommercial or marginally commercial, then use site class V.

See also section 7 of the board manual.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practices activities.

"SOSEA goals" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Stream-adjacent parallel roads" means roads (including associated right of way clearing) in a riparian management zone on a property that have an alignment that is parallel to the general alignment of the stream, including roads used by others under easements or cooperative road agreements. Also included are stream crossings where the alignment of the road continues to parallel the stream for more than 250 feet on either side of the stream. Not included are federal, state, county or municipal roads that are not subject to forest practices rules, or roads of another adjacent landowner.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Temporary road" means a forest road that is constructed and intended for use during the life of an approved forest practices application/notification. All temporary roads must be abandoned in accordance to WAC 222-24-052(3).

"Threaten public safety" means to increase the risk to the public at large from snow avalanches, identified in consultation with the department of transportation or a local government, or landslides or debris torrents caused or triggered by forest practices.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

"Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, timber does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.-035.

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"Unconfined avulsing stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex flood plain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the geographic area of Washington west of the Cascade crest and the drainages defined in Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack,

or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"Yarding corridor" means a narrow, linear path through a riparian management zone to allow suspended cables necessary to support cable logging methods or suspended or partially suspended logs to be transported through these areas by cable logging methods.

"Young forest marginal habitat" see WAC 222-16-085 (1)(b).

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-16-050 *Classes of forest practices. There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices rules.

(1) **"Class IV - special."** Except as provided in WAC 222-16-051, application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

*(a) Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as critical habitat (state) of threatened or endangered species.

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

* (d) Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (i) below that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for potential unstable slopes and landforms).

(i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See the board manual section 16 for more descriptive definitions.)

(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than 35 degrees (70%);

(B) Toes of deep-seated landslides, with slopes steeper than 33 degrees (65%);

(C) Ground water recharge areas for glacial deep-seated landslides;

(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or

(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.

(ii) The department will base its classification of the application/notification on professional knowledge of the area, information such as soils, geologic or hazard zonation maps and reports or other information provided by the applicant.

(iii) An application would not be classified as Class IV-Special for potentially unstable slopes or landforms under this subsection if:

(A) The proposed forest practice is located within a WAU that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with an approved prescription from the watershed analysis (or as modified through the 5-year review process); and

(C) The applicable prescription is specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

* (e) Timber harvest, in a watershed administrative unit not subject to an approved watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.

(f) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

* (g) Forest practices subject to an approved watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

* (h) Filling or draining of more than 0.5 acre of a wetland.

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special."

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(b) Forest practices (other than those in Class I) on lands that have been or are being converted to another use;

(c) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and 222-34-050); or

(d) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW, except where the forest landowner provides one of the following:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest products operations for ten years accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.

Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with the State Environmental Policy Act.

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

* (b) Road maintenance except: (i) Replacement of bridges and culverts across Type S, F or flowing Type Np Waters; or (ii) movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

* (c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a

Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (d) Construction of less than 600 feet of road on a side-slope of 40 percent or less if the limits of construction are not within the shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type S Water and does not involve disturbance of the beds or banks of any waters.

* (f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

* (n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type S Water, the riparian management zone of any Type F Water, or the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

* (o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)

* (p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

* (r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on forest roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: Provided, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW 77.55.100) or is within a "shorelines of the state," or involves owner of perpetual timber rights subject to RCW 76.09.067 (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, as provided in chapter 58.17 RCW, or on lands that have been or are being converted to another use. No forest practice enumerated below involving timber harvest or road construction may be conducted as a "Class II" if it takes place within urban growth areas designated pursuant to chapter 37.70A RCW. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practices application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal. Renewal of a previously approved multiyear permit for forest practices within a WAU with an approved watershed analysis requires completion of a necessary 5-year review of the watershed analysis.

* (c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

* (d) Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent.

* (e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or

wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

- (i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.
- (ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.
- (iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.
- (iv) Any harvest on less than 40 acres.
- (v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.
- (5) "Class III." Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:
 - (a) Those requiring hydraulic project approval (RCW 77.55.100).
 - * (b) Those within the shorelines of the state other than those in a Class I forest practice.
 - * (c) Aerial application of insecticides, except where classified as a Class IV forest practice.
 - * (d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.
 - * (e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.
 - * (f) All road construction (~~and reconstruction~~) except as listed in Classes I, II and IV forest practices.
 - (g) Opening of new pits or extensions of existing pits over 1 acre.
 - * (h) Road maintenance involving:
 - (i) Replacement of bridges or culverts across Type S, F or flowing Type Np Waters; or
 - (ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.
 - (i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.
 - (j) Site preparation or slash abatement not listed in Classes I or IV forest practices.
 - (k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:
 - (i) On or are eligible for listing on the National Register of Historic Places; or
 - (ii) Have been identified to the department as being of interest to an affected Indian tribe.
 - (l) Harvesting exceeding 19 acres in a designated difficult regeneration area.
 - (m) Utilization of an alternate plan. See WAC 222-12-040.
 - * (n) Any filling of wetlands, except where classified as Class IV forest practices.
 - * (o) Multiyear permits.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-20-010 Applications and notifications—Policy. (1) No Class II, III or IV forest practices shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) The department shall prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(3) Except as provided in subpart (4) below, applications and notifications shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)).

(4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

(5) Where an application for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(6) Transfer of the approved application or notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices rules as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding

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any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(7) **Applications and notifications** must be delivered to the department at the appropriate region office. Delivery should be in person or by registered or certified mail.

(8) **Applications and notifications** shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application.

(a) A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the CRGNSA special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within 45 days.

(b) An environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications.

(c) A local governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that have been or will be converted to a use other than commercial timber production or on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW, if the local governmental entity has jurisdiction and has an ordinance requiring such permit.

(d) A checklist road maintenance and abandonment plan is necessary information for all small forest landowners' applications or notifications for timber harvest (including salvage), unless exempt under WAC 222-24-0511. If a notification or application is delivered in person to the department by the operator or the operator's authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

(9) **An operator's name**, if known, must be included on any forest practices application or notification. The landowner or timber owner must provide notice of hiring or change of operator to the department within 48 hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

(10) **Financial assurances** may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-20-015 Multiyear permits. (1) Where a watershed analysis has been approved for a WAU under

WAC 222-22-080, landowner(s) may apply for a multiyear permit. The information provided and level of detail must be comparable to that required for a two-year permit. At a minimum, the application must include:

(a) A description of the forest practices to be conducted during the period requested for the permit, and a map(s) showing their locations; and

(b) Prescriptions must be identified where operations are proposed within or include areas of resource sensitivity.

(2) A landowner with an approved road maintenance and abandonment plan (other than a checklist) may apply for a multiyear permit to perform road maintenance (~~(or abandonment if the landowner has an approved road maintenance and abandonment plan where)~~) road abandonment, and/or associated right of way timber harvest, if the schedule for implementing the plan is longer than two years. (~~The information provided and level of detail must be comparable to that required for two-year permits under WAC 222-24-050.~~)

(3) A landowner may apply for a multiyear permit to perform an approved alternate plan.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-20-040 Approval conditions. (1) **Whenever an approved** application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department 2 business days before the commencement of actual operations.

(2) **All approvals are** subject to any conditions stipulated on the approved application and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

(3) **Local governmental entity conditions.**

(a) RCW 76.09.240(4) allows a local governmental entity to exercise limited land use planning or zoning authority on certain types of forest practices. This subsection is designed to ensure that local governmental entities exercise this authority consistent with chapter 76.09 RCW and the rules in Title 222 WAC. The system provided for in this subsection is optional.

(b) This subsection only applies to Class IV general applications on lands that have been or are being converted to a use other than commercial timber production or to Class IV general applications on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW.

(c) The department shall transmit the applications to the appropriate local governmental entity within two business days from the date the department receives the application.

(d) The department shall condition the application consistent with the request of the local governmental entity if:

(i) The local governmental entity has adopted a clearing and/or grading ordinance that addresses the items listed in (e) of this subsection and requires a permit;

(ii) The local governmental entity has issued a permit under the ordinance in (i) that contains the requested conditions; and

(iii) The local governmental entity has entered into an interagency agreement with the department consistent with WAC 222-50-030 addressing enforcement of forest practices.

(e) The local governmental entity conditions may only cover:

(i) The location and character of open space and/or vegetative buffers;

(ii) The location and design of roads;

(iii) The retention of trees for bank stabilization, erosion prevention, and/or storm water management; or

(iv) The protection of critical areas designated pursuant to chapter 36.70A RCW.

(f) Local governmental entity conditions shall be filed with the department within twenty-nine days of the filing of the application with the department or within fourteen business days of the transmittal of the application to the local governmental entity or one day before the department acts on the application, whichever is later.

(g) The department shall incorporate local governmental entity conditions consistent with this subsection as conditions of the forest practices approval.

(h) Any exercise of local governmental entity authority consistent with this subsection shall be considered consistent with the forest practices rules in this chapter.

(4) Lead agency mitigation measures.

(a) This subsection is designed to specify procedures for a mitigated DNS process that are consistent with chapters 76.09 and 43.21C RCW and the rules in Title 222 WAC and chapter 197-11 WAC.

(b) This subsection applies to all Class IV applications in which the department is not the lead agency under SEPA. (See WAC 197-11-758.)

(c) The department shall transmit the application to the lead agency within two business days from the date the department receives the application.

(d) The lead agency may specify mitigation measures pursuant to WAC 197-11-350.

(e) The lead agency threshold determination and any mitigation measures must be filed with the department within the later of (i) twenty-nine days of the receipt of the application by the department, (ii) fourteen business days of the transmittal of the application to the lead agency if the lead agency is a local governmental entity; or (iii) one day before the department acts on the application.

(f) Unless the applicant clarifies or changes the application to include mitigation measures specified by the lead agency, the department must deny the application or require an EIS. (See WAC 197-11-738.)

(g) If the department does not receive a threshold determination from the lead agency by the time it must act on the application, the department shall deny the application.

(5) Small forest landowner approval conditions. The department shall not disapprove a small forest landowner's application/notification on the basis that fish passage barriers have not been removed or replaced if the landowner has committed to participate in the department's family forest fish passage program for:

• Any barriers on their forest roads located within the boundaries of their application/notification; and

• Any barriers on their forest roads needed for their proposed forest practice, but located outside the boundaries of the application/notification.

(6) CRGNSA special management area.

(a) **Policy.** The states of Oregon and Washington have entered into a Compact preauthorized by Congress to implement the CRGNSA Act, 16 U.S.C. §§ 544, et seq. chapter 43.97 RCW, 16 U.S.C. § 544c. The purposes of the CRGNSA Act are:

(i) To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(ii) To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1). 16 U.S.C. § 544a.

The forest practices rules addressing forest practices in the CRGNSA special management area recognize the intent of Congress and the states expressed in the CRGNSA Act and Compact and the intent of the Washington state legislature in the Forest Practices Act. These rules are designed to recognize the public interest in sound natural resource protection provided by the Act and the Compact, including the protection to public resources, recreation, and scenic beauty. These rules are designed to achieve a comprehensive system of laws and rules for forest practices in the CRGNSA special management area which avoids unnecessary duplication, provides for interagency input and intergovernmental and tribal coordination and cooperation, considers reasonable land use planning goals contained in the CRGNSA management plan, and fosters cooperation among public resources managers, forest landowners, tribes and the citizens.

(b) The CRGNSA special management area guidelines shall apply to all forest practices within the CRGNSA special management area. Other forest practices rules also apply to these forest practices. To the extent these other rules are inconsistent with the guidelines, the more restrictive requirement controls. To the extent there is an incompatibility between the guidelines and another rule, the guidelines control. Copies of the guidelines can be obtained from the department's Southeast and (~~Southwest~~) Pacific Cascade regional offices and Olympia office, as well as from the Columbia River Gorge commission and the U.S. Forest Service.

(c) The department shall review and consider the U.S. Forest Service review statement and shall consult with the U.S. Forest Service and the Columbia River Gorge commission prior to making any determination on an application or notification within the CRGNSA special management area.

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-20-055 Continuing forest land obligations. Continuing forest land obligations include reforestation, road maintenance and abandonment plans, and harvest strategies on perennial nonfish habitat waters in Eastern Washington. This section does not apply to small forest landowner checklist road maintenance and abandonment plans.

(1) Prior to the sale or transfer of land or perpetual timber rights subject to continuing forest land obligations under the Forest Practices Act and rules, the seller must notify the buyer of the existence and nature of such a continuing obligation and the buyer must sign a notice of continuing forest land obligation indicating the buyer's knowledge of the obligations. The notice must be:

- (a) On a form prepared by the department;
- (b) Sent to the department by the seller at the time of sale or transfer of land or perpetual timber rights; and
- (c) Retained by the department.

(2) If the seller fails to notify the buyer about the continuing forest land obligation, the seller must pay the buyer's costs related to continuing forest land obligations, including all legal costs and reasonable attorneys' fees incurred by the buyer in enforcing the continuing forest land obligation against the seller.

(3) Failure by the seller to send the required notice to the department at the time of sale will be prima facie evidence in an action by the buyer against the seller for costs related to the continuing forest land obligation prior to sale.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-24-010 Policy. *(1) A well designed, located, constructed, and maintained system of forest roads is essential to forest management and protection of the public resources. Riparian areas contain some of the more productive conditions for growing timber, are heavily used by wildlife and provide essential habitat for fish and wildlife and essential functions in the protection of water quality. Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems.

*(2) To protect water quality and riparian habitat, roads must be constructed and maintained in a manner that will prevent potential or actual damage to public resources. This will be accomplished by constructing and maintaining roads so as not to result in the delivery of sediment and surface water to any typed water in amounts, at times or by means, that preclude achieving desired fish habitat and water quality by:

- Providing for fish passage at all life stages (see Washington state department of fish and wildlife hydraulic code Title 220 WAC);
- Preventing mass wasting;
- Limiting delivery of sediment and surface runoff to all typed waters;
- Avoiding capture and redirection of surface or ground water. This includes retaining streams in their natural drainages and routing subsurface flow captured by roads and road ditches back onto the forest floor;
- Diverting most road runoff to the forest floor;
- Providing for the passage of some woody debris;
- Protecting stream bank stability;
- Minimizing the construction of new roads; and
- Assuring ~~((that))~~ there is no net loss of wetland function.

The road construction and maintenance rules in this chapter must be applied in achieving these goals. Additional guidance is identified in ~~((the))~~ board manual section 3. If these goals are not achieved using the rules and the applied guidance, additional management strategies must be employed.

*(3) Extra protection is required during road construction and maintenance to protect public resources and timber growing potential. Landowners and fisheries and wildlife managers are encouraged to cooperate in the development of road management and abandonment plans. Landowners are further encouraged to cooperate in sharing roads to minimize road mileage and avoid duplicative road construction.

*(4) This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges, stream crossings, quarries, borrow pits, and disposal sites used for forest road construction and is intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources.

(Note: Other laws and rules and/or permit requirements may apply. See chapter 222-50 WAC.)

AMENDATORY SECTION (Amending WSR 01-12-042, filed 5/30/01, effective 7/1/01)

WAC 222-24-050 *Road maintenance and abandonment. The goals for road maintenance are established in WAC 222-24-010. ~~((All forest roads must be improved and maintained to the standards of this chapter within 15 years of the effective date of these rules.))~~ Guidelines for how to meet these goals and standards are in the board manual, section 3. ~~((Work performed toward meeting the standards must generally be even flow over the 15 year period with priorities for achieving the most benefit to public resources early in the period.))~~ Replacement will not be required for existing culverts functioning with little risk to public resources or for culverts installed under an approved forest practices application or notification if they have been properly maintained and are capable of passing fish, until the end of the culvert's functional life.

The goals for road maintenance outlined in this chapter are expected to be achieved by July 1, 2016. The strategies for achieving the goals are different for large forest landowners and small forest landowners.

For large forest landowners, all forest roads must be improved and maintained to the standards of this chapter prior to July 1, 2016. Work performed toward meeting the standards must generally be even flow over the fifteen-year period with priorities for achieving the most benefit to the public resources early in the period. These goals will be achieved through the road maintenance and abandonment plan process outlined in WAC 22-24-051.

For small forest landowners, the goals will be achieved through the road maintenance and abandonment plan process outlined in WAC 222-24-0511, by participation in the state-led family forest fish passage program, and by compliance with the Forest Practices Act and rules. The purpose of the family forest fish passage program is to assist small forest landowners in providing fish passage by offering cost-share funding and prioritizing projects on a watershed basis, fixing

the worst fish passage barriers first. The department, in consultation with the departments of ecology and fish and wildlife, will monitor the extent, effectiveness, and progress of checklist road maintenance and abandonment plan implementation and report to the legislature and the board by December 31, 2008, and December 31, 2013.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-24-051 *Large forest landowner road maintenance schedule. All forest roads must be ~~((covered under))~~ included in an approved road maintenance and abandonment plan ~~((within 5 years of the effective date of this rule or))~~ by ~~((December 31, 2005))~~ July 1, 2006. This includes all roads that were constructed or used for forest practices after 1974. Inventory and assessment of orphan roads must be included in the road maintenance and abandonment plans as specified in WAC 222-24-052(4).

*~~((1))~~ (1) Landowners ~~((with 500 acres or more of forest land in a DNR region))~~ must maintain a schedule of submitting plans to the department that cover 20% of their roads or land base each year.

*~~((2))~~ (2) ~~((Landowners with less than 500 acres of forest land in a DNR region must submit with their first forest practices application or notification a road maintenance and abandonment plan covering the roads that will be used by the application. Within one year of the date of submittal of the first forest practices application or notification or before the end of 2005, whichever comes first, the landowner must submit a road maintenance and abandonment plan for the rest of their ownership in that region. Once the plan is approved, the landowner must attach or reference the approved road maintenance and abandonment plan when submitting subsequent applications.~~

~~((3))~~ (3) For those portions of their ownership that fall within a watershed administrative unit covered by an approved watershed analysis plan, chapter 222-22 WAC, landowners may follow the watershed administrative unit-road maintenance plan, providing the roads they own are covered by the plan. A proposal to update the road plan to meet the current road maintenance standards must be submitted to the department for review on or before the next scheduled road maintenance plan review. If annual reviews are not required as part of the watershed analysis road plan, the plan must be updated by October 1, 2005. All roads in the planning area must be in compliance with the current rules by ~~((the end of calendar year 2015))~~ July 1, 2016. See the board manual section 3 for road maintenance and abandonment plan outline.

*~~((4))~~ (3) Plans will be submitted by landowners on a priority basis. Road systems or drainages in which improvement, abandonment or maintenance have the highest potential benefit to the public resource are the highest priority. Based upon a "worst first" principle, work on roads that affect the following are presumed to be the highest priority:

(a) Basins containing, or road systems potentially affecting, waters which either contain a listed threatened or endangered fish species under the federal or state law or a water

body listed on the current 303(d) water quality impaired list for road related issues.

(b) Basins containing, or road systems potentially affecting, sensitive geology/soils areas with a history of slope failures.

(c) Road systems or basins where other restoration projects are in progress or may be planned coincident to the implementation of the proposed road plan.

(d) Road systems or basins likely to have the highest use in connection with future forest practices.

*~~((5))~~ (4) Based upon a "worst first" principle, road maintenance and abandonment plans must pay particular attention to:

(a) Roads that block fish passage;

(b) Roads that deliver sediment to typed water;

(c) Roads with evidence of existing or potential instability that could adversely affect public resources;

(d) Roads or ditchlines that intercept ground water; and

(e) Roads or ditches that deliver surface water to any typed waters.

*~~((6))~~ (5) Road maintenance and abandonment plans must include:

(a) Ownership maps showing all forest roads, including orphan roads; planned and potential abandonment, all typed water, Type A and B Wetlands that are adjacent to or crossed by roads, stream adjacent parallel roads and an inventory of the existing condition; and

(b) Detailed description of the first years work with a schedule to complete the entire plan within fifteen years; and

(c) Standard practices for routine road maintenance; and

(d) Storm maintenance strategy that includes prestorm planning, emergency maintenance and post storm recovery; and

(e) Inventory and assessment of the risk to public resources or public safety of orphaned roads; and

(f) The landowner or landowner representative's signature.

*~~((7))~~ (6) Priorities for road maintenance work within plans are:

(a) Removing blockages to fish passage beginning on roads affecting the most habitat first, generally starting at the bottom of the basin and working upstream;

(b) Preventing or limiting sediment delivery (areas where sediment delivery or mass wasting will most likely affect bull trout habitat will be given the highest priority);

(c) Correcting drainage or unstable sidecast in areas where mass wasting could deliver to public resources or threaten public safety;

(d) Disconnecting road drainage from typed waters;

(e) Repairing or maintaining stream-adjacent parallel roads with an emphasis on minimizing or eliminating water and sediment delivery;

(f) Improving hydrologic connectivity by minimizing the interruption of surface water drainage, interception of subsurface water, and pirating of water from one basin to another; and

(g) Repair or maintenance work which can be undertaken with the maximum operational efficiency.

*~~((8))~~ (7) Initial plans ~~((for landowners with 500 acres or more of forest land in a DNR region))~~ must be submitted

to the department during the year 2001 as scheduled by the department.

~~*((9))~~ (8) Each year on the anniversary date of the plan's submittal, landowners must report work accomplished for the previous year and submit to the department a detailed description of the upcoming year's work including modifications to the existing work schedule.

The department's review and approval will be conducted in consultation with the department of ecology, the department of fish and wildlife, affected tribes and interested parties. The department will:

(a) Review the progress of the plans annually with the landowner to determine if the plan is being implemented as approved; and

(b) The plan will be reviewed by the department and approved or returned to the applicant with concerns that need to be addressed within forty-five days of the plan's submittal.

(c) Additional plans will be signed by the landowner or the landowner's representative.

~~*((10))~~ (9) The department will facilitate an annual water resource inventory area (WRIA) meeting with landowners, the department of fish and wildlife, the department of ecology, affected tribes, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, affected counties, local U.S. Forest Service, watershed councils, and other interested parties. The purpose of the meeting is to:

(a) Suggest priorities for road maintenance and abandonment planning; and

(b) Exchange information on road maintenance and stream restoration projects.

~~(*((11)) A forest practices application with a detailed one to five year work plan associated with a submitted road maintenance and abandonment plan will be treated as a multiyear permit. The application will be reviewed, approved, conditioned and/or disapproved within 45 days of acceptance. The application will be reviewed in consultation with the department of ecology, department of fish and wildlife, affected tribes and interested parties.)~~

~~*((12))~~ (10) Regardless of the schedule for plan development, roads that are currently used or proposed to be used for timber hauling must be maintained in a condition that prevents potential or actual damage to public resources. If the department determines that log haul on such a road will cause or has the potential to cause material damage to a public resource, the department may require the applicant to submit a plan to address specific issues or segments on the haul route.

~~*((13))~~ (11) If a landowner is found to be out of compliance with the work schedule of an approved road maintenance and abandonment plan and the department determines that this work is necessary to prevent potential or actual damage to public resources, then the department will exercise its authority under WAC 222-46-030 (notice to comply) and WAC 222-46-040 (stop work order) to restrict use of the affected road segment.

(a) The landowner may submit a revised maintenance plan for maintenance and abandonment and request permission to use the road for log haul.

(b) The department must approve use of the road if the revised maintenance plan provides protection of the public

resource and maintains the overall schedule of maintenance of the road system or basin.

~~*((14))~~ (12) If a landowner is notified by the department that their road(s) has the potential to damage public resources, the landowner must, within 90 days, submit to the department for review and approval a plan or plans for those drainages or road systems within the area identified by the department.

NEW SECTION

WAC 222-24-0511 *Small forest landowner road maintenance planning. (1) Small forest landowners who own a total of eighty acres or less forest land in Washington state are not required to submit any road maintenance and abandonment plan for any block of forest land that contains twenty contiguous acres or less.

(2) Small forest landowners other than those described in subsection (1) of this section, are only required to submit a checklist road maintenance and abandonment plan when they submit a forest practices application or notification that includes timber harvest or salvage. The checklist must include all their forest roads that are used for the forest practice. Instead of a checklist, landowners may submit a road maintenance and abandonment plan as described in WAC 222-24-051 with the following modifications:

- They are not required to submit an annual report; and
- If they participate in the family forest fish passage program, they may schedule their barrier projects accordingly.

(3) Forest roads must be maintained only to the extent necessary to prevent damage to public resources.

*((4)) If the department determines that a road will cause or has the potential to cause damage to a public resource, the department may require the applicant to submit a compliance schedule of work to fix the problem(s) identified by the department.

(5) Fish passage barriers will be assessed on a watershed basis focusing on fixing the worst barriers first.

(a) The department's family forest fish passage program is available to assist with the removal, replacement, or repair of fish passage barriers that were installed prior to May 14, 2003. The program includes limits on landowner costs and the opportunity for in-kind contributions. One hundred percent public funding shall be provided if an existing barrier was installed under an approved forest practices application, and hydraulics project approval, and that barrier becomes a high priority for replacement.

(b) Small forest landowners who participate in the family forest fish passage program are not required to remove, replace or repair barriers until cost share funding is available and higher priority barriers on lands within the watershed have been removed or funded. Small forest landowners participating in the program may make use of prioritization without any obligations to receive funding from the program.

WSR 05-17-174
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed August 23, 2005, 4:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-098.

Title of Rule and Other Identifying Information: WAC 392-121-262 Finance—General apportionment—Certificated instructional staff.

Hearing Location(s): Old Capitol Building, 600 South Washington Street, P.O. Box 47200, Olympia, WA 98504-7200, on September 29, 2005, at 9:00 a.m.

Date of Intended Adoption: October 13, 2005.

Submit Written Comments to: Legal Services, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, e-mail jerickson@ospi.wednet.edu, fax (360) 753-4201, by September 26, 2005.

Assistance for Persons with Disabilities: Contact Sheila Emery by September 26, 2005, TTY (360) 664-3631 or (360) 725-6271.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules are part of the state funding formula for K-12 education. The 2005 legislature added a sixth criteria to the list of additional criteria for all credits earned by certificated instructional staff after September 1, 1995, for application to the salary schedule developed by the legislative evaluation and accountability program committee.

Reasons Supporting Proposal: Rule revisions are needed to implement provisions in RCW 28A.415.023 amended during the 2005 legislative session.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

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

Name of Proponent: Office of Superintendent of Public Instruction, governmental.

Name of Agency Personnel Responsible for Drafting: Charlie Schreck, Office of Superintendent of Public Instruction, (360) 725-6136; Implementation: Ross Bunda, Office of Superintendent of Public Instruction, (360) 725-6308; and Enforcement: Jennifer Priddy, Office of Superintendent of Public Instruction, (360) 725-6292.

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

A cost-benefit analysis is not required under RCW 34.05.328. The Superintendent of Public Instruction is not subject to RCW 34.05.328 (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

August 22, 2005

Marty Daybell
 for Dr. Terry Bergeson
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-262 Definition—Additional criteria for all credits. Credits earned after September 1, 1995, must satisfy the following criteria in addition to those found in WAC 392-121-255, 392-121-257, and 392-121-259:

(1) At the time credits are recognized by the school district the content of the course must meet at least one of the following:

(a) It is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.655.110, the annual school performance report, for the school in which the individual is assigned;

(b) It pertains to the individual's current assignment or expected assignment for the following school year;

(c) It is necessary for obtaining endorsement as prescribed by the state board of education;

(d) It is specifically required for obtaining advanced levels of certification; ((e))

(e) It is included in a college or university degree program that pertains to the individual's current assignment or potential future assignment as a certificated instructional staff; or

(f) It addresses research-based assessment and instructional strategies for students with dyslexia, dysgraphia, and language disabilities when addressing learning goal one under RCW 28A.150.210, as applicable and appropriate for individual certificated instructional staff;

(2) Credits which have been determined to meet one or more of the criteria in subsection (1) of this section shall continue to be recognized in subsequent school years and by subsequent school district employers; and

(3) Credits not recognized in a school year may be recognized in a subsequent school year if there is a change in the qualifying criteria such as a change in state board of education rules, a change in the district's strategic plan, a change in the school-based plan for the school in which the individual is assigned, a change in the individual's assignment, or a change in the individual's employer.

WSR 05-17-183
PROPOSED RULES
DEPARTMENT OF
NATURAL RESOURCES
 [Filed August 24, 2005, 8:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-115.

Title of Rule and Other Identifying Information: WAC 332-30-128 Rent review, the goal of this rule-making process is to provide adequate time for applicants, lessees, the Department of Natural Resources (DNR) and the Board of Natural Resources to consider all aspects of the rent review process. The amendments also clarify roles and provide more certainty as to the roles of each party in the process.

PROPOSED

Hearing Location(s): Olympia, Public Library, 313 8th Avenue S.E. (corner of Franklin and 8th Avenue), Olympia, WA, on September 28, 2005, at 5:30 p.m. - 8 p.m.

Date of Intended Adoption: October 25, 2005.

Submit Written Comments to: Elizabeth Ellis, Aquatic Resources Division, Department of Natural Resources, P.O. Box 47027, Olympia, WA 98504-7027, e-mail Elizabeth.ellis@wadnr.gov, fax (360) 902-1786, by October 25, 2005.

Assistance for Persons with Disabilities: Contact Elizabeth Ellis by three days prior to hearing, telecommunications relay service 711 or (360) 902-1074.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: State law provides a process under which people who have existing contracts (lessees), or are processing applications (applicants) can request a review of DNR-calculated rent for parcels of state-owned aquatic land. This review is called rent review.

The proposed changes affect the amount of time applicants and lessees have to prepare for the rent review process. The changes also affect the amount of time DNR has to make a decision. The proposed changes provide more time for both lessees/applicants, the rent dispute appeals officer (RDAO) and the Board of Natural Resources (board) by extending filing periods and providing optional extensions. Under this proposal, the RDAO is provided with thirty days to review, and an optional extension of sixty days. The lessee/applicant is provided with a thirty day filing period when approaching the RDAO or the board. The board is provided with thirty days to review the information and ninety days to make a decision.

Reasons Supporting Proposal: Under the current rent review process, applicants/lessees are given a limited amount of time to discuss and coordinate (fifteen days). DNR is given a limited amount of time to review and make decisions (thirty days). This proposal allows the lessee, DNR and the Board of Natural Resources adequate time to fully consider all aspects of the rent review process. The proposed changes are not substantive, and will not change rents paid by lessees of state-owned aquatic lands. Instead, they are designed to clarify the rules, make them easier to understand and apply, consistent with current DNR standard practice.

Statutory Authority for Adoption: RCW 79.90.520.

Statute Being Implemented: RCW 79.90.520.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed changes are consistent with current DNR standard practice, and would be implemented through its normal aquatic land management efforts.

Name of Proponent: Department of Natural Resources, Aquatic Resources Division, governmental.

Name of Agency Personnel Responsible for Drafting: Elizabeth Ellis, P.O. Box 47027, Olympia, WA 98504-7027, (360) 902-1074; Implementation and Enforcement: Fran McNair, P.O. Box 47027, Olympia, WA 98504-7027, (360) 902-1003.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.030

(1), agencies must write a small business economic impact statement "if the proposed rule will impose more than minor costs on businesses in an industry." The proposed rule changes are consistent with current DNR standard practice, so they will not change rents for lessees nor impose any other costs.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iv), agencies are not required to write a cost-benefit analysis for "rules that only...clarify language of a rule without changing its effect." The proposed rule changes only clarify the language consistent with current DNR standard practice.

August 22, 2005

Doug Sutherland

Commissioner of Public Lands

AMENDATORY SECTION (Amending Resolution No. 500, filed 11/5/85)

WAC 332-30-128 Rent review. This section shall not apply to port districts managing aquatic lands under a management agreement (WAC 332-30-114).

(1) **Eligibility to request review.** Any lessee or applicant to lease or release state-owned aquatic lands may request review of any rent proposed to be charged by the department.

(2) **Dispute officers.** The manager of the marine lands division will be the rental dispute officer (RDO). The supervisor of the department, or his designee, will be the rental dispute appeals officer (RDAO).

(3) **Submittals.** A request for review of the rent (an original and two copies) shall be submitted within thirty days of notification by the department of the rent due from the lessee/applicant. The request for review shall contain sufficient information for the officers to make a decision on the appropriateness of the rent initially determined by the department. The burden of proof for showing that the rent is incorrect shall rest with the lessee/applicant.

(4) **Rental due.** The request for review shall be accompanied by one year's rent payment based on the preceding year's rate, or a portion thereof as determined by RCW 79.90.530; or based on the rate proposed by the department, or a portion thereof as determined by RCW 79.90.530, whichever is less. The applicant shall pay any additional rent or be entitled to a refund, with interest, within thirty days after completion of the review process provided in this section.

(5) **Contents of request.** The request for review shall state what the lessee/applicant believes the rent should be and shall contain, at the minimum, all necessary documentation to justify the lessee/applicant's position. This information shall include but not be limited to:

(a) **Rationale.** Why the rent established by the department is inappropriate. The supporting documentation for nonwater-dependent leases may include appraisals by professionally accredited appraisers.

(b) **Lease information.** A description of state-owned aquatic land under lease which shall include, but not be limited to:

- (i) Lease or application number;
- (ii) Map showing location of lease or proposed lease;

(iii) Legal description of lease area including area of lease;

(iv) The permitted or intended use on the leasehold; and

(v) The actual or current use on the leasehold premises.

(c) **Substitute upland parcel.** A lessee/applicant whose lease rent is determined according to RCW 79.90.480 (water-dependent leases) and who disputes the choice of the upland parcel as provided by WAC 332-30-123, shall indicate the upland parcel that should be substituted in the rental determination and shall provide the following information on the parcel:

(i) The county parcel number;

(ii) Its assessed value;

(iii) Its area in square feet or acres;

(iv) A map showing the location of the parcel; and

(v) A statement indicating the land use on the parcel and justifying why the parcel should be substituted.

(6) RDO review.

(a) The RDO shall evaluate the request for review within fifteen days of filing to determine if any further support materials are needed from the lessee/applicant or the department.

(b) The lessee/applicant or the department shall provide any needed materials to the RDO within thirty days of receiving a request from the RDO.

(c) The RDO may, at any time during the review, order a conference between the lessee/applicant and department staff to try to settle the rent dispute.

(d) The RDO shall issue a decision within sixty days of filing of the request. Such decision shall contain findings of fact for the decision. If a decision cannot be issued within that time, the lessee/applicant's request will automatically be granted and the rent proposed by the lessee/applicant will be the rent for the lease until the next rent revaluation; provided that, the RDO may extend the review period for one sixty-day period.

(7) RDAO review.

(a) The ~~RDAO~~ lessee/applicant may submit a petition within ~~fifteen~~ thirty days to the rental dispute appeals officer (RDAO) for ~~of the final decision by the RDO, be petitioned to review of~~ that decision.

(b) If the RDAO declines to review the petition on the decision of the RDO, the RDO's decision shall be the final decision of the RDAO.

(c) If the RDAO consents to review the decision, the review may only consider the factual record before the RDO and the written findings and decision of the RDO. The RDAO shall issue a decision on the petition containing written findings within ~~thirty~~ sixty days of the filing of the petition. The RDAO may extend the review period for one sixty-day period. This decision shall be the RDAO's final decision.

(8) Board review.

(a) The ~~board of natural resources (board)~~ lessee/applicant may submit a petition within ~~fifteen~~ thirty days ~~of to the board of natural resources (board) for final RDAO decision, be petitioned to review of the RDAO that decision.~~

(b) If the board declines to review the petition, the RDAO decision shall be the final decision of the board.

(c) If the board decides to review the petition, the department and the lessee/applicant shall present written statements on the final decision of the RDAO within ~~fifteen~~ thirty days

of the decision to review. The board may request oral statements from the lessee/applicant or the department if the board decides a decision cannot be made solely on the written statements.

(d) The board shall issue a decision on the petition within ~~sixty~~ ninety days of the filing of the written statements by the lessee/applicant and the department.

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

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 05-17-184
PROPOSED RULES
DEPARTMENT OF
NATURAL RESOURCES**
[Filed August 24, 2005, 8:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-14-114.

Title of Rule and Other Identifying Information: WAC 332-100-040 Deduction determination, to cover increasing administrative costs of managing harbor areas, Department of Natural Resources (DNR) proposes to increase the amount of revenue from harbor area leases into the resource management cost account (RMCA) by 5%. Conversely, this would decrease the amount deposited from harbor area leases into the aquatic lands enhancement account (ALEA) by 5%. WAC 332-100-040 states that the board must determine how much revenue is necessary to manage and administer public state aquatic lands in Washington.

Hearing Location(s): Olympia, Public Library, 313 8th Avenue S.E. (corner of Franklin and 8th Avenue), Olympia, WA, on September 29, 2005, at 5:30 p.m. - 8:00 p.m.

Date of Intended Adoption: October 25, 2005.

Submit Written Comments to: Elizabeth Ellis, Aquatic Resources Division, Department of Natural Resources, P.O. Box 47027, Olympia, WA 98504-7027, e-mail Elizabeth.ellis@wadnr.gov, fax (360) 902-1786 by October 25, 2005.

Assistance for Persons with Disabilities: Contact Elizabeth Ellis by three days prior to hearing, telecommunications relay service 711 or (360) 902-1074.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: DNR is proposing to amend the existing rule about rent distribution from harbor area leases that it manages on state-owned aquatic land. State law distributes rent from harbor area leases into two accounts: The ALEA and RMCA.

The proposed changes affect the amount of money deducted from harbor area leases and deposited into RMCA. To cover increasing administrative costs of managing harbor areas, DNR proposes to increase the amount of revenue from harbor area leases into the RMCA account by 5%. Con-

versely, this would decrease the amount deposited from harbor area leases into the ALEA account by 5%. WAC 332-100-040 states that the board must determine who much revenue is necessary to manage and administer public state aquatic lands in Washington.

Reasons Supporting Proposal: Harbor area leases are more complex and expensive to manage than many other leases on state-owned aquatic land and have higher administrative costs. The amount of revenue deposited into RMCA to cover the costs of managing state-owned aquatic lands was determined in 1971 and does not accurately reflect the current cost of administering and managing harbor areas.

The proposed changes are not substantive, and will not change rents paid by lessees of state-owned aquatic lands. Instead, they are designed to clarify the rules, and are consistent with the current DNR standard practice.

Statutory Authority for Adoption: RCW 79.64.040.

Statute Being Implemented: RCW 79.64.040.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The proposed changes are consistent with current DNR standard practice, and would be implemented through its normal aquatic land management efforts.

Name of Proponent: Department of Natural Resources, Aquatic Resources Division, governmental.

Name of Agency Personnel Responsible for Drafting: Elizabeth Ellis, P.O. Box 47027, Olympia, WA 98504-7027, (360) 902-1074; Implementation and Enforcement: Fran McNair, P.O. Box 47027, Olympia, WA 98504-7027, (360) 902-1003.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.030 (1), agencies must write a small business economic impact statement "if the proposed rule will impose more than minor costs on businesses in an industry." The proposed rule changes are consistent with current DNR standard practice, so they will not change rents for lessees nor impose any other costs.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iv), agencies are not required to write a cost-benefit analysis for "rules that only...clarify language of a rule without changing its effect." The proposed rule changes only clarify the language consistent with current DNR standard practice.

August 22, 2005

Doug Sutherland

Commissioner of Public Lands

AMENDATORY SECTION (Amending Resolution No. 419, filed 5/6/83)

WAC 332-100-040 Deduction determination. (1) The board of natural resources hereby determines that a deduction from the gross proceeds of all leases, sales, contracts, licenses, permits, easements, and rights of way issued by the department of natural resources and affecting public lands as provided for in subsection (2) hereof is necessary in order to achieve the purposes of chapter 79.64 RCW.

(2) The department of natural resources shall deduct the maximum percentages as provided for in RCW 79.64.040 and related statutes ~~except that deductions from the gross proceeds of harbor area leases shall be at twenty percent.~~ Except for transactions involving aquatic lands, harbor areas and trust land categories that have a deficit revenue/expenditure status, the deductions may be temporarily discontinued by a resolution of the board of natural resources at such times as the balance in the resource management cost account exceeds an amount equal to twelve months operating expenses for the department of natural resources or when the board determines such discontinuation is in the best interest of the trust beneficiaries. The board shall specify the trust lands subject to such discontinuation. The duration of such orders shall be for a specified time period calculated to allow a reduction of the resource management cost account balance to an amount approximately equal to three months operating expenses for the department. Operating expense needs will be determined by the board based on pro rata increments of biennial legislative appropriations. All sums so deducted shall be paid into the resource management cost account in the state general fund created by chapter 79.64 RCW.

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 05-17-186

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 24, 2005, 9:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-144.

Title of Rule and Other Identifying Information: WAC 246-926-100 Definitions—Alternative training for radiologic technologists, 246-926-110 Diagnostic radiologic technologist—Alternative training, 246-926-120 Therapeutic radiologic technologist—Alternative training, 246-926-130 Nuclear medicine technologist—Alternative training.

Hearing Location(s): Department of Health, Point Plaza East Conference Center, Rooms 152 and 153, 310 Israel Road S.E., Tumwater, WA 98501, on October 13, 2005, at 9:00 a.m.

Date of Intended Adoption: October 13, 2005.

Submit Written Comments to: Holly Rawnsley, Program Manager, P.O. Box 47866, Olympia, WA 98504-7866, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by September 28, 2005.

Assistance for Persons with Disabilities: Contact Holly Rawnsley by September 21, 2005, TTY (800) 833-6388 or (360) 236-4941.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal reduces the required number of years of supervised clinical practice experience from four to three for diagnostic radiologic technologists. The proposal reduces the required number of years of supervised clinical practice experience from five to three for therapeutic radiologic technologists. The

proposal reduces the required number of years of supervised clinical practice experience from four to two for nuclear medicine technologists. The proposal adds the mandatory requirement of thirty-three contact hours of sectional anatomy for diagnostic radiologic technologists and twenty-two contact hours of sectional anatomy for therapeutic radiologic technologists to be comparable to the requirements of traditional educational programs. The proposal adds a requirement for individuals participating in the alternative training program to notify the radiologic technologist program, in writing, of their participation in the program prior to beginning the program. The proposal adds the requirements for foreign trained individuals to become certified as required by statute. The proposal also updates the acceptable accrediting bodies and updates the current examination requirements. The proposal also fixes typographical and grammatical errors and removes definitions which are obsolete.

Reasons Supporting Proposal: The proposal clarifies the requirements for certification through the alternative training program and will more accurately reflect current practice. The proposal presents the benefit of ensuring that patient care is being provided in a safe and expedient manner. The proposal will allow patients to have more access to treatment by allowing individuals to become certified who would not qualify through a traditional educational program. The proposal will ensure that individuals pursuing certification through alternative training will have adequate experience, knowledge and skills comparable to traditional educational programs.

Statutory Authority for Adoption: RCW 18.84.040.

Statute Being Implemented: Chapter 18.84 RCW.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly Rawnsley, Department of Health, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4941.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has not conducted a small business [economic] impact statement. The proposed rule does not impose more than minor costs on small business per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Holly Rawnsley, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4941, fax (360) 236-2406, e-mail Holly.Rawnsley@doh.wa.gov.

August 15, 2005

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 03-10-100, filed 5/7/03, effective 6/7/03)

WAC 246-926-100 Definitions—Alternative training radiologic technologists. (1) Definitions. For the purposes of certifying radiologic technologists by alternative training methods the following definitions (~~shall~~) apply:

(a) "One quarter credit hour" equals eleven "contact hours";

(b) "One semester credit hour" equals sixteen contact hours;

(c) "One contact hour" is considered to be fifty minutes lecture time or one hundred minutes laboratory time;

(d) "One clinical year" is considered to be 1900 contact hours.

~~((g))~~ ("Immediate supervision" means the radiologist or nuclear medicine physician is in audible or visual range of the patient and the person treating the patient.

~~((h))~~ "Direct supervision" means the supervisory clinical evaluator is on the premises(~~(;)~~) and is quickly and easily available.

~~((i))~~ ~~((j))~~ ~~((k))~~ ~~((l))~~ ~~((m))~~ ~~((n))~~ ~~((o))~~ ~~((p))~~ ~~((q))~~ ~~((r))~~ ~~((s))~~ ~~((t))~~ ~~((u))~~ ~~((v))~~ ~~((w))~~ ~~((x))~~ ~~((y))~~ ~~((z))~~ ~~((aa))~~ ~~((ab))~~ ~~((ac))~~ ~~((ad))~~ ~~((ae))~~ ~~((af))~~ ~~((ag))~~ ~~((ah))~~ ~~((ai))~~ ~~((aj))~~ ~~((ak))~~ ~~((al))~~ ~~((am))~~ ~~((an))~~ ~~((ao))~~ ~~((ap))~~ ~~((aq))~~ ~~((ar))~~ ~~((as))~~ ~~((at))~~ ~~((au))~~ ~~((av))~~ ~~((aw))~~ ~~((ax))~~ ~~((ay))~~ ~~((az))~~ ~~((ba))~~ ~~((bb))~~ ~~((bc))~~ ~~((bd))~~ ~~((be))~~ ~~((bf))~~ ~~((bg))~~ ~~((bh))~~ ~~((bi))~~ ~~((bj))~~ ~~((bk))~~ ~~((bl))~~ ~~((bm))~~ ~~((bn))~~ ~~((bo))~~ ~~((bp))~~ ~~((bq))~~ ~~((br))~~ ~~((bs))~~ ~~((bt))~~ ~~((bu))~~ ~~((bv))~~ ~~((bw))~~ ~~((bx))~~ ~~((by))~~ ~~((bz))~~ ~~((ca))~~ ~~((cb))~~ ~~((cc))~~ ~~((cd))~~ ~~((ce))~~ ~~((cf))~~ ~~((cf))~~ ~~((ch))~~ ~~((ci))~~ ~~((cj))~~ ~~((ck))~~ ~~((cl))~~ ~~((cm))~~ ~~((cn))~~ ~~((co))~~ ~~((cp))~~ ~~((cq))~~ ~~((cr))~~ ~~((cs))~~ ~~((ct))~~ ~~((cu))~~ ~~((cv))~~ 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AMENDATORY SECTION (Amending Order 237, filed 2/7/92, effective 2/19/92)

WAC 246-926-110 Diagnostic radiologic technologist—Alternative training. An individual (~~((must possess))~~) shall have the following alternative training qualifications to be certified as a diagnostic radiologic technologist.

(1) Have obtained a high school diploma or GED equivalent, a minimum of (~~((four))~~) three clinical years supervised practice experience in radiography, and completed the course content areas outlined in subsection (2) of this section; or have obtained an associate or higher degree in an allied health care profession or meets the requirements for certification as a therapeutic radiologic technologist or nuclear medicine technologist, have obtained a minimum of (~~((three))~~) two clinical years supervised practice experience in radiography, and completed course content areas outlined in subsection (2) of this section.

(2) The following course content areas of training may be obtained directly by supervised clinical practice experience: Introduction to radiography, medical ethics and law, medical terminology, methods of patient care, radiographic procedures, radiographic film processing, evaluation of radiographs, radiographic pathology, introduction to quality assurance, and introduction to computer literacy. Clinical practice experience must be verified by the approved clinical evaluators.

The following course content areas of training must be obtained through formal education: Human anatomy and physiology - 100 contact hours; principles of radiographic exposure - 45 contact hours; imaging equipment - 40 contact hours; radiation physics, principles of radiation protection, and principles of radiation biology - 40 contact hours; and sectional anatomy - 33 contact hours.

(3) Individuals participating in the diagnostic radiologic technologist alternative training program must annually report to the department of health radiologic technologist program the progress of their supervised clinical hours. Notification must be made in writing and must include the street and mailing address of their program and the names of the individual's direct and indirect supervisors.

(4) Must (~~((satisfactorily))~~) pass an examination approved or administered by the secretary with a scaled score of 75.

(~~((4))~~) (5) Individuals who are registered as a diagnostic radiologic technologist with the American Registry of Radiologic Technologists shall be considered to have met the alternative education and training requirements.

(6) Individuals educated and/or credentialed to practice as a diagnostic radiologic technologist in another country must provide official documentation of their education and training proving that they meet or exceed alternative training requirements. They must also pass an examination approved or administered by the secretary with a scaled score of 75.

AMENDATORY SECTION (Amending Order 237, filed 2/7/92, effective 2/19/92)

WAC 246-926-120 Therapeutic radiologic technologist—Alternative training. An individual (~~((must possess))~~) shall have the following alternative training qualifications to be certified as a therapeutic radiologic technologist.

(1) Have obtained a baccalaureate or associate degree in one of the physical, biological sciences, or allied health care professions, or meets the requirements for certification as a diagnostic radiologic technologist or nuclear medicine technologist; have obtained a minimum of (~~((five))~~) three clinical years supervised practice experience in therapeutic radiologic technology; and completed course content areas outlined in subsection (2) of this section.

(2) The following course content areas of training may be obtained by supervised clinical practice experience: Orientation to radiation therapy technology, medical ethics and law, methods of patient care, computer applications, and medical terminology. At least fifty percent of the clinical practice experience must have been in operating a linear accelerator. Clinical practice experience must be verified by the approved clinical evaluators.

The following course content areas of training must be obtained through formal education: Human anatomy and physiology - 100 contact hours; oncologic pathology - 22 contact hours; radiation oncology - 22 contact hours; radiobiology, radiation protection, and radiographic imaging - 73 contact hours; mathematics (college level algebra or above) - 55 contact hours; radiation physics - 66 contact hours; radiation oncology technique - 77 contact hours; clinical dosimetry - 150 contact hours; quality assurance - 12 contact hours; (~~((and))~~) hyperthermia - 4 contact hours; and sectional anatomy - 22 contact hours.

(3) Individuals participating in the therapeutic radiologic technologist alternative training program must annually report to the department of health radiologic technologist program the progress of their supervised clinical hours. Notification must be made in writing and must include the street and mailing address of their program and the names of the individual's direct and indirect supervisors.

(4) Must (~~((satisfactorily))~~) pass an examination approved or administered by the secretary with a scaled score of 75.

(~~((4))~~) (5) Individuals who are registered as a therapeutic radiologic technologist by the American Registry of Radiologic Technologists shall be considered to have met the alternative education and training requirements.

(6) Individuals educated and/or credentialed to practice as a therapeutic radiologic technologist in another country must provide official documentation of their education and training proving that they meet or exceed alternative training requirements. They must also pass an examination approved or administered by the secretary with a scaled score of 75.

AMENDATORY SECTION (Amending Order 237, filed 2/7/92, effective 2/19/92)

WAC 246-926-130 Nuclear medicine technologist—Alternative training. An individual (~~((must possess))~~) shall have the following alternative training qualifications to be certified as a nuclear medicine technologist.

(1) Have obtained a baccalaureate or associate degree in one of the physical, biological sciences, allied health care professions, or meets the requirements for certification as a diagnostic radiologic technologist or a therapeutic radiologic technologist; have obtained a minimum of (~~((four))~~) two clinical years supervised practice experience in nuclear medicine

technology; and completed course content areas outlined in subsection (2) of this section.

(2) The following course content areas of training may be obtained by supervised clinical practice experience: Methods of patient care, computer applications, department organization and function, nuclear medicine in-vivo and in-vitro procedures, and radionuclide therapy. Clinical practice experience must be verified by the approved clinical evaluators.

The following course content areas of training must be obtained through formal education: Radiation safety and protection - 10 contact hours; radiation biology - 10 contact hours; nuclear medicine physics and radiation physics - 80 contact hours; nuclear medicine instrumentation - 22 contact hours; statistics - 10 contact hours; radionuclide chemistry and radiopharmacology - 22 contact hours.

(3) Individuals participating in the nuclear medicine technologist alternative training program must annually report to the department of health radiologic technologist program the progress of their supervised clinical hours. Notification must be made in writing and must include the street and mailing address of their program and the names of the individual's direct and indirect supervisors.

(4) Must ~~((satisfactorily))~~ pass an examination approved or administered by the secretary with a scaled score of 75.

~~((4))~~ (5) Individuals who are registered as a nuclear medicine technologist with the American Registry of Radiologic Technologists or with the nuclear medicine technology certifying board shall be considered to have met the alternative education and training requirements.

(6) Individuals educated and/or credentialed to practice as a nuclear medicine technologist in another country must provide official documentation of their education and training proving that they meet or exceed alternative training requirements. They must also pass an examination approved or administered by the secretary with a scaled score of 75.

WSR 05-17-187
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed August 24, 2005, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-14-032.

Title of Rule and Other Identifying Information: WAC 246-926-020 General provisions, 246-926-140 Approved schools, 246-926-180 Parenteral procedures, 246-926-190 State examination/examination waiver/examination application deadline, 246-926-990 Certification and registration fees and renewal cycle.

Hearing Location(s): Department of Health, Point Plaza East Conference Center, Rooms 152 and 153, 310 Israel Road S.E., Tumwater, WA 98501, on October 13, 2005, at 9:00 a.m.

Date of Intended Adoption: October 13, 2005.

Submit Written Comments to: Holly Rawnsley, Program Manager, P.O. Box 47866, Olympia, WA 98504-7866,

e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by September 28, 2005.

Assistance for Persons with Disabilities: Contact Holly Rawnsley by September 21, 2005, TTY (800) 833-6388 or (360) 236-4941.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to clarify the supervision needed for a radiologic technologist to perform parenteral procedures from the direction and immediate supervision of a radiologist to the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW. The proposal defines how diagnostic and therapeutic agents may be administered by radiologic technologists, as part of the parenteral procedures, and limits them to intravenous, intramuscular or subcutaneous injection. The current language does not define the routes of administration a radiologic technologist may use. The proposal also updates the acceptable accrediting bodies and updates the current examination requirements. It also corrects typographical and grammatical errors and removes definitions which are obsolete.

Reasons Supporting Proposal: The current rules are more restrictive than the statute, the proposal reduces some of these restrictions and ensures the rules better reflect current practice. The proposal will lift unnecessary barriers without compromising patient safety. The proposal provides the benefit of ensuring that patient care is provided in a safe and expedient manner. The proposal also ensures that the most current and accurate information is available in rule relating to the program requirements.

Statutory Authority for Adoption: RCW 18.84.040.

Statute Being Implemented: Chapter 18.84 RCW.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly Rawnsley, Department of Health, P.O. Box 47866, Olympia, WA 98504-7866, (360) 236-4941.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has not conducted a small business [economic] impact statement. The proposed rule does not impose more than minor costs on small business per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Holly Rawnsley, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4941, fax (360) 236-2406, e-mail Holly.Rawnsley@doh.wa.gov.

August 17, 2005

M. C. Selecky
 Secretary

AMENDATORY SECTION (Amending Order 237, filed 2/7/92, effective 2/19/92)

WAC 246-926-020 ((General provisions.)) Definitions. (1) "Unprofessional conduct" as used in this chapter ~~((shall))~~ means the conduct described in RCW 18.130.180.

PROPOSED

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(4) "Department" means the department of health.

(5) "Radiological technologist" means a person certified ~~((pursuant to))~~ under chapter 18.84 RCW.

(6) "Registered X-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner.

~~((a)) "Immediate supervision" means the appropriate licensed practitioner is in audible or visual range of the patient and the person treating the patient.~~

~~((b)) "Direct supervision" means the appropriate licensed practitioner is on the premises and is quickly and easily available.~~

~~((c)) "Indirect supervision" means the appropriate licensed practitioner is on site no less than half time.~~

(8) "Mentally or physically disabled" means a radiological technologist or X-ray technician who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-926-140 Approved schools. Approved schools and standards of instruction for diagnostic radiologic technologist, therapeutic radiologic technologist, and nuclear medicine technologist are those recognized as radiography, radiation therapy technology, and nuclear medicine technology educational programs that have obtained accreditation from the ~~((Committee on Allied Health Education and Accreditation of the American Medical Association as recognized in the publication Allied Health Education Directory, Sixteenth Edition, published by the American Medical Association, 1988 or any previous edition))~~ Joint Review Committee on Education in Radiologic Technology, the Joint Review Committee for Educational Programs in Nuclear Medicine Technology or the former American Medical Association Committee on Allied Health Education and Accreditation.

AMENDATORY SECTION (Amending Order 302, filed 9/11/92, effective 10/12/92)

WAC 246-926-180 Parenteral procedures. (1) A certified radiologic technologist may administer diagnostic and therapeutic agents under the ~~((direction and immediate supervision of a radiologist if))~~ direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW. Diagnostic and therapeutic agents may be administered via intravenous, intramuscular, or subcutaneous injection. In addition to direct supervision, before the radiologic technologist may administer diagnostic and therapeutic agents, the following guidelines ((are)) must be met:

(a) The radiologic technologist has had the prerequisite training and thorough knowledge of the particular procedure to be performed;

(b) Appropriate facilities are available for coping with any complication of the procedure as well as for emergency treatment of severe reactions to the diagnostic or therapeutic agent itself, including ~~((the ready availability of))~~ readily available appropriate resuscitative drugs, equipment, and personnel; and

(c) After parenteral administration of a diagnostic or therapeutic agent, competent personnel and emergency facilities ~~((shall))~~ must be available to the patient for at least thirty minutes in case of a delayed reaction.

(2) A certified radiologic technologist may perform venipuncture ~~((at the direction and immediate supervision of a radiologist))~~ under the direct supervision of a physician licensed under chapter 18.71 or 18.57 RCW.

AMENDATORY SECTION (Amending Order 237, filed 2/7/92, effective 2/19/92)

WAC 246-926-190 State examination/examination waiver/examination application deadline. (1) The American Registry of Radiologic Technologists certification examinations for radiography, radiation therapy technology, and nuclear medicine technology ~~((shall be))~~ are the state examinations for certification as a radiologic technologist.

~~((a)) The examination for certification as a radiologic technologist shall be conducted three times a year in the state of Washington, in March, July, and October.~~

~~((b))~~ (2) The examination shall be conducted in accordance with the American Registry of Radiologic Technologists security measures and contract.

~~((c)) Examination candidates shall be advised of the results of their examination in writing.~~

~~((2))~~ (3) Applicants taking the state examination must submit the application, supporting documents, and fees to the department of health ~~((no later than the fifteenth day of December, for the March examination; the fifteenth day of April, for the July examination; and the fifteenth day of July, for the October))~~ for approval prior to being scheduled to take the examination.

~~((3)) A scaled score of seventy five is required to pass the examination.~~ (4) Examination candidates shall be advised of the results of their examination in writing by the department of health.

(5) The examination candidate must have a scaled score of seventy-five to pass the examination.

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-926-990 Radiological technologists certification and registration fees and renewal cycle. (1) Certificates and registrations must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of

a renewal cycle to assure practitioners an equal benefit from the adjustment.

(2) ~~((The following nonrefundable fees will be charged:))~~ The practitioner must pay the following nonrefundable fees:

Title of Fee	Fee
Application - certification	\$45.00
Exam fee - certification	30.00
Application - registration	35.00
Certification renewal	45.00
Registration renewal	35.00
Late renewal penalty - certification	45.00
Late renewal penalty - registration	35.00
Expired certificate reissuance	45.00
Expired registration reissuance	35.00
Certification of registration or certificate	15.00
Duplicate registration ((øf)) <u>or</u> certificate	15.00

WSR 05-17-188

PROPOSED RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed August 24, 2005, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-14-120.

Title of Rule and Other Identifying Information: WAC 246-919-630 Sexual misconduct, 246-919-640 Abuse for physicians, 246-918-410 Sexual abuse, and 246-918-420 Abuse for physician assistants.

Hearing Location(s): Holiday Inn Select, One South Grady Way, Renton, WA 98055, on November 18, 2005, at 8:00 a.m.

Date of Intended Adoption: November 18, 2005.

Submit Written Comments to: Beverly A. Thomas, Program Manager, P.O. Box 47866, Olympia, WA 98504, e-mail beverly.thomas@doh.wa.gov, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4768, by November 1, 2005.

Assistance for Persons with Disabilities: Contact Beverly A. Thomas, Program Manager, (360) 236-4788, TTY (800) 833-6388 or (360) 236-4788.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Medical Quality Assurance Commission (commission) is proposing the new rules prohibiting practitioners from engaging in sexual misconduct or abuse with patients and former patients. Since 1998, the commission received 160 complaints about sexually inappropriate behavior by physicians and physician assistants. Some of these complaints involve behavior that does not constitute "sexual contact" under RCW 18.130.180 (24). The Uniform Disciplinary Act of RCW 18.130.180(24) describes abuse or sexual contact as unprofessional conduct, but does not provide sufficient detail for the commission to

determine when the practitioner's behavior no longer reflects appropriate professional contact. Because the law is not explicit, it is sometimes difficult for the commission to take disciplinary action against a licensee. Some practitioners argue that they were not aware that their behavior was inappropriate. The proposed rules will allow the commission to take action on a broader range of inappropriate behaviors, and will educate practitioners by clarifying the behavior that the commission believes is inappropriate.

Reasons Supporting Proposal: The purpose for the proposed rules is to raise the awareness of sexual inappropriate behaviors and prevent physicians and physician assistants from engaging in abusive or sexual contact or sexual activity with current and former patients. The commission can have difficulty taking action against a practitioner's license who engages in sexually inappropriate behavior that does not constitute "sexual contact" under RCW 18.130.180(24). When the commission evaluates a case involving a sexual boundary issue in which the behavior does not constitute "sexual contact," the commission either takes action under RCW 18.130.180(1) on the theory the conduct constitute "moral turpitude," or simply closes the case. The proposed rule will allow the commission to better protect the public by taking disciplinary action in a wider range of inappropriate behaviors.

Statutory Authority for Adoption: RCW 18.130.180, 18.71.017, and 18.71A.020.

Statute Being Implemented: Chapters 18.71, 18.71A, and 18.130 RCW.

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

Name of Proponent: Department of Health, Medical Quality Assurance Commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Beverly A. Thomas, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4788.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has not conducted a small business [economic] impact statement. The proposed rule does not impose more than minor costs on small business per RCW 19.85.030.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Beverly A. Thomas, Program Manager, Medical Quality Assurance Commission, P.O. Box 47866, Olympia, WA 98504, phone (360) 236-4788, fax (360) 236-4768, e-mail beverly.thomas@doh.wa.gov.

July 27, 2005

Blake T. Maresch
Executive Director

NEW SECTION

WAC 246-918-410 Sexual misconduct. (1) Definitions:

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician assistant-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of

factors, including the nature, extent and context of the professional relationship between the physician assistant and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician assistant" means a person licensed to practice as a physician assistant under chapter 18.71A RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician assistant shall not engage in sexual misconduct with a current patient or a key third party. A physician assistant engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

- (a) Sexual intercourse or genital to genital contact;
- (b) Oral to genital contact;
- (c) Genital to anal contact or oral to anal contact;
- (d) Kissing in a romantic or sexual manner;
- (e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;
- (f) Examination or touching of genitals without using gloves;
- (g) Not allowing a patient the privacy to dress or undress;
- (h) Encouraging the patient to masturbate in the presence of the physician assistant or masturbation by the physician assistant while the patient is present;
- (i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;
- (j) Soliciting a date;
- (k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician assistant.

(3) A physician assistant shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician assistant:

- (a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or
- (b) Uses or exploits privileged information or access to privileged information to meet the physician assistant's personal or sexual needs.

(4) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

- (a) Documentation of formal termination;
- (b) Transfer of the patient's care to another health care provider;
- (c) The length of time that has passed;
- (d) The length of time of the professional relationship;
- (e) The extent to which the patient has confided personal or private information to the physician assistant;
- (f) The nature of the patient's health problem;
- (g) The degree of emotional dependence and vulnerability.

(5) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if

the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

(6) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

(7) A violation of any provision of this rule shall constitute grounds for disciplinary action.

NEW SECTION

WAC 246-918-420 Abuse. (1) A physician assistant commits unprofessional conduct if the physician assistant abuses a patient. A physician assistant abuses a patient when he or she:

- (a) Makes statements regarding the patient's body, appearance, sexual history, or sexual orientation that have no legitimate medical or therapeutic purpose;
- (b) Removes a patient's clothing or gown without consent;
- (c) Fails to treat an unconscious or deceased patient's body or property respectfully; or
- (d) Engages in any conduct, whether verbal or physical, which unreasonably demeans, humiliates, embarrasses, threatens, or harms a patient.

(2) A violation of any provision of this rule shall constitute grounds for disciplinary action.

NEW SECTION

WAC 246-919-630 Sexual misconduct. (1) Definitions:

(a) "Patient" means a person who is receiving health care or treatment, or has received health care or treatment without a termination of the physician-patient relationship. The determination of when a person is a patient is made on a case-by-case basis with consideration given to a number of factors, including the nature, extent and context of the professional relationship between the physician and the person. The fact that a person is not actively receiving treatment or professional services is not the sole determining factor.

(b) "Physician" means a person licensed to practice medicine and surgery under chapter 18.71 RCW.

(c) "Key third party" means a person in a close personal relationship with the patient and includes, but is not limited to, spouses, partners, parents, siblings, children, guardians and proxies.

(2) A physician shall not engage in sexual misconduct with a current patient or a key third party. A physician engages in sexual misconduct when he or she engages in the following behaviors with a patient or key third party:

- (a) Sexual intercourse or genital to genital contact;
- (b) Oral to genital contact;
- (c) Genital to anal contact or oral to anal contact;
- (d) Kissing in a romantic or sexual manner;
- (e) Touching breasts, genitals or any sexualized body part for any purpose other than appropriate examination or treatment;
- (f) Examination or touching of genitals without using gloves;
- (g) Not allowing a patient the privacy to dress or undress;

(h) Encouraging the patient to masturbate in the presence of the physician or masturbation by the physician while the patient is present;

(i) Offering to provide practice-related services, such as medications, in exchange for sexual favors;

(j) Soliciting a date;

(k) Engaging in a conversation regarding the sexual history, preferences or fantasies of the physician.

(3) A physician shall not engage in any of the conduct described in subsection (2) of this section with a former patient or key third party if the physician:

(a) Uses or exploits the trust, knowledge, influence, or emotions derived from the professional relationship; or

(b) Uses or exploits privileged information or access to privileged information to meet the physician's personal or sexual needs.

(4) To determine whether a patient is a current patient or a former patient, the commission will analyze each case individually, and will consider a number of factors, including, but not limited to, the following:

(a) Documentation of formal termination;

(b) Transfer of the patient's care to another health care provider;

(c) The length of time that has passed;

(d) The length of time of the professional relationship;

(e) The extent to which the patient has confided personal or private information to the physician;

(f) The nature of the patient's health problem;

(g) The degree of emotional dependence and vulnerability.

(5) This section does not prohibit conduct that is required for medically recognized diagnostic or treatment purposes if the conduct meets the standard of care appropriate to the diagnostic or treatment situation.

(6) It is not a defense that the patient, former patient, or key third party initiated or consented to the conduct, or that the conduct occurred outside the professional setting.

(7) A violation of any provision of this rule shall constitute grounds for disciplinary action.

NEW SECTION

WAC 246-919-640 Abuse. (1) A physician commits unprofessional conduct if the physician abuses a patient. A physician abuses a patient when he or she:

(a) Makes statements regarding the patient's body, appearance, sexual history, or sexual orientation that have no legitimate medical or therapeutic purpose;

(b) Removes a patient's clothing or gown without consent;

(c) Fails to treat an unconscious or deceased patient's body or property respectfully; or

(d) Engages in any conduct, whether verbal or physical, which unreasonably demeans, humiliates, embarrasses, threatens, or harms a patient.

(2) A violation of any provision of this rule shall constitute grounds for disciplinary action.

WSR 05-17-189

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 24, 2005, 9:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-11-129.

Title of Rule and Other Identifying Information: Chapter 246-249 WAC, Radioactive waste—Use of commercial disposal site, addressing requirements for naturally occurring and accelerator produced radioactive material (NARM), excluding source material. The four sections subject to revision are WAC 246-249-001 Purpose and scope, 246-249-010 Definitions, 246-249-080 Naturally occurring and accelerator produced radioactive material (NARM) excluding source material, and 246-249-090 Transfer for disposal and manifests.

Hearing Location(s): Department of Health, Town Center East, 101 Israel Road S.E., Room 163, Tumwater, WA 98501, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: October 12, 2007 [2005].

Submit Written Comments to: <http://www3.doh.wa.gov/policyreview/> or Nancy Darling, Department of Health, P.O. Box 47827, Olympia, WA 98504-7827, fax (360) 236-3244 by September 27, 2005.

Assistance for Persons with Disabilities: Contact Kristin Felix by September 21, 2005, TTY (800) 833-6388 or (360) 236-3240.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would increase the diffuse NARM disposal limit at the commercial low-level radioactive waste site (Richland, Washington) from 8,600 cubic feet per year to 100,000 cubic feet per year. Other revisions include a case-by-case rollover option for carrying unused volume from year-to-year, replacement of an individual generator limit of 1,000 cubic feet per year with a requirement that individual generators receive prior DOH approval for disposal of volumes greater than 1,000 cubic feet per year, and minor changes made for consistency and clarification. Revisions are included in four sections of the rule. All the substantive revisions are in WAC 246-249-080. Revisions in the other three sections are primarily for clarification and consistency. The specific revisions by sections are:

WAC 246-249-001 Purpose and scope, clarifies application of the rule to NARM and clarifies that "radioactive waste" applies to both NARM and low-level waste.

WAC 246-249-010 Definitions, includes new or revised definitions for NARM, radioactive waste, rollover volume and generator.

WAC 246-249-080 Naturally occurring and accelerator produced radioactive material (NARM) excluding source material, revisions address the new site volume limit, deletion of the individual generator limit, and requirements for rollover volumes.

WAC 246-249-090 Transfer for disposal and manifests, references to "low-level waste" are changed to "radioactive waste" for clarification.

Reasons Supporting Proposal: A 1996 settlement agreement (referenced in Thurston County Superior Court Agreed



Order No. 95-2-02812-5) between Department of Health (DOH) and United States Ecology states that DOH shall conduct rule making for the purpose of amending WAC 246-249-080 to establish a diffuse NARM disposal limit of 100,000 cubic feet per year.

The final EIS for the commercial low-level radioactive waste disposal site, Richland, Washington, evaluated several alternatives for NARM disposal. DOH and the Department of Ecology are proposing this rule amendment based on the preferred alternative.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Rule is necessary because of state court decision, Agreed Order 95-2-0281.

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting: Nancy Darling, Olympia, Washington, (360) 236-3244; Implementation and Enforcement: Mikel Elsen, Richland, Washington, (360) 236-3241.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DOH has prepared an economic impact analysis that evaluates the economic impacts for the proposed rules and concludes there are no known economic impacts to businesses. Under RCW 19.85.030(1), no small business economic impact statement is required if there are no known costs to any business associated with the changes to WAC 246-249-080 or the other proposed rules. Additionally, under RCW 19.85.025(3), a small business economic impact statement is not required for the rules that are being revised for clarification (WAC 246-249-001, 246-249-010, and 246-249-090).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Nancy Darling, Department of Health, P.O. Box 47827, Olympia, WA 98504-7827, phone (360) 236-3244, fax (360) 236-2255, e-mail nancy.darling@doh.wa.gov.

August 23, 2005

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending Order 187, filed 8/7/91, effective 9/7/91)

WAC 246-249-001 Purpose and scope. ~~((This chapter provides))~~ These rules ((governing)) govern generators and brokers of low-level radioactive waste (LLRW) and generators and brokers of naturally occurring and accelerator produced radioactive material (NARM) seeking to dispose ((ef sueh)) waste at any commercial disposal facility in the state of Washington. For purposes of this chapter, the term "radioactive waste" refers to both low-level radioactive waste and naturally occurring and accelerator produced radioactive material. These rules are in addition to applicable requirements of the United States Nuclear Regulatory Commission (NRC), the United States Department of Transportation (DOT), and other requirements of Title 246 WAC, the requirements of the department of ecology, Title 173 WAC,

and conditions of the license issued to the disposal site operator(s).

AMENDATORY SECTION (Amending WSR 98-09-117, filed 4/22/98, effective 5/23/98)

WAC 246-249-010 Definitions. As used in this chapter, the following definitions apply:

(1) "Low-level radioactive waste," ~~((has the same meaning as in))~~ consistent with the Low-Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99-240, ~~((that is,))~~ means radioactive waste not classified as high-level radioactive waste, spent nuclear fuel, or by-product material as defined in section 11e.(2) of the Atomic Energy Act.

(2) "Broker" means a person who performs one or more of the following functions for a ~~((low-level))~~ radioactive waste generator:

(a) Arranges for transportation of the ~~((low-level))~~ radioactive waste;

(b) Collects and/or consolidates shipments of ~~((such low-level))~~ radioactive waste (waste collector);

(c) Processes ~~((such low-level))~~ radioactive waste in some manner ~~((; provided it shall not mean a)),~~ not including carriers whose sole function is to transport ((such low-level)) radioactive waste (waste processor).

(3) "Chelating agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carboic acid, and glucinic acid).

(4) "Chemical description" means a description of the principal chemical characteristics of a ~~((low-level))~~ radioactive waste.

(5) "Computer-readable medium" means ~~((that))~~ the regulatory agency's computer can transfer the information from the medium into its memory.

(6) "Consignee" means the designated receiver of the shipment of ~~((low-level))~~ radioactive waste.

(7) "Decontamination facility" means a facility operating under a commission or agreement state license whose principal purpose is decontamination of equipment or materials to accomplish recycle, reuse, or other waste management objectives, and, for purposes of this section, is not considered to be a consignee for ~~((LLW))~~ radioactive waste shipments.

(8) "Disposal container" means a container principally used to confine ~~((low-level))~~ radioactive waste during disposal operations at a land disposal facility (also see "high integrity container"). Note that for some shipments, the disposal container may be the transport package.

(9) "EPA identification number" means the number ~~((received by a transporter following application to the administrator of EPA as required by))~~ assigned by the EPA administrator under 40 CFR Part 263.

(10) "Generator" means any entity including a licensee operating under a commission or agreement state license who:

(a) Is a waste generator as defined in this part; or

(b) Is the entity or licensee to whom waste can be attributed within the context of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (e.g., waste generated as a result of decontamination or recycle activities).

(11) "High integrity container (HIC)" means a container commonly designed to meet the structural stability requirements of this chapter, and to meet department of transportation ~~(requirements for a)~~ Type A package requirements.

(12) "Land disposal facility" means the land, buildings, and equipment which are intended to be used for the disposal of radioactive wastes. For the purposes of this chapter, a land disposal facility does not include a geologic repository.

(13) "Motor vehicle" means any vehicle, truck, tractor, semi-trailer, or trailer (or any permitted combination of these), driven by mechanical power and used upon the highways to carry property.

(14) "Motor common carrier" means a person holding itself out to the general public to provide motor vehicle transportation for compensation over regular or irregular routes, or both.

(15) "Motor contract carrier" means a person other than a common carrier providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons.

(16) "Motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when the person is the owner, lessee, or bailee of the property being transported; and the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(17) "Motor carrier" means a motor common carrier and a motor contract carrier.

(18) "Naturally occurring and accelerator produced material" (NARM) means any radioactive material of natural or accelerator origin; but does not include by-product, source or special nuclear material. Diffuse NARM is low activity NARM that has less than 2 nCi/g of 226-Ra.

(19) "NRC Forms 540, 540A, 541, 541A, 542, and 542A" are official NRC Forms referenced in this section. Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information. Upon agreement between the shipper and consignee, NRC Forms 541 (and 541A) and NRC Forms 542 (and 542A) may be completed, transmitted, and stored in electronic media. The electronic media must have the capability for producing legible, accurate, and complete records in the format of the uniform manifest.

~~((19))~~ (20) "Package" means the assembly of components necessary to ensure compliance with the packaging requirements of DOT regulations, together with its radioactive contents, as presented for transport.

~~((20))~~ (21) "Physical description" means the items ~~(called for)~~ on NRC Form 541 ~~(to)~~ that describe a ~~(low-level)~~ radioactive waste.

~~((21))~~ (22) "Radioactive waste" means either or both low-level radioactive waste and naturally occurring and accelerator produced radioactive material.

(23) "Residual waste" means ~~(low-level)~~ radioactive waste resulting from processing or decontamination activities that cannot be easily separated into distinct batches attributable to specific waste generators. This waste is attributable to the processor or decontamination facility, as applicable.

~~((22))~~ (24) "Rollover volume" means the difference, in a calendar year, between the volume of NARM disposed at

the disposal site and the site volume limit set forth under WAC 246-249-080(4).

(25) "Shipper" means the licensed entity (i.e., the waste generator, waste collector, or waste processor) who offers ~~(low-level)~~ radioactive waste for transportation, typically consigning this type of waste to a licensed waste collector, waste processor, or land disposal facility operator.

~~((23))~~ (26) "Shipment" means the total ~~(low-level)~~ radioactive waste material transported in one motor vehicle.

~~((24))~~ (27) "Shipping paper" means NRC Form 540 and, if required, NRC Form 540A which includes the information required by DOT in 49 CFR Part 172.

~~((25))~~ (28) "Transuranic waste" means material contaminated with elements that have an atomic number greater than 92.

~~((26))~~ (29) "Uniform Low-Level Radioactive Waste Manifest or uniform manifest" means the combination of NRC Forms 540, 541, and, if necessary, 542, and their respective continuation sheets as needed, or equivalent.

~~((27))~~ (30) "Waste collector" means an entity, operating under a commission or agreement state license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.

~~((28))~~ (31) "Waste description" means the physical, chemical and radiological description of a ~~(low-level)~~ radioactive waste as called for on NRC Form 541.

~~((29))~~ (32) "Waste generator" means an entity, operating under a commission or agreement state license, who:

(a) Possesses any material or component that contains radioactivity or is radioactively contaminated for which the licensee foresees no further use; and

(b) Transfers this material or component to a licensed land disposal facility or to a licensed waste collector or processor for handling or treatment prior to disposal.

A licensee performing processing or decontamination services may be a "waste generator" if the transfer of ~~(low-level)~~ radioactive waste from its facility is defined as "residual waste."

~~((30))~~ (33) "Waste processor" means an entity, operating under a commission or agreement state license, whose principal purpose is to process, repackage, or otherwise treat ~~(low-level)~~ radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

~~((31))~~ (34) "Waste type" means a waste within a disposal container having a unique physical description (i.e., a specific waste descriptor code or description; or a waste sorbed on or solidified or stabilized in a specifically defined media).

AMENDATORY SECTION (Amending WSR 95-13-094, filed 6/21/95, effective 7/22/95)

WAC 246-249-080 Naturally occurring and accelerator produced radioactive material (NARM), excluding source material. (1) In addition to requirements for a disposal site use permit contained in WAC 246-249-020, single

generators of ~~((radioactive wastes))~~ naturally occurring or accelerator produced radioactive material shall obtain the specific approval of the department prior to offering ~~((naturally occurring or accelerator produced radioactive material;))~~ wastes for disposal.

(2) Applications for specific departmental approval ~~((shall))~~ must be submitted to the department for volumes greater than one thousand cubic feet of diffuse NARM, and must describe:

(a) The chemical processes which produce or have produced the waste;

(b) The volume of waste to be disposed; and

(c) The radionuclides in the waste.

(3) A request for specific approval may be approved if the department finds the material ~~((to be))~~ is:

(a) In conformance with conditions of all licenses and permits issued to the disposal site operator; and

(b) Consistent with protection of the public health, safety and environment.

(4) Diffuse naturally occurring and accelerator produced radioactive material, excluding source material, shall be limited to a total site volume of no more than ~~((eight))~~ one hundred thousand ~~((six hundred))~~ cubic feet per calendar year~~((; and individual generators shall be limited to an annual total volume of one thousand cubic feet per calendar year, provided that there shall be no annual site limit or individual generator volume limit for))~~. This annual disposal limit does not apply to:

(a) Accelerator produced radioactive material excluding decommissioning waste; and

(b) Discrete sealed sources. For purposes of this section, sealed sources means any device containing naturally occurring radioactive material or accelerator produced radioactive material to be used as a source of radiation which has been constructed in such a manner as to prevent the escape of any radioactive material.

(5) Rollover provision. For a given calendar year, the site licensee may apply to the department for an increase in the site volume limit not to exceed the cumulative rollover volume from previous years. The licensee must submit an application to the department describing the request and addressing the possible impacts. The department may approve the application if it finds that disposal of rollover volumes in excess of one hundred thousand cubic feet per year is appropriate based on the real or potential impacts to the public health, safety and environment.

(6) Emergency provision. If the annual total site ~~((volume limit or an individual generator's annual total))~~ volume limit has been met~~((;))~~ and an emergency situation occurs, single generators of diffuse NARM may seek emergency approval from the secretary to dispose of ~~((NARM excluding source materials))~~ waste in excess of volume limitations. The secretary may approve emergency disposal if he or she finds that an emergency exists based upon the circumstances described by the applicant, the real or potential impact on the public health and safety as determined by the department and that approval of such additional disposal is consistent with protecting the public health and safety of the citizens of the state of Washington.

~~((6))~~ (7) The department shall review ~~((subsection (4)(a) and (b) of))~~ this section, every five years, beginning five years from the rule's effective date ~~((of this regulation, to determine if volume limits should be set.~~

~~((7) Denial by the department of a request for specific approval shall not be interpreted as an approval to dispose of naturally occurring or accelerator produced radioactive material without regard to its radioactivity)).~~

AMENDATORY SECTION (Amending WSR 98-09-117, filed 4/22/98, effective 5/23/98)

WAC 246-249-090 Transfer for disposal and manifests. The requirements of this section are designed to control transfers of ~~((low-level))~~ radioactive waste by any waste generator, waste collector, or waste processor licensee who ships ~~((low-level))~~ radioactive waste either directly, or indirectly through a waste collector or waste processor, to a licensed low-level waste land disposal facility; establish a manifest tracking system; and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(1) Effective March 1, 1998, each shipment of radioactive waste intended for disposal at a licensed land disposal facility in the state of Washington must be accompanied by a uniform low-level radioactive waste shipment manifest.

(2) Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility must document the information required on NRC's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with this section.

(a) Each shipment manifest must include a certification by the waste generator as specified in this section.

(b) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, shall comply with the requirements specified in this section.

(c) When recording information on shipment manifests, information must be recorded in the International System of Units (SI) or in SI and units of curie, rad, rem, including multiples and subdivisions.

(3) A waste generator, collector, or processor who transports, or offers for transportation, ~~((low-level))~~ radioactive waste intended for ultimate disposal at a licensed low-level radioactive waste land disposal facility must prepare a manifest reflecting information requested on applicable NRC Forms 540 (Uniform Low-Level Radioactive Waste Manifest (Shipping Paper)) and 541 (Uniform Low-Level Radioactive Waste Manifest (Container and Waste Description)) and, if necessary, on an applicable NRC Form 542 (Uniform Low-Level Radioactive Waste Manifest (Manifest Index and Regional Compact Tabulation)). NRC Forms 540 and 540A must be completed and must physically accompany the pertinent low-level waste shipment. Upon agreement between shipper and consignee, NRC Forms 541 and 541A and 542 and 542A may be completed, transmitted, and stored in electronic media with the capability for producing legible, accurate, and complete records on the respective forms. Licensees are not required by the department to comply with the manifesting requirements of this section when they ship:

(a) ((LLW)) Radioactive waste for processing and expect its return (i.e., for storage under their license) prior to disposal at a licensed land disposal facility;

(b) ((LLW)) Radioactive waste that is being returned to the licensee who is the "waste generator" or "generator," as defined in this part; or

(c) Radioactively contaminated material to a "waste processor" that becomes the processor's "residual waste."

For guidance in completing these forms, refer to the instructions that accompany the forms. Copies of manifests required by this section may be legible carbon copies, photocopies, or computer printouts that reproduce the data in the format of the uniform manifest.

This section includes information requirements of the U.S. Department of Transportation, as codified in 49 CFR Part 172. Information on hazardous, medical, or other waste, required to meet Environmental Protection Agency regulations, as codified in 40 CFR Parts 259, 261 or elsewhere, is not addressed in this section, and must be provided on the required EPA forms. However, the required EPA forms must accompany the Uniform Low-Level Radioactive Waste Manifest required by this section.

(4) Information requirements.

(a) General information.

The shipper of the radioactive waste, shall provide the following information on the uniform manifest:

(i) The name, facility address, and telephone number of the licensee shipping the waste;

(ii) An explicit declaration indicating whether the shipper is acting as a waste generator, collector, processor, or a combination of these identifiers for purposes of the manifested shipment; and

(iii) The name, address, and telephone number, or the name and EPA identification number for the carrier transporting the waste.

(b) Shipment information.

The shipper of the radioactive waste shall provide the following information regarding the waste shipment on the uniform manifest:

(i) The date of the waste shipment;

(ii) The total number of packages/disposal containers;

(iii) The total disposal volume and disposal weight in the shipment;

(iv) The total radionuclide activity in the shipment;

(v) The activity of each of the radionuclides H-3, C-14, Tc-99, and I-129 contained in the shipment; and

(vi) The total masses of U-233, U-235, and plutonium in special nuclear material, and the total mass of uranium and thorium in source material.

(c) Disposal container and waste information.

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

(i) An alphabetic or numeric identification that uniquely identifies each disposal container in the shipment;

(ii) A physical description of the disposal container, including the manufacturer and model of any high integrity container;

(iii) The volume displaced by the disposal container;

(iv) The gross weight of the disposal container, including the waste;

(v) For waste consigned to a disposal facility, the maximum radiation level at the surface of each disposal container;

(vi) A physical and chemical description of the waste;

(vii) The total weight percentage of chelating agent for any waste containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(viii) The approximate volume of waste within a container;

(ix) The sorbing, stabilization, or solidification media, if any, and the identity of the solidification or stabilization media vendor and brand name;

(x) The identities and activities of individual radionuclides contained in each container, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material. For discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides associated with or contained on these waste types within a disposal container shall be reported;

(xi) The total radioactivity within each container; and

(xii) For wastes consigned to a disposal facility, the classification of the waste ((~~pursuant to~~) under this chapter. (~~Waste not meeting the structural stability requirements of this chapter must be identified.~~) The shipper must identify the waste if it does not meet the structural stability requirements in this chapter.

(d) Uncontainerized waste information.

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

(i) The approximate volume and weight of the waste;

(ii) A physical and chemical description of the waste;

(iii) If the chelating agent exceeds 0.1% by weight, the total weight percentage of chelating agent ((if the chelating agent exceeds 0.1% by weight,)) plus the identity of the principal chelating agent;

(iv) For waste consigned to a disposal facility, the classification of the waste ((~~pursuant to~~) under this chapter. (~~Waste not meeting the structural stability requirements of this chapter must be identified.~~) The shipper must identify the waste if it does not meet the structural stability requirements in this chapter;

(v) The identities and activities of individual radionuclides contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material; and

(vi) For wastes consigned to a disposal facility, the maximum radiation levels at the surface of the waste.

(e) Multigenerator disposal container information.

This subsection applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the ((LLW)) radioactive waste resulting from a processor's activities may be attributable to one or more "generators," including "waste generators." It also applies to mixtures of wastes shipped in an uncontainerized

form, for which portions of the mixture within the shipment originate from different generators.)

(i) For homogeneous mixtures of waste, such as incinerator ash, provide waste description applicable to the mixture and the volume of the waste attributed to each generator.

(ii) For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and, for discrete waste types (i.e., activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following:

(A) The volume of waste within the disposal container;

(B) A physical and chemical description of the waste, including the stabilization or solidification agent, if any;

(C) The total weight percentage of chelating agents for any disposal container containing more than 0.1% chelating agent by weight, plus the identity of the principal chelating agent;

(D) The sorbing, solidification, or stabilization media, if any, and the identity of the stabilization media vendor and brand name, if the media is claimed to meet stability requirements in WAC 246-249-050(2); and

(E) Radionuclide identities and activities contained in the waste, the masses of U-233, U-235, and plutonium in special nuclear material, and the masses of uranium and thorium in source material if contained in the waste.

(5) Certification.

An authorized representative of the waste generator, processor, or collector shall certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation, the U.S. Nuclear Regulatory Commission, and the department. A collector in signing the certification is certifying that nothing has been done to the collected waste which would invalidate the waste generator's certification.

(6) Control and tracking.

(a) Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in (a)(i) through (ix) of this subsection. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of (a)(iv) through (ix) of this section. A licensee shall:

(i) Prepare all wastes so that the waste is classified according to WAC 246-249-040 and meets the waste characteristics requirements in WAC 246-249-050;

(ii) Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste to identify whether it is Class A waste, Class B waste, Class C waste, or greater than Class C waste, in accordance with WAC 246-249-040;

(iii) Conduct a quality assurance program to assure compliance with WAC 246-249-040 and 246-249-050 (the program must include management evaluation of audits);

(iv) Prepare the NRC Uniform Low-Level Radioactive Waste Manifest as required by this section;

(v) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the ((LLW)) waste shipment or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(vi) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (a)(v) of this subsection;

(vii) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(viii) Retain a copy of, or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations; and

(ix) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with (e) of this subsection.

(b) Any waste collector licensee who handles only pre-packaged waste shall:

(i) Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

(ii) Prepare a new manifest to reflect consolidated shipments that meet the requirements of this section. The waste collector shall ensure that, for each container of waste in the shipment, the manifest identifies the generator of that container of waste;

(iii) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the ((LLW)) waste shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(iv) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (b)(iii) of this subsection;

(v) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(vi) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(vii) For any shipments or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with this section; and

(viii) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(c) Any licensed waste processor who treats or repackages waste shall:

(i) Acknowledge receipt of the waste from the shipper within one week of receipt by returning a signed copy of NRC Form 540;

(ii) Prepare a new manifest that meets the requirements of this section. Preparation of the new manifest reflects that the processor is responsible for meeting these requirements. For each container of waste in the shipment, the manifest shall identify the waste generators, the preprocessed waste volume, and the other information as required in subsection (4)(e) of this section;

(iii) Prepare all wastes so that the waste is classified according to WAC 246-249-040 and meets the waste characteristics requirements in WAC 246-249-050;

(iv) Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste, in accordance with WAC 246-249-040 and 246-249-060;

(v) Conduct a quality assurance program to assure compliance with WAC 246-249-040 and 246-249-050 (the program shall include management evaluation of audits);

(vi) Forward a copy or electronically transfer the Uniform Low-Level Radioactive Waste Manifest to the intended consignee so that either receipt of the manifest precedes the ~~(LLW)~~ waste shipment, or the manifest is delivered to the consignee with the waste at the time the waste is transferred to the consignee. Using both methods is also acceptable;

(vii) Include NRC Form 540 (and NRC Form 540A, if required) with the shipment regardless of the option chosen in (c)(vi) of this subsection;

(viii) Receive acknowledgement of the receipt of the shipment in the form of a signed copy of NRC Form 540;

(ix) Retain a copy of or electronically store the Uniform Low-Level Radioactive Waste Manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by these regulations;

(x) For any shipment or any part of a shipment for which acknowledgement of receipt has not been received within the times set forth in this section, conduct an investigation in accordance with (e) of this subsection; and

(xi) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(d) The land disposal facility operator shall:

(i) Acknowledge receipt of the waste within one week of receipt by returning, as a minimum, a signed copy of NRC Form 540 to the shipper. The shipper to be notified is the licensee who last possessed the waste and transferred the waste to the operator. If any discrepancy exists between materials listed on the Uniform Low-Level Radioactive Waste Manifest and materials received, copies or electronic transfer of the affected forms must be returned indicating the discrepancy;

(ii) Maintain copies of all completed manifests and electronically store the information required by WAC 246-250-600(8) until the license is terminated; and

(iii) Notify the shipper and the department when any shipment, or part of a shipment, has not arrived within sixty days after receipt of an advance manifest, unless notified by the shipper that the shipment has been canceled.

(e) ~~(Any shipment or part of a shipment for which acknowledgement is not received)~~ If the shipper does not receive acknowledgement from the land disposal facility

operator for any shipment or part of a shipment within the times set ~~((forth))~~ in this section, the shipper must:

(i) ~~((Be investigated by the shipper))~~ Investigate if the shipper has not received notification or receipt within twenty days after transfer; and

(ii) ~~((Be traced and reported. The investigation shall include tracing the shipment and filing a report with))~~ Trace the shipment or part of shipment and report the investigation to the department. Each licensee who conducts a trace investigation shall file a written report with the department within two weeks of completion of the investigation.

WSR 05-17-192
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed August 24, 2005, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-175.

Title of Rule and Other Identifying Information: Chapter 388-290 WAC, Working connections child care, amending WAC 388-290-0180, 388-290-0190, 388-290-0200, and 388-290-0205; and repealing WAC 388-290-0250.

Hearing Location(s): Blake Office Park East, Rose Room (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rapu/docket.html> or by calling (360) 664-6097), 4500 10th Avenue S.E., Lacey, WA 98503, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 28, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., September 27, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by September 23, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is revising the rules to change reimbursements paid to licensed providers. The rules will:

- Increase reimbursement rates for licensed/certified providers and DSHS contracted seasonal day camps; and
- Repeal the payment of the infant bonus.

Reasons Supporting Proposal: The department is revising these rules to use money allocated by the 2005 legislature to increase provider rates. The source of funds for the infant bonus can no longer support this payment.

Statutory Authority for Adoption: RCW 74.04.050, 74.12.340, and 74.13.085.

Statute Being Implemented: RCW 74.04.050, 74.12.-340, 74.13.085 and ESSB 6090 (section 207(3), chapter 518, Laws of 2005).

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Lind, Division of Child Care and Early Learning, (360) 725-4691.

No small business economic impact statement has been prepared under chapter 19.85 RCW. ESA has determined the proposed rules do not have more than a minor economic impact on businesses. The proposed rules increase rates to all licensed providers.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lisa Lind, 1009 College Street S.E., P.O. Box 45480, Olympia, WA 98504-5840, phone (360) 725-4691, fax (360) 413-3482, e-mail lindlm@dshs.wa.gov.

August 22, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0180 When are the WCCC program subsidy rates in this chapter effective? DSHS child care subsidy rates in this chapter are effective on or after (~~January 1, 2002~~) November 1, 2005.

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0190 What does the WCCC program pay for and when can the program pay more? (1) We may pay for:

(a) Basic child care hours, either full day, half day or hourly. We authorize:

(i) Full day child care to licensed or certified facilities and DSHS contracted seasonal day camps when your children need care for five or more hours per day;

(ii) Half day child care to licensed or certified facilities and DSHS contracted seasonal day camps when your children need care for less than five hours per day; and

(iii) Hourly child care for in-home/relative child care.

(b) A registration fee (under WAC 388-290-0245);

(c) A field trip fee (under WAC 388-290-0245); and

(d) ~~((An infant bonus (under WAC 388-290-0250); and~~

(e)) Special needs care when the child has a documented need for higher level of care (under WAC 388-290-0220, 388-290-0225, 388-290-0230, and 388-290-0235).

(2) If care is not available within a reasonable distance at our daily rate, then we authorize the provider's usual daily rate.

(3) If care is over ten hours per day, and the provider's policy is to charge for these extra hours, then we authorize an additional amount of care.

~~((4) Refer to WAC 388-290-0270, 388-290-0271, and 388-290-0273 for when overpayments can be assessed to you or your provider.))~~

AMENDATORY SECTION (Amending WSR 04-08-021 [and 04-08-134], filed 3/29/04 [and 4/7/04], effective 5/28/04)

WAC 388-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps? (1) We pay the lesser of the following to a licensed or certified child care center or DSHS contracted seasonal day camp:

(a) The provider's usual daily rate for that child; or

(b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$(24.32)	\$(20.45)	\$(19.32)	\$(18.18)
	Half-Day	<u>25.89</u>	<u>21.77</u>	<u>20.57</u>	<u>19.36</u>
		\$(12.16)	\$(10.23)	\$(9.66)	\$(9.09)
		<u>12.95</u>	<u>10.89</u>	<u>10.29</u>	<u>9.68</u>
Spokane County	Full-Day	<u>\$26.48</u>	<u>\$22.27</u>	<u>\$21.04</u>	<u>\$19.80</u>
	Half-Day	<u>\$13.25</u>	<u>\$11.14</u>	<u>\$10.53</u>	<u>\$9.90</u>
Region 2	Full-Day	\$(24.55)	\$(20.50)	\$(19.00)	\$(16.82)
	Half-Day	<u>26.14</u>	<u>21.83</u>	<u>20.23</u>	<u>17.91</u>
		\$(12.27)	\$(10.25)	\$(9.50)	\$(8.41)
		<u>13.07</u>	<u>10.92</u>	<u>10.12</u>	<u>8.96</u>
Region 3	Full-Day	\$(32.50)	\$(27.09)	\$(23.41)	\$(22.73)
	Half-Day	<u>34.60</u>	<u>28.84</u>	<u>24.92</u>	<u>24.20</u>
		\$(16.25)	\$(13.55)	\$(11.70)	\$(11.36)
		<u>17.30</u>	<u>14.42</u>	<u>12.46</u>	<u>12.10</u>
Region 4	Full-Day	\$(37.82)	\$(31.59)	\$(26.50)	\$(23.86)
	Half-Day	<u>40.27</u>	<u>33.63</u>	<u>28.21</u>	<u>25.40</u>
		\$(18.91)	\$(15.80)	\$(13.25)	\$(11.93)
		<u>20.14</u>	<u>16.82</u>	<u>14.11</u>	<u>12.70</u>
Region 5	Full-Day	\$(27.73)	\$(23.86)	\$(21.00)	\$(18.64)
	Half-Day	<u>29.52</u>	<u>25.40</u>	<u>22.36</u>	<u>19.85</u>
		\$(13.86)	\$(11.93)	\$(10.50)	\$(9.32)
		<u>14.76</u>	<u>12.70</u>	<u>11.18</u>	<u>9.93</u>
Region 6	Full-Day	\$(27.27)	\$(23.41)	\$(20.45)	\$(20.00)
	Half-Day	<u>29.03</u>	<u>24.92</u>	<u>21.77</u>	<u>21.29</u>
		\$(13.64)	\$(11.70)	\$(10.23)	\$(10.00)
		<u>14.52</u>	<u>12.46</u>	<u>10.89</u>	<u>10.65</u>

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licenser in order for a child care center to provide care for a thirteen-year-old or older child.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) Rates for Spokane County are subject to special funding allocated by the Legislature in the state operating budget. If the special funds are not allocated Region 1 rates apply to Spokane County.

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

PROPOSED

PROPOSED

AMENDATORY SECTION (Amending WSR 04-08-021 [and 04-08-134], filed 3/29/04 [and 4/7/04], effective 5/28/04)

WAC 388-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care? (1) We pay the lesser of the following to a licensed or certified family home child care:

- (a) The provider's usual daily rate for that child; or
- (b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$(20.00)	\$(18.00)	\$(18.00)	\$(16.00)
	Half-Day	<u>21.29</u>	<u>19.16</u>	<u>19.16</u>	<u>17.04</u>
		\$(10.00)	\$(9.00)	\$(9.00)	\$(8.00)
		<u>10.65</u>	<u>9.58</u>	<u>9.58</u>	<u>8.52</u>
Spokane County	Full-Day	<u>\$21.78</u>	<u>\$19.60</u>	<u>\$19.60</u>	<u>\$17.43</u>
	Half-Day	<u>\$10.89</u>	<u>\$9.80</u>	<u>\$9.80</u>	<u>\$8.71</u>
Region 2	Full-Day	\$(20.00)	\$(19.00)	\$(17.00)	\$(17.00)
	Half-Day	<u>21.29</u>	<u>20.23</u>	<u>18.10</u>	<u>18.10</u>
		\$(10.00)	\$(9.50)	\$(8.50)	\$(8.50)
		<u>10.65</u>	<u>10.12</u>	<u>9.05</u>	<u>9.05</u>
Region 3	Full-Day	\$(29.00)	\$(25.00)	\$(22.00)	\$(20.00)
	Half-Day	<u>30.88</u>	<u>26.62</u>	<u>23.42</u>	<u>21.29</u>
		\$(14.50)	\$(12.50)	\$(11.00)	\$(10.00)
		<u>15.44</u>	<u>13.31</u>	<u>11.71</u>	<u>10.65</u>
Region 4	Full-Day	\$(30.00)	\$(29.67)	\$(25.00)	\$(24.00)
	Half-Day	<u>31.94</u>	<u>31.59</u>	<u>26.62</u>	<u>25.55</u>
		\$(15.00)	\$(14.83)	\$(12.50)	\$(12.00)
		<u>15.97</u>	<u>15.80</u>	<u>13.31</u>	<u>12.78</u>
Region 5	Full-Day	\$(22.00)	\$(20.00)	\$(19.00)	\$(17.00)
	Half-Day	<u>23.42</u>	<u>21.29</u>	<u>20.23</u>	<u>18.10</u>
		\$(11.00)	\$(10.00)	\$(9.50)	\$(8.50)
		<u>11.71</u>	<u>10.65</u>	<u>10.12</u>	<u>9.05</u>
Region 6	Full-Day	\$(22.00)	\$(20.00)	\$(20.00)	\$(19.00)
	Half-Day	<u>23.42</u>	<u>21.29</u>	<u>21.29</u>	<u>20.23</u>
		\$(11.00)	\$(10.00)	\$(10.00)	\$(9.50)
		<u>11.71</u>	<u>10.65</u>	<u>10.65</u>	<u>10.12</u>

(2) The family home child care WAC 388-155-010 allows providers to care for children from birth up to and including the day before their twelfth birthday. In order for a family home provider to care for a twelve-year-old or older child, the provider must obtain a child-specific and time-limited waiver from their child care licensor. If the provider has a waiver to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) and the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;

(b) The child's nonneedy or needy relative or that relative's spouse or live-in partner;

(c) The child's legal guardian or the guardian's spouse or live-in partner; or

(d) Another adult acting in loco parentis or that adult's spouse or live-in partner.

(6) Rates for Spokane County are subject to special funding allocated by the Legislature in the state operating budget. If the special funds are not allocated Region I rates apply to Spokane County.

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 388-290-0250. When can WCCC pay a bonus for enrolling an infant?

**WSR 05-17-193
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed August 24, 2005, 9:38 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-176.

Title of Rule and Other Identifying Information: Chapter 388-290 WAC, Working connections child care, amending WAC 388-290-0020, 388-290-0030, 388-290-0032, 388-290-0035, 388-290-0130, 388-290-0135, 388-290-0140, 388-290-0155, 388-290-0240, 388-290-0260, 388-290-0271 and 388-290-0273; adopting new WAC 388-290-0138 and 388-290-0274; and repealing WAC 388-290-0255.

Hearing Location(s): Blake Office Park East, Rose Room (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6097, 4500 10th Avenue S.E., Lacey, WA 98503, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 28, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., September 27, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by September 23, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is revising the rules to comply with a United States Internal

Revenue Service (IRS) directive regarding third party payment rules and the role of the state in relationship to the consumer (as the employer) and exempt provider (as the employee). With these changes the state will meet requirements in IRS Code 26 U.S.C. 3504 regarding reporting status and requirements in IRS Code 26 U.S.C. 3401 (d)(1) regarding meeting third party payer status for WCCC consumers who receive in-home care.

Under the proposed rules, the department will pay the exempt provider directly on behalf of the consumer, as currently occurs with licensed/certified providers. Changing how the department pays exempt providers changes consumer responsibilities. The proposed rules also change exempt provider responsibilities and when a provider may be assessed an overpayment.

Other proposed revisions are related to clarifying and correcting errors from the last revision such as web site links.

Reasons Supporting Proposal: To help the state remain in compliance with IRS statutes.

Statutory Authority for Adoption: RCW 74.04.050, 74.12.340.

Statute Being Implemented: RCW 74.04.050, 74.12.-340, 74.13.085.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lisa Lind, Division of Child Care and Early Learning, (360) 725-4691.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not impact providers that are considered small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not considered significant legislative rules under RCW 34.05.328. A cost-benefit analysis is not required.

August 19, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0020 Are there special circumstances that might affect my WCCC eligibility? (1) You might be eligible for WCCC if you are:

(a) An employee of the same child care center where your children receive care and you do not provide direct care to your own children during the time WCCC is requested;

(b) In ~~((sanction or Child SafetyNet status for temporary assistance for needy families (TANF), while you are in))~~ an activity needed to remove ~~((the))~~ a WorkFirst sanction or, Child SafetyNet status ~~((or for employment))~~;

(c) A parent in a two-parent family and one parent is not able ~~((and))~~ or available to provide care for your children while the other is working, looking for work, or preparing for work;

(i) "Able" means physically and mentally capable of caring for a child in a responsible manner. If you claim one par-

ent is unable to care for the children, you must provide written documentation from a licensed professional (see WAC 388-448-0020) that states the:

(A) Reason the parent is unable to care for the children;

(B) Expected duration and severity of the condition that keeps them from caring for the children; and

(C) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing they are cooperating with treatment and are still unable to care for the children.

(ii) "Available" means free to provide care when not participating in an approved work activity under WAC 388-290-0040, 388-290-0045, 388-290-0050, or 388-290-0055 during the time child care is needed.

(d) A married consumer described under WAC 388-290-0005 (1)(d) through (i). Only you or your spouse must be participating in activities under WAC 388-290-0040, 388-290-0045, 388-290-0050, or 388-290-0055.

(2) You might be eligible for WCCC if your children are legally residing in the country, are living in Washington state ~~((residents))~~, and are:

(a) Less than age thirteen; or

(b) Less than age nineteen, and:

(i) Have a verified special need, according to WAC 388-290-0220; or

(ii) Are under court supervision.

(3) Any of your children who receive care at the same place where you work (other than (1)(a) of this subsection) are not eligible for WCCC payments but can be included in your household if they meet WAC 388-290-0015. This includes if you work:

(a) In a family home child care in any capacity and your children are receiving care at the same home during your hours of employment; or

(b) In your home or another location and your children receive care at the same location during your hours of employment.

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0030 What ~~((responsibilities))~~ must I do ~~((I have))~~ when I apply for or receive WCCC benefits? When you apply for or receive WCCC benefits you must:

(1) Give us correct and current information so we can determine your eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 388-290-0125 ~~((and make your own child care arrangements))~~;

(3) Pay, or make ~~((arrangements))~~ a plan to have someone pay, your WCCC copayment directly to your child care provider;

(4) Leave your children with your provider ~~((for))~~ while you are in WCCC approved activities ~~((or arrange to pay the provider yourself, as the provider requires, for care while you are engaged in unapproved activities))~~. If you are not in an approved activity and you want to use the provider, you must

make a plan to pay the provider yourself if the provider wants payment.

~~(5) ((Keep attendance records when you choose in-home/relative child care. Records must be:~~

~~(a) Accurate;~~

~~(b) Provided when requested; and~~

~~(c) Kept for one year after care has been provided.~~

~~(6) Pay your in-home/relative provider the entire amount we send you for in-home/relative care listed on the remittance advice you receive with the warrant;~~

~~(7) Require the in-home/relative provider to sign a receipt when you pay the provider the amount we send you and your copayment. You must keep the receipts for one year for us to review on request;~~

~~(8)) If you use an in-home/relative provider, make sure care is being provided in the right home per WAC 388-290-0130.~~

~~(6) Cooperate (provide the information requested) with the quality assurance review process to remain eligible for WCCC. You become ineligible for WCCC benefits upon a determination of noncooperation by quality assurance and remain ineligible until you meet quality assurance requirements or thirty days from the determination of noncooperation.~~

~~((9)) (7) Cooperate with the fraud early detection (FRED) investigator. If you refuse to cooperate (provide the information requested) with the investigator, it could affect your benefits.~~

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0032 What are the consequences if I do not report changes within the specified ((timelines)) time frames? If you fail to report any changes as required in WAC 388-290-0031 within the stated time frames, we may establish an overpayment per WAC 388-290-0271 or you might have to pay more than your normal share of child care costs, such as:

(1) Paying a higher copayment;

(2) Paying for extra hours of care when your activity requires more than ten hours a day of care;

~~(3) ((Receiving an overpayment for care billed as a result of using care when you were not eligible for WCCC;~~

~~(4)) Receiving an overpayment for the number of days your child was absent ((above)) including the absences the licensed/certified or DSHS seasonal contracted day care provider is allowed to bill (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, DSHS 22-877). An overpayment for absent days can occur when care is used when you are not eligible for WCCC and can be up to five days a month;~~

~~((5) Billing in-home/relative care when you are not eligible for WCCC.))~~

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0035 What responsibilities does the WCCC program staff have? The WCCC program staff are responsible to:

(1) Determine your eligibility within thirty days from the date you applied (application date as described in WAC 388-290-0100(2)).

(2) Allow you to choose your provider as long as they meet the requirements in WAC 388-290-0125;

(3) Review your chosen in-home/relative provider's background information.

(4) Authorize payments only to child care providers who allow you to see your children whenever they are in care;

(5) Only authorize payment when no adult in your WCCC family is "able ((and)) or available" to care for your children (under WAC 388-290-0020).

(6) Inform you of:

(a) Your rights and responsibilities under the WCCC program at the time of application and reapplication;

(b) The types of child care providers we can pay;

(c) The community resources that can help you select child care when needed; and

(d) Any change in your copayment during the authorization period except under WAC 388-290-0120(5).

(7) Respond to you within ten days if you report a change of circumstance that affects you:

(a) WCCC eligibility;

(b) Copayment; or

(c) Providers.

(8) Provide prompt child care payments to your child care provider.

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0130 What in-home/relative providers can I choose under the WCCC program? (1) To be ((authorized)) eligible as an in-home/relative provider ((under the WCCC program, your in-home/relative provider)) the person must:

(a) Be an adult who is a U.S. citizen or legally residing in the United States;

(b) Meet the requirements in WAC 388-290-0135; and

(c) Be one of the following adults ((relatives)) providing care in the home of either the child or the ((relative)) adult:

(i) ((An adult)) A sibling living outside the child's home;

(ii) An extended tribal family member ((under)) according to chapter 74.15 RCW; or

(iii) A grandparent, aunt, uncle, or great-grandparent, great-aunt or great-uncle.

(2) An ((in-home, nonrelative provider)) adult not listed in (1)(c)(i), (ii), or (iii) of this section must:

(a) Meet the requirements in subsection (1)(a) and (b) of this section; and

(b) ((Be an adult friend or neighbor and)) Provide care in the child's home.

(3) If you use an in-home/relative provider you can:

(a) Have no more than two in-home/relative providers authorized for payment during your eligibility period at the same time (not including back-up providers);

(b) Have one back up provider (licensed or an in-home/relative provider)((;

~~(c) Change to a different in-home/relative provider during your eligibility period.~~

(4) ~~An in-home/relative provider can care for up to a maximum of six children during any one time period.~~

(5) ~~An in-home/relative provider is not an eligible provider (under WAC 388-290-0095 and 388-290-0100) any time prior to the date we receive the results of all applicable criminal background checks under WAC 388-290-0143(1) and 388-290-0150. Providers other than in-home/relative that you can use are described in WAC 388-290-0125.~~

(6) ~~The in-home/relative provider is not eligible for payment if they are:~~

(a) ~~The child's biological, adoptive or step-parent;~~

(b) ~~The child's nonneedy or needy relative or relative's spouse or partner;~~

(c) ~~The child's legal guardian or the guardian's spouse or partner;~~

(d) ~~Another adult acting in loco parentis or that adult's spouse or partner; or~~

(e) ~~Anyone living in the same residence with the child).~~

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0135 ~~When I choose an in-home/relative provider, what information must I ((submit to receive WCCC benefits)) give the department?~~ When you choose in-home/relative child care, you must ((submit to)) complete certain forms and give us the following ((and complete certain forms)):

(1) The in-home/relative child care provider's legal name, address and telephone number;

(2) A copy of the provider's valid Social Security card;

(3) A copy of the provider's photo identification;

(4) A completed background check authorization; and

(5) A form supplied by us ((that is)), completed and signed by ((the consumer)) you and the provider in which both of you attest to the following:

(a) The provider is:

(i) Of suitable character and competence;

(ii) Of sufficient physical and mental health to meet the needs of the children in care. If we request it, you must provide written evidence that the in-home child care provider of your choice is of sufficient physical and mental health to be a safe child care provider;

(iii) Able to work with the children without using corporal punishment or psychological abuse;

(iv) Able to accept and follow instructions;

(v) Able to maintain personal cleanliness; ((and))

(vi) Prompt and regular in job attendance

(vii) Informed about basic health practices, prevention and control of infectious disease, immunizations; and

(viii) Able to provide constant care, supervision and activities based on the child's developmental needs.

(b) The children are current on the immunization schedule as described in the National Immunization Guidelines, developed by the American Academy of Pediatrics and the Advisory Committee on Immunization Practices;

(c) The home where care is provided is safe for the care of the children(;

~~(d) The in-home/relative child care provider is informed about basic health practices, prevention and control of infec-~~

~~tious disease, immunizations, and home and physical premises safety relevant to the care of the children; and~~

~~(e) You and the provider state you have instructed the in-home/relative provider that they are continuously responsible to provide:~~

~~(i) Constant care and supervision of the children throughout the arranged time of care in accordance with the needs of the children (constant care and supervision includes remaining awake while the children sleep); and~~

~~(ii) Activities for the children that are consistent with their developmental stages)).~~

NEW SECTION

WAC 388-290-0138 **What responsibilities does my eligible in-home/relative provider have?** Your in-home/relative provider must:

(1) Report within ten days changes in their legal name, address or telephone number;

(2) Report within twenty-four hours pending charges or convictions they have;

(3) Report within twenty-four hours pending charges or convictions for anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home;

(4) Bill WCCC only for care he/she provided;

(5) Not bill WCCC for more than six children at one time for the same hours of care; and

(6) Keep correct attendance records. Records must:

(a) Show both days and times the care was provided;

(b) Be kept for five years; and

(c) Be given to us, within fourteen consecutive calendar days, if we ask for them.

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0140 ~~When ((does the WCCC program not pay for the cost of in-home/relative child care)) is my in-home/relative provider not eligible for WCCC payment?~~ We do not pay for the cost of in-home/relative care if:

(1) Your provider does not meet the requirements in WAC 388-290-0130 ((or)), 388-290-0135, and 388-290-0138;

~~(2) ((You fail to submit a completed criminal background check form or copies of the provider's Social Security card, photo identification, and current address to us;~~

~~(3)) Your in-home/relative provider has been convicted of, or has charges pending for crimes posted on the DSHS secretary's list of disqualifying convictions for ESA. You can find the complete list at ((http://www.dshs.wa.gov/esa/deeef)) http://www1.dshs.wa.gov/esa/dccel/policy.shtml;~~

~~((4)) (3) We do not have background check results according to WAC 388-290-0143; or~~

(4) The provider is:

(a) The child's biological, adoptive or step-parent;

(b) The child's nonneedy or needy relative or relative's spouse or live-in partner;

(c) The child's legal guardian or the guardian's spouse or live-in partner.

(d) Another adult acting in loco parentis or that adult's spouse or live-in partner.

(5) We do not have the results of all applicable criminal background checks under WAC 388-290-0143(1) and 388-290-0150. An in-home/relative provider is not an eligible provider (per WAC 388-290-0095 and 388-290-0100) prior to receiving these background results. Providers other than in-home/relative providers you can use are described in WAC 388-290-0125; or

~~((5))~~ (6) We determine your provider is not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care, or the household may be at risk of harm by this provider, as indicated by information other than conviction information. We will use criteria, such as the following, when reviewing information about incidents/issues/reports/findings:

- (a) Recency;
- (b) Seriousness;
- (c) Type;
- (d) Frequency; and
- (e) Relationship to the direct care of a child including health, mental health, learning, and safety.

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0155 What happens after the WCCC program receives the background information? After we receive the background information we:

(1) Compare the background information with convictions posted on the DSHS secretary's list of disqualifying convictions for economic services administration (ESA). You can find the complete list at (~~http://www.dshs.wa.gov/esa/deeet/~~) http://www1.dshs.wa.gov/esa/dccell/policy.shtml.

(2) Review the background information using the following rules:

(a) We give the same weight to a pending charge for a crime as a conviction;

(b) If the conviction has been renamed, we give the same weight as the previous named conviction. For example, larceny is now called theft;

(c) We give convictions whose titles are preceded with the word "attempted" the same weight as those titles without the word "attempted"; and

(d) We do not consider the crime a conviction for the purposes of WCCC when:

- (i) It has been pardoned; or
- (ii) A court of law acts to expunge, dismiss, or vacate the conviction record.

(3) Notify you whether or not we are able to approve the provider for WCCC.

(4) Allow you, the consumer, to decide character and suitability of the provider when an individual is not automatically disqualified due to the background information from the record of arrests and prosecutions (RAP) sheet.

(5) Deny or stop payment when the background information disqualifies the individual being checked.

(6) Assist you in finding other child care arrangements.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0240 What is the DSHS child care subsidy rate for in-home/relative child care and how is it paid? (1) When you employ an in-home/relative provider, the maximum we pay for child care is the lesser of the following:

(a) Two dollars and six cents per hour for the child who needs the greatest number of hours of care and one dollar and three cents per hour for the care of each additional child in the family; or

(b) The provider's usual hourly rate for that care.

(2) We may pay above the maximum hourly rate for children who have special needs under WAC 388-290-0235.

~~(3) ((When care is provided by an in-home/relative provider, we pay benefits directly to you, defined as the consumer in WAC 388-290-0005))~~ We make the WCCC payment directly to your eligible provider.

~~(4) ((On all payments we make toward the cost of in-home/relative child care, when appropriate we pay the employer's share, on behalf of the client, of))~~ When appropriate, we pay your (the employer's) share of the following:

(a) Social Security and Medicare taxes (FICA) up to the wage limit;

(b) Federal Unemployment Taxes (FUTA); and

(c) State unemployment taxes (SUTA) when applicable.

~~(5) ((On all payments we make toward the cost of in-home/relative child care we withhold Medicare taxes and Social Security taxes (FICA) up to the wage base limit.~~

~~(6))~~ If an in-home/relative child care provider receives less than the wage base limit per family in a calendar year, we refund all withheld taxes to the provider.

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0260 ~~((Do I have the right to ask for a hearing about my WCCC benefits))~~ Who has a right to ask for a hearing and how do ((#)) they ask for one? (1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits except for mass changes resulting from a change in policy or law.

(2) Licensed or certified child care providers or in-home/relative providers can request hearings under chapter 388-02 WAC and RCW 43.20B.675 only for WCCC overpayments.

(3) To request a hearing you ~~((#))~~, the licensed ~~((#))~~ /certified provider, or in-home/relative provider:

(a) Contacts the office which sent them the notice; or

(b) Writes to the Office of Administrative Hearings, PO Box 42489, Olympia WA 98504-2489; and

(c) Makes the request for a hearing within:

(i) Ninety days of the date a decision is received for consumers; or

(ii) Twenty-eight days of the date a decision is received for providers (per RCW 43.20B.675).

PROPOSED

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0271 ~~When might I ((be assessed)) get an overpayment? ((We establish)) You get WCCC overpayments((, regardless of)) whether you are a current or past WCCC consumer, when we make payment for WCCC benefits and:~~

(1) You are no longer eligible or you are eligible for a smaller amount of care, such as using care for an unapproved activity or for children not in your WCCC household;

(2) You fail to report information to us that results in an error in our determination of:

- (a) Your eligibility;
- (b) The amount of care authorized; or
- (c) The amount of your copayment.

(3) Your provider ~~((does not meet the requirements in WAC 388-290-0130))~~ is not an eligible provider per WAC 388-290-0140;

(4) ~~((You use DSHS WCCC subsidized payment to pay a person who has not been determined an eligible provider by WCCC;~~

~~(5) You do not have attendance records and payment receipts to support the amount you billed us for in-home/relative care;~~

~~(6) You cannot provide verification that you have paid your provider the DSHS WCCC subsidized payment)) Your child is not eligible per WAC 388-290-0015 or 388-290-0020.~~

AMENDATORY SECTION (Amending WSR 04-08-021 and 04-08-134, filed 3/29/04 and 4/7/04, effective 5/28/04)

WAC 388-290-0273 When would my licensed or certified provider ((be assessed)) or DSHS contracted Seasonal Day Camp get an overpayment? (1) We establish WCCC overpayments for your licensed or certified child care provider((s)) and DSHS contracted seasonal day camps, when your provider:

(a) ~~((The provider receives))~~ Billed and received payment for WCCC services not provided;

(b) ~~((The provider))~~ Does not have attendance records that comply with licensing requirements (refer to WAC 388-295-7030, ~~((388-155-460))~~ 388-296-0520, and 388-151-460 for attendance record requirements). Only attendance records meeting WAC requirements will be accepted for attendance verification;

(c) ~~((We pay the provider))~~ Billed and received payment for more than they are eligible to bill;

(d) ~~((The provider))~~ Billed and received payment ~~((from us))~~ and the provider is not eligible based on WAC 388-290-0125; or

(e) ~~((The provider))~~ Is caring for a child outside their licensed allowable age range without a waiver.

(2) The ~~((worker))~~ WCCC program staff may request documentation from ~~((the))~~ your provider when preparing to establish an overpayment. ~~((The))~~ Your provider has fourteen consecutive calendar days to supply any requested documentation.

NEW SECTION

WAC 388-290-0274 When would my in-home/relative provider get an overpayment? (1) We establish WCCC overpayments for your in-home/relative provider when your provider:

(a) Billed and received payment for WCCC services not provided;

(b) Does not have attendance records that comply with attendance records based on WAC 388-290-0138. Only attendance records meeting WAC requirements will be accepted for attendance verification;

(c) Billed and received payment for more than they are eligible to bill;

(2) The WCCC program staff may request documentation from your provider when preparing to establish an overpayment. Your provider has fourteen consecutive calendar days to supply any requested documentation.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-290-0255

When can the WCCC program establish a protective payee to pay my in-home/relative provider?

WSR 05-17-194

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 24, 2005, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-136.

Title of Rule and Other Identifying Information: WAC 388-400-0010 Who is eligible for state family assistance? and 388-442-0010 How does being a fleeing felon or having a drug-related felony impact my eligibility for benefits?

Hearing Location(s): Blake Office Park East, Rose Room (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Tire. A map or directions are available at <http://www1.dshs.wa.gov/msa/rapu/docket.html> or by calling (360) 664-6097, 4500 10th Avenue S.E., Lacey, WA, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 28, 2005.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., September 27, 2005.

Assistance for Persons with Disabilities: Contact Stephanie Schiller, DSHS Rules Consultant, by September

PROPOSED

23, 2005, TTY (360) 664-6178 or (360) 664-6097 or by e-mail at schilse@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amended rule exercises the state's option to exempt individuals convicted of a drug-related felony from the Temporary Assistance for Needy Families ban on receipt of benefits.

Reasons Supporting Proposal: This change is necessary to comply with SB 5213, passed during the 2005 legislative session (chapter 174, Laws of 2005).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, 74.08.090.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Amber Gillum, 1009 College S.E., Lacey, WA 98504, (360) 725-4612.

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 only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to... Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

August 18, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

WAC 388-400-0010 Who is eligible for state family assistance? (1) To be eligible for state family assistance (SFA), aliens must meet Washington state residency requirements as listed in WAC 388-468-0005 and immigrant eligibility requirements as listed in WAC 388-424-0015.

(2) You are eligible for SFA if you are not eligible for temporary assistance for needy families for the following reasons:

(a) You are a qualified alien and have been in the United States for less than five years as described in WAC 388-424-0006;

(b) You are a alien who is permanently residing in the United States under color of law (PRUCOL) as defined in WAC 388-424-0001;

(c) You are a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005;

(d) You are a caretaker relative of a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005; or

(e) You are a pregnant woman who has been convicted of((:

(~~h~~)) ~~misrepresenting their residence in order to receive benefits from two or more states at the same time((; or~~

(~~ii~~) ~~A drug-related felony as described in WAC 388-442-0010).~~

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 04-18-002, filed 8/19/04, effective 9/19/04)

WAC 388-442-0010 How does being a fleeing felon ((or having a conviction for a drug-related felony)) impact my eligibility for benefits? (1) You are a fleeing felon if you are fleeing to avoid prosecution, custody, or confinement for a crime or an attempt to commit a crime that is considered a felony in the place from which you are fleeing.

(2) If you are a fleeing felon, or violating a condition of probation or parole as determined by an administrative body or court that has the authority to make this decision, you are not eligible for TANF/SFA, GA, or Basic Food benefits.

~~((3) You are a drug-related felon if you were convicted of a felony committed after August 21, 1996 that has an element of possession, use or distribution of a controlled substance as defined in Title 21 of the U.S. Code, Section 802(6). When we determine you are a drug-related felon:~~

~~(a) If you were convicted in the state of Washington, we use the Felony Offender Reporting System (FORS) to verify the date of your conviction and to determine if your conviction is for a drug-related felony.~~

~~(b) If you were convicted of a felony outside of Washington, we contact the jurisdiction where you were convicted to verify the date of your conviction and determine if the conviction is for a drug-related felony.~~

~~(c) We consider a felony conviction for attempt or conspiracy to possess, use or distribute a controlled substance as a conviction for a drug-related felony.~~

~~(4) If you are a drug-related felon, you are not eligible for TANF/SFA (cash) benefits unless you meet the conditions under subsection (5) of this section.~~

~~(5) If you are a drug-related felon, you may be eligible for TANF/SFA benefits if you meet all of the following conditions:~~

~~(a) You were convicted only of possession or use, but not distribution of a controlled substance;~~

~~(b) You were not convicted of a felony involving a controlled substance within the three-year period before your most recent conviction;~~

~~(c) You were assessed as chemically dependent by a program certified by the Division of Alcohol and Substance Abuse (DASA); and~~

~~(d) You are taking part in or have completed a DASA certified program's rehabilitation plan consisting of chemical dependency treatment and job services.~~

~~(6) If you are pregnant, but cannot get TANF/SFA because you were convicted of a drug-related felony, you can get SFA while you are pregnant if you meet all other TANF/SFA eligibility criteria under WAC 388-400-0005 or 388-400-0010.)~~

WSR 05-17-199

PROPOSED RULES

DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed August 24, 2005, 10:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-15-154.

Title of Rule and Other Identifying Information: Individual development accounts program.

Hearing Location(s): Community Services Conference Room, 2nd Floor, Department of Community, Trade and Economic Development, Davis-Williams Building, 906 Columbia Street, Olympia, WA 98504, on September 28, 2005, at 10:00 a.m. - noon.

Date of Intended Adoption: October 5, 2005.

Submit Written Comments to: Paul Knox, Community Services Division, Washington State Department of Community, Trade and Economic Development, P.O. Box 42525, Olympia, WA 98504-525 [98504-2525], e-mail paulk@cted.wa.gov, fax (360) 586-0489 by September 27, 2005.

Assistance for Persons with Disabilities: Contact Paul Knox by September 26, 2005, TTY (360) 725-4000.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these rules is to support implementation of the individual development accounts (IDA) program to create incentives and support for savings and purchases of major assets by low-income people in Washington state. These are new rules for a new program created by 2005 legislative statute.

Reasons Supporting Proposal: Necessary for program implementation.

Statutory Authority for Adoption: RCW 43.79A.040 and chapter 43.31 RCW.

Statute Being Implemented: SHB 1408.

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

Name of Proponent: Washington State Department of Community, Trade and Economic Development, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Knox, Davis-Williams Building, 906 Columbia, Olympia, WA, (360) 725-4140.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC has no impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. None required.

August 22, 2005

Juli Wilkerson

Chapter 365-205 WAC

INDIVIDUAL DEVELOPMENT ACCOUNTS

NEW SECTION

WAC 365-205-010 Purpose. The purpose of the individual development accounts (IDA) program is to create incentives and support for savings and purchases of major assets by low-income people in Washington state. IDAs will promote job training, home ownership, and business development among low-income individuals and provide assistance in meeting the financial goals of low-income individuals. Additionally, a special IDA program for foster youth is described below.

The changes made in state statute to create this program can be found in RCW 43.79A.040 and chapter 43.31 RCW.

NEW SECTION

WAC 365-205-020 What are individual development accounts (IDAs)? IDAs are matched savings accounts for low-income households that are designed to help them invest in assets, such as home ownership, small business, or post-secondary education. The state will match eligible savings at a rate of one dollar for every dollar deposited by an IDA accountholder into their account. Accountholders can earn up to four thousand dollars in state match.

NEW SECTION

WAC 365-205-030 What assets may be purchased with an IDA? An IDA may be used for:

- **Postsecondary education and training.** Education and training may be provided to the accountholder, their spouse, or a dependent child and must be provided through an educational institution or training provider approved by the Washington state education and training coordinating board. Nonapproved training providers may be granted a purchase waiver by CTED.

- **First-time home ownership.** The accountholder cannot have owned a home during the three-year period prior to enrollment into the IDA program.

Exceptions include:

- (1) Any individual who is a displaced homemaker or a single parent on the basis that the individual, while a homemaker and/or married, owned a home with his or her spouse or resided in a home owned by the spouse; and

- (2) An individual who owns or owned, as a principal residence during such three-year period, a dwelling unit whose structure is:
 - (a) Not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or
 - (b) Not in compliance with state, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

- **Small business capitalization.** Eligible uses include capital, land, plant, equipment and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed with a business counselor,

trainer and/or financial institution approved by the IDA service provider. The business plan must include a description of the services and/or goods to be sold, a marketing strategy and financial projections.

- **Computer.** The purchase of a computer must be determined by the IDA service provider to be necessary for work-related activities and/or postsecondary education or training.

- **Automobile or truck.** The purchase of a vehicle must be determined by the IDA service provider to be necessary for work-related activities and/or postsecondary education or training.

- **Home improvements.** Eligible improvements include repairs and other modifications to improve the health and safety, accessibility, or energy efficiency, of a home owned and occupied by the accountholder. The service provider may approve other improvements of a nonluxury nature.

- **Assistive technologies.** Eligible uses include the purchase or enhancement of technologies that will allow persons with disabilities to participate in work-related activities.

NEW SECTION

WAC 365-205-040 Who is eligible to become an IDA accountholder? Any individual whose household income at program entry is equal to or less than either:

- (1) Eighty percent of the area median income, adjusted for household size; or

- (2) Two hundred percent of federal poverty guidelines.

Local IDA service providers may choose to target incomes below these levels in their local IDA programs.

Additionally, the net worth of the individual's household as of the end of the previous calendar year may not exceed ten thousand dollars. Household net worth is defined as the total market value of all assets that are owned in whole or in part by any household member minus the total debts or obligations of household members, except that, for purposes of determining IDA eligibility, a household's assets shall not be considered to include the primary dwelling unit and one motor vehicle owned by a member of the household.

NEW SECTION

WAC 365-205-050 How is the IDA program operated? The Washington state department of community, trade and economic development (CTED) administers the IDA program through contracts with service providers for local service delivery. Service providers are responsible for local IDA program management and operations including:

- Accepting applications and determining eligibility for the program;

- Developing individual savings plans for each accountholder;

- Providing financial literacy and other types of training and/or counseling to prepare accountholders for their asset purchase;

- Providing basic support management for each accountholder and coordination with other resources and support services;

- Approving asset purchases and disbursing match to the person or organization from whom the asset is being purchased; and

- Ensuring compliance with program policies and procedures.

NEW SECTION

WAC 365-205-060 What are the accountholder's responsibilities? Accountholders must sign an individual savings plan that identifies their savings and asset goal, and open a savings account at a financial institution that is participating in the IDA program. Accountholders must make deposits to their savings account on a regular basis and must attend financial literacy classes, which will help them with managing their finances. Additional training or counseling may also be provided to accountholders that will help to prepare them for their specific asset, such as home ownership counseling or micro-enterprise training. An accountholder may terminate their agreement with their service provider at any time and withdraw their savings, thereby giving up access to all IDA matching funds.

NEW SECTION

WAC 365-205-070 Under what circumstances may an accountholder withdraw funds from their account?

Once an accountholder is ready to make an asset purchase, they must request approval of the purchase from their IDA service provider. Upon approval of the purchase, the service provider will issue payment directly to the person or entity from whom the asset is being purchased.

If an accountholder wishes to withdraw funds for some purpose other than an eligible asset purchase, they must request approval from their service provider. An accountholder may be allowed to withdraw all or part of their savings for the following emergencies:

- (1) Necessary medical expenses;

- (2) To avoid eviction of the individual from the individual's residence;

- (3) Necessary living expenses following loss of employment; or

- (4) Such other circumstances as the sponsoring organization determines merit emergency withdrawal.

The IDA accountholder making an emergency withdrawal from savings must reimburse the account for the amount withdrawn within twelve months of the date of withdrawal or the account will be closed. If an accountholder wishes to use their savings for an unapproved use, they must withdraw from the program and their account will be closed. Once an account is closed, any unused match associated with that account is forfeited.

NEW SECTION

WAC 365-205-080 Over what period of time must assets be purchased? Accountholders must complete all program requirements and purchase their asset within three years of entering the program.

NEW SECTION

WAC 365-205-090 What about the foster youth IDA program? A special IDA program for foster youth is established to serve:

(1) A person who is fifteen years of age or older who is a dependent of the department of social and health services (DSHS); or

(2) A person who is at least fifteen years of age, but not more than twenty-three years of age, who was a dependent of DSHS for at least twenty-four months after the age of thirteen.

Foster youth IDAs follow the same general rules for operation and responsibilities as the regular low-income IDA program above with the differences noted below.

The state will match eligible savings at a rate up to two dollars for every dollar deposited by a foster youth IDA accountholder into their account. Foster accountholders can earn up to three thousand dollars in state match.

A foster youth IDA may be used for:

- **Postsecondary education or job training.** Education and training may be provided to the accountholder, their spouse, or a dependent child and must be provided through an educational institution or training provider approved by the Washington state education and training coordinating board. Nonapproved training providers may be granted a purchase waiver by CTED.

- **Housing needs.** Housing needs include rent, security deposit, and utilities costs and other costs deemed acceptable by the service provider.

- **Computer.** The purchase of a computer must be determined by the IDA service provider to be necessary for post-secondary education or training.

- **Car.** The purchase of a vehicle must be determined by the IDA service provider to be necessary for work-related activities.

- **Health insurance premiums.** Account funds must be used for paying premiums only, not insurance co-pays.

A foster youth participating in the program must contribute to an individual development account and develop an individual savings plan. The contributions may be derived from earned income or other income, as agreed to by CTED and the service provider. Other income shall include financial incentives for educational achievement provided by entities contracted with DSHS for independent living services for foster youth.

CTED has the authority to grant exceptions to rules (as long as they still comply with the statute).

WSR 05-17-200
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed August 24, 2005, 11:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-071.

Title of Rule and Other Identifying Information: Commercial crab fishing rules.

Hearing Location(s): Natural Resource Building, 1111 Washington Street, Olympia, WA, on October 7-8, 2005, begins at 8:00 a.m., October 7, 2005.

Date of Intended Adoption: October 7, 2005.

Submit Written Comments to: Evan Jacoby, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501-1091, e-mail jacobesj@dfw.wa.gov, fax (360) 902-2155, by September 30, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by September 26, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Implementing coastal crab buoy tag program as per chapter 395, Laws of 2005. Consolidates and updates pot and buoy tag requirements for all crab fishing.

Reasons Supporting Proposal: Enforcement of crab pot limits.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.70.430.

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

Name of Proponent: Department of Fish and Wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, (360) 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Record-keeping, and Other Compliance Requirements of the Proposed Rule: Coastal crab fishers will be required to purchase annual crab pot buoy tags, and to affix the buoy tags to their crab pot lines. It will be unlawful to set gear without department-issued buoy tags.

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: The cost is \$70 per one hundred pots. Thus fishers with a three hundred pot limit will pay \$210, and fishers with a five hundred pot limit will pay \$350. This is an annual cost. If fishers lose gear, they will be able to replace up to forty-five or seventy-five pots, respectively, at no additional cost per tag. Fishers will be required to attach the tags to the buoy closest to the buoy line. The nylon line needed to attach the buoy tags should cost \$5 per one hundred tags. It is estimated this will take between two and three hours for all tags, and will need to be done annually.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? There is no loss of sales or revenue through use of buoy tags.

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;
- b. Cost per hour of labor; or
- c. Cost per one hundred dollars of sales.

The costs are identical for all fishers at \$70 per one hundred buoy tags, and \$5 for the nylon attachment cord. A coastal crab boat is typically crewed by the vessel operator and two people. Thus the cost per employee for a coastal crab vessel fishing three hundred pots is \$75 per person and for five hundred pots the cost per employee is \$125.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses or Reasonable Justification for Not Doing So: The department has determined the actual costs of the tags, and obtained the lowest cost tags. This has resulted in a reduced cost to Puget Sound crab fishers from \$100 per year to \$70 per year. Replacement tags for lost gear will continue to be issued at no cost.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: This rule is based on 2005 legislation (chapter 395, Laws of 2005). The affected fishers had opportunity to comment on the proposed legislation. This rule will be the subject of a fish and wildlife open public meeting.

8. A List of Industries That Will Be Required to Comply with the Rule: Coastal crab fishers.

A copy of the statement may be obtained by contacting Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, e-mail jacobesj@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These rule proposals do not affect hydraulics.

August 24, 2005

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 01-219, filed 9/28/01, effective 10/29/01)

WAC 220-52-040 Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. (1) **Net fishing boats shall not have crab aboard.** It is unlawful for any vessel geared or equipped with commercial net fishing gear to have aboard any quantity of crab while it is fishing with the net gear or when it has other food fish or shellfish aboard for commercial purposes.

(2) **Area must be open to commercial crabbing.** Unless otherwise provided, it is unlawful to set, maintain, or operate any baited or unbaited shellfish pots or ring nets for taking crabs for commercial purposes in any area or at any time when the location is not opened for taking crabs for commercial purposes by permanent rule or emergency rule of the department: Provided, That following the close of a commercial crab season, permission may be granted by the director or his or her designee on a case-by-case basis for crab fishers to recover shellfish pots that were irretrievable due to extreme weather conditions at the end of the lawful opening. Crab fishers must notify and apply to department enforce-

ment for such permission within twenty-four hours prior to the close of season.

(3) **Crabs must be male and 6-1/4 inches.** It is unlawful for any person acting for commercial purposes to take, possess, deliver, or otherwise control:

(a) Any female Dungeness crabs; or

(b) Any male Dungeness crabs measuring less than 6-1/4 inches, caliper measurement, across the back immediately in front of the tips.

(4) **Each person and each Puget Sound license limited to 100 pots.** It is unlawful for any person to take or fish for crab for commercial purposes in the Puget Sound licensing district using, operating, or controlling any more than an aggregate total of 100 shellfish pots or ring nets. This limit shall apply to each license. However, this shall not preclude a person holding two Puget Sound crab licenses from designating and using the licenses from one vessel as authorized by RCW 77.65.130.

(5) **Additional area gear limits.** The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits:

(a) 10 pots in Marine Fish-Shellfish Management and Catch Reporting Area 25E.

(b) 10 pots in all waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A south of a line projected true west from Travis Spit on Miller Peninsula.

(c) 20 pots in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of a line projected from the new Dungeness Light to the mouth of Cooper Creek and east of a line projected from the new Dungeness Light to the outermost end of the abandoned dock at the Three Crabs Restaurant on the southern shore of Dungeness Bay.

(d) 10 pots in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the 177 Rayonier Dock.

(6) **Groundline gear is unlawful.** No crab pot or ring net may be attached or connected to other crab pot or ring net by a common groundline or any other means that connects crab pots together.

(7) ~~((Puget Sound))~~ **Crab buoys and pots ((~~must be tagged~~)) tagging requirements.**

(a) ~~((In Puget Sound))~~ It is unlawful to place in the water, pull from the water, possess on the water, or transport on the water any crab buoy or crab pot without attached buoy and pot tags that meets the requirements of ~~((WAC 220-52-043))~~ this subsection.

(b) Coastal crab pot tags: Each shellfish pot used in the coastal Dungeness crab fishery must bear a tag that identifies either the name of the vessel being used to operate the pot or the Dungeness crab fishery license number of the owner of the pot, and the telephone number of a contact person.

(c) Puget Sound crab pot tags: In Puget Sound, all crab pots must have a durable, nonbiodegradable tag securely attached to the pot and permanently and legibly marked with the license owner's name or license number, and telephone

number. If the tag information is illegible, or if the tag is lost for any reason, the pot is not in compliance with law.

(d) Crab buoy tags: The department will issue ((one hundred)) crab pot buoy tags to the owner of each ((Puget Sound)) commercial crab fishery license upon payment of an annual buoy tag fee of ((one hundred dollars)) seventy cents per ((license)) crab pot buoy tag. Prior to setting gear, each Puget Sound crab license holder must purchase 100 tags, and each coastal crab fisher must purchase 300 or 500 tags, depending on the crab pot limit assigned to the license. Only department-issued crab buoy tags may be used, and each crab pot is required to have a buoy tag. Replacement buoy tags will be issued at no cost.

(e) Puget Sound replacement crab buoy tags: Additional tags to replace lost tags will only be issued to owners of Puget Sound commercial crab fishery licenses who obtain, complete, and sign a declaration under penalty of perjury in the presence of an authorized department employee. The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.

(f) Coastal replacement crab buoy tags: Coastal crab license holders with a 300 pot limit will be able to replace up to fifteen lost tags by January 15th, up to a total of thirty lost tags by February 15th, and up to a total of forty-five lost tags after March 15th of each season. Coastal crab license holders with a 500 pot limit will be able to replace up to twenty-five lost tags by January 15th, up to a total of fifty lost tags by February 15th, and up to a total of seventy-five lost tags after March 15th of each season. In the case of extraordinary loss of crab pot gear, the department may, on a case-by-case basis, issue replacement tags in excess of the amount set out in this subsection. Replacement buoy tags for the coastal crab fishery will only be issued after a signed affidavit is received by the department.

(8) ((Puget Sound—))No person can possess or use gear with other person's crab pot tag or crab buoy tag. ((In Puget Sound)) No person may possess, use, control, or operate any crab pot not bearing a tag identifying the pot as that person's, or any buoy not bearing tags issued by the department to that person, except that an alternate operator designated on a primary license may possess and operate crab buoys and crab pots bearing the tags of the license holder.

(9) Cannot tamper with pot tags. No person shall remove, damage, or otherwise tamper with crab buoy or pot tags except when lawfully applying or removing tags on the person's own buoys and pots.

(10) Thirty-day period when it is unlawful to buy or land crab from ocean without crab vessel inspection. It is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, Washington coastal or adjacent waters of the Pacific Ocean during the first thirty days following the opening of a coastal crab season from any vessel which has not been issued a Washington crab vessel inspection certificate. The certificate will be issued to vessels made available for inspection in a Washington coastal port and properly licensed for commercial crab fishing if no Dungeness crabs are aboard. Inspections will be performed by authorized department personnel not earlier than twelve

hours prior to the opening of the coastal crab season and during the following thirty-day period.

(11) Grays Harbor pot limit of 200. It is unlawful for any person to take or fish for crab for commercial purposes in Grays Harbor (catch area 60B) with more than 200 shellfish pots in the aggregate. It shall be unlawful for any group of persons using the same vessel to take or fish for crab for commercial purposes in Grays Harbor with more than 200 shellfish pots.

(12) Coastal crab pot limit.

(a) It is unlawful for a person to take or fish for Dungeness crab for commercial purposes in Grays Harbor, Willapa Bay, the Columbia River, or waters of the Pacific Ocean adjacent to the state of Washington unless a shellfish pot limit has been assigned to the Dungeness crab-coastal fishery license held by the person, or to the equivalent Oregon or California Dungeness crab fishery license held by the person.

(b) It is unlawful for a person to deploy or fish more shellfish pots than the number of shellfish pots assigned to the license held by that person, and it is unlawful to use any vessel other than the vessel designated on a license to operate or possess shellfish pots assigned to that license.

(c) It is unlawful for a person to take or fish for Dungeness crab or to deploy shellfish pots unless the person is in possession of valid documentation issued by the department that specifies the shellfish pot limit assigned to the license.

(13) Determination of coastal crab pot limits.

(a) The number of shellfish pots assigned to a Washington Dungeness crab-coastal fishery license, or to an equivalent Oregon or California Dungeness crab fishery license will be based on documented landings of Dungeness crab taken from waters of the Pacific Ocean south of the United States/Canada border and west of the Bonilla-Tatoosh line, and from coastal estuaries in the states of Washington, Oregon and California. Documented landings may be evidenced only by valid Washington state shellfish receiving tickets, or equivalent valid documents from the states of Oregon and California, that show Dungeness crab were taken between December 1, 1996, and September 16, 1999. Such documents must have been received by the respective states no later than October 15, 1999.

(b) The following criteria shall be used to determine and assign a shellfish pot limit to a Dungeness crab-coastal fishery license, or to an equivalent Oregon or California Dungeness crab fishery license:

(i) The three "qualifying coastal Dungeness crab seasons" are from December 1, 1996, through September 15, 1997, from December 1, 1997, through September 15, 1998, and from December 1, 1998, through September 15, 1999. Of the three qualifying seasons, the one with the most poundage of Dungeness crab landed on a license shall determine the crab pot limit for that license. A crab pot limit of 300 shall be assigned to a license with landings that total from zero to 35,999 pounds and a crab pot limit of 500 shall be assigned to a license with landings that total 36,000 pounds or more.

(ii) Landings of Dungeness crab made in the states of Oregon or California on valid Dungeness crab fisheries licenses during a qualifying season may be used for purposes of assigning a shellfish pot limit to a Dungeness crab fishery license, provided that documentation of the landings is pro-

vided to the department by the Oregon Department of Fish and Wildlife and/or the California Department of Fish and Game. Landings of Dungeness crab made in Washington, Oregon, and California on valid Dungeness crab fishery licenses during a qualifying season may be combined for purposes of assigning a shellfish pot limit, provided that the same vessel was named on the licenses, and the same person held the licenses. A shellfish pot limit assigned as a result of combined landings is invalidated by any subsequent split in ownership of the licenses. No vessel named on a Dungeness crab fishery license shall be assigned more than one shellfish pot limit.

(14) **Appeals of coastal crab pot limits.** An appeal of a shellfish pot limit by a coastal commercial license holder shall be filed with the department on or before October 18, 2001. The shellfish pot limit assigned to a license by the department shall remain in effect until such time as the appeal process is concluded.

(15) **Coastal - Barging of crab pots by undesignated vessels.** It is lawful for a vessel not designated on a Dungeness crab-coastal fishery license to be used to deploy shellfish pot gear provided that:

(a) Such a vessel may not carry aboard more than 150 shellfish pots at any one time.

(b) Such a vessel may deploy shellfish pot gear only during the 64-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date.

(c) The lawful owner of the shellfish pot gear must be aboard the vessel when the gear is being deployed.

~~(16) ((Coastal shellfish pot tags. It is unlawful for a person to use a shellfish pot in the coastal Dungeness crab fishery unless the pot bears a tag that identifies either the name of the vessel being used to operate the pot or the Dungeness crab fishery license number of the owner of the pot, and the telephone number of a contact person. No person may operate or possess a pot that bears another person's tag, except that a person who is licensed as an alternate operator may operate or possess a pot that bears the tag of the primary license holder. It is unlawful for any person who is not the owner of Dungeness crab pot gear to remove, damage, or otherwise tamper with pot gear tags.~~

~~(17))~~ **Coastal crab buoys - Registration and use of buoy brands and colors.**

(a) It is unlawful for any coastal Dungeness crab fishery license holder to fish for crab unless the license holder has registered the buoy brand and buoy color(s) to be used with the license. A license holder shall be allowed to register with the department only one, unique buoy brand and one buoy color scheme per license. Persons holding more than one license state shall register buoy color(s) for each license that are distinctly different. The buoy color(s) shall be shown in a color photograph.

(b) It is unlawful for a coastal Dungeness crab fishery license holder to fish for crab using any other buoy brand or color(s) than those registered with and assigned to the license by the department.

AMENDATORY SECTION (Amending Order 01-180, filed 8/22/01, effective 9/22/01)

WAC 220-52-043 Commercial crab fishery—Additional gear and license use requirements. (1) **Commercial gear limited to pots and ring nets.** It shall be unlawful to take or fish for crabs for commercial purposes except with shellfish pots and ring nets.

(2) **Commercial gear escape rings and ports defined.** It shall be unlawful to use or operate any shellfish pot gear in the commercial Dungeness crab fishery unless such gear meets the following requirements:

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

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

(3) ~~((Puget Sound))~~ **Commercial crab gear ((tagging)) buoy tag requirements.**

(a) In ~~((Puget Sound, all))~~ coastal waters, each crab pot((s)) must have ~~((a durable, nonbiodegradable tag permanently and legibly marked with the license owner's name or license number, and telephone number))~~ the department-issued buoy tag securely attached to the ~~((pot. If the tag information is illegible, or if the tag is lost for any reason, the pot is not in compliance with law))~~ first buoy on the crab pot buoy line (the buoy closest to the crab pot), and the buoy tag must be attached to the end of that buoy, at the end away from the crab pot buoy line.

(b) In Puget Sound, all crab buoys must have ~~((a))~~ the buoy tag issued to the license owner by the department attached to the outermost end of the buoy line.

(c) If more than one buoy is attached to a pot, only one buoy tag is required.

(4) **Puget Sound - Description of lawful buoys.** All buoys attached to commercial crab gear in Puget Sound waters must consist of a durable material and remain floating on the water's surface when five pounds of weight is attached. It is unlawful to use bleach or antifreeze bottles or any other container as a float. All buoys fished under a single license must be marked in a uniform manner using one buoy brand number registered by the license holder with the department and be of identical color or color combinations. No buoys attached to commercial crab gear in Puget Sound may be both red and white in color unless a minimum of thirty percent of the surface of each buoy is also prominently marked with an additional color or colors other than red or white, as the red and white colors are reserved for personal use crab gear as described in WAC 220-56-320 (1)(c).

(5) **Commercial crab license requirements.** In addition to, and separate from, all requirements in this chapter that govern the time, area, gear, and method for crab fishing, landing, possession, or delivery of crabs, no commercial crab fishing is allowed except when properly licensed. A person may take, fish for, land, or deliver crabs for commercial purposes in Washington or coastal waters only when the person has the license required by statute, or when the person is a properly designated alternative operator to a valid license. For Puget Sound, a person must have a "Dungeness crab - Puget Sound" fishery license provided by RCW 77.65.130. For coastal waters, such person must have a "Dungeness crab - Coastal" fishery license provided by RCW 77.65.130. To

use ring nets instead of or in addition to pots, then the licensee must also have the "Crab ring net - Puget Sound" or "Crab ring net - non-Puget Sound" license in RCW 77.65.-130. Qualifications for the limited entry licenses, requirements for designating vessels, and use of alternate operators is provided by and controlled by chapters 77.65 and 77.70 RCW.

(6) **Maximum size for coastal crab pots.** The maximum volume of a crab pot used to fish for or take Dungeness crab from the waters provided for in WAC 220-52-040(12) is thirteen cubic feet.

(7) **Incidental catch may not be retained.** It is unlawful to retain salmon, food fish, or any shellfish other than octopus that is taken incidental to any crab fishing.

WSR 05-17-206
PROPOSED RULES
DEPARTMENT OF AGRICULTURE

[Filed August 24, 2005, 11:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-13-167.

Title of Rule and Other Identifying Information: This proposal amends WAC 16-752-505 Wetland and aquatic weed quarantine—Regulated articles, by adding *Glyceria maxima* to the list of aquatic plants prohibited from sale in Washington state.

Hearing Location(s): Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, 2nd Floor, Conference Room 205, Olympia, WA 98504-2560, on September 27, 2005, at 10:00 a.m.

Date of Intended Adoption: October 11, 2005.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by September 27, 2005.

Assistance for Persons with Disabilities: Contact Henri Gonzales by September 20, 2005, TTY (360) 902-2061.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adds *Glyceria maxima* to the current wetland and aquatic weed quarantine (WAC 16-752-505). The purpose of enacting this and other quarantines is to prevent the establishment and spread of harmful nonnative species. Once established, they can have a serious impact on Washington's natural resources by displacing native species, altering habitat, reducing recreational use of waterways, and impacting agricultural production.

Reasons Supporting Proposal: The intrusion into this state of nonnative, invasive weed species continues to be a concern. The spread of these weeds presents a risk to the economic well being of the agricultural, forest, horticultural, and floricultural industries, and the environmental quality and natural resources of the state. Initiating quarantines forbidding entry or distribution of weed species may be critical for their exclusion or control. The Washington Noxious Weed Control Board, as authorized by chapter 17.10 RCW, supports this proposal. The Nursery Advisory Committee,

which is appointed by the director of the Department of Agriculture to represent the interests of the nursery industry, also supports the proposal.

Statutory Authority for Adoption: Chapters 17.24 and 34.05 RCW.

Statute Being Implemented: Chapter 17.24 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Mary Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; **Implementation and Enforcement:** Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic impact of the proposed rule amendment and has concluded that it will not have a more than minor cost on the regulated industry and, therefore, an SBEIS is not required. If the department does not adopt the proposed amendments, there could be a very large adverse economic impact on Washington state industry, government and citizens as well as serious damage to the environment.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

August 24, 2005

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 04-19-004, filed 9/2/04, effective 10/3/04)

WAC 16-752-505 Wetland and aquatic weed quarantine—Regulated articles. All plants and plant parts of the following are regulated articles under this chapter:

Scientific Name	Common Name
<i>Butomus umbelatus</i>	flowering rush
<i>Cabomba caroliniana</i>	fanwort
<i>Crassula helmsii</i>	Australian swamp stonecrop
<i>Egeria densa</i>	Brazilian elodea
<i>Epilobium hirsutum</i>	hairy willow herb
<i>Glossostigma diandrum</i>	mud mat
<i>Glyceria maxima</i>	<u>reed sweetgrass, tall manna grass</u>
<i>Hydrilla verticillata</i>	hydrilla
<i>Hydrocharis morsus-ranae</i>	European frog-bit
<i>Lagarosiphon major</i>	African elodea
<i>Ludwigia hexapetala</i>	water primrose
<i>Lysimachia vulgaris</i>	garden loosestrife

<i>Murdannia keisak</i>	marsh dew flower, Asian spiderwort
<i>Myriophyllum aquaticum</i>	parrotfeather
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Najas minor</i>	slender-leaved naiad, brittle naiad
<i>Nymphoides peltata</i>	yellow floating heart
<i>Sagittaria graminea</i>	grass-leaved arrowhead
<i>Sagittaria platyphylla</i>	delta arrowhead
<i>Spartina alterniflora</i>	smooth cordgrass
<i>Spartina anglica</i>	common cordgrass
<i>Spartina densiflora</i>	dense-flowered cordgrass
<i>Spartina patens</i>	salt meadow cordgrass
<i>Trapa natans</i>	water chestnut, bull nut
<i>Trapa bicornus</i>	water caltrap, devil's pod, bat nut
<i>Utricularia inflata</i>	swollen bladderwort



WSR 05-17-141**EXPEDITED RULES****DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Management Services Administration)

[Filed August 19, 2005, 4:16 p.m.]

Title of Rule and Other Identifying Information:
Amending WAC 388-02-0025 Where is the Office of
Administrative Hearings located?

NOTICE

THIS RULE IS BEING PROPOSED UNDER 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 USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Department of Social and Health Services, mail to P.O. Box 45850, Olympia, WA 98504-5850, or deliver to Blake Office Park East, 4500 10th Avenue S.E., Lacey, WA 98503, e-mail fernaax@dshts.wa.gov, fax (360) 664-6185, AND RECEIVED BY 5:00 p.m., October 24, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 388-02-0025(2) to update the headquarters, Spokane and Vancouver, Washington, addresses for the Office of Administrative Hearings.

Changing address information without changing the effect of the rule is appropriate for expedited rule making under RCW 34.05.353 (1)(c).

Reasons Supporting Proposal: Updating the rule will help clients locate the Office of Administrative Hearings offices and help clients submit timely requests for fair hearings.

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V.

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

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

Name of Agency Personnel Responsible for Drafting: Andy Fernando, DSHS Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, (360) 664-6094; **Implementation and Enforcement:** Office of Administrative Hearings, P.O. Box 42489, Olympia, WA 98504-2489, (360) 725-2531.

August 15, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-21-061, filed 10/15/02, effective 11/15/02)

WAC 388-02-0025 Where is the office of administrative hearings located? (1)(a) The office of administrative hearings (OAH) headquarters location is:

Office of Administrative Hearings
(~~919 Lakeridge Way SW~~)
2420 Bristol Court SW, 1st Floor
P.O. Box 42488
Olympia WA 98504-2488
(360) 664-8717
(360) 664-8721 (fax)

(b) The headquarters office is open from 8:00 am to 5:00 p.m. Mondays through Friday, except legal holidays.

(2) OAH field offices are at the following locations:

Olympia
Office of Administrative Hearings
2420 Bristol Court SW, 3rd Floor
PO Box 42489
Olympia, WA 98504-2489
(360) 753-2531
1-800-583-8271
fax: (360) 586-6563

Seattle
Office of Administrative Hearings
1904 3rd Ave., Suite 722
Seattle, WA 98101-1100
(206) 464-6322
1-800-583-8270
fax: (206) 587-5136

Everett
Office of Administrative Hearings
2722 Colby, Suite 610
Everett, WA 98201-3571
(425) 339-1921
1-800-583-8261
fax: (425) 339-3907

Vancouver
Office of Administrative Hearings
(~~800 Franklin Street, 1st Floor~~)
5300 MacArthur Blvd, Suite 100
Vancouver, WA (~~98660~~) 98661
(360) 690-7189
1-800-243-3451
fax: (360) 696-6255

Spokane
Office of Administrative Hearings
Old City Hall Building, 5th Floor
221 N. Wall Street, Suite 540
Spokane, WA 99201(~~0826~~)
(509) 456-3975
1-800-366-0955
fax: (509) 456-~~(3975)~~3997

Yakima
Office of Administrative Hearings
32 N 3rd Street, Suite 320
Yakima, WA 98901-2730

EXPEDITED

(509) 575-2147
 1-800-843-3491
 fax (509) 454-7281

Peri Maxey, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

August 18, 2005
 Alan R. Lynn
 Rules Coordinator

(3) You should contact the Olympia field office, under(;) subsection (2), if you do not know the correct field office.

(4) You can obtain further hearing information at the OAH web site: www.oah.wa.gov

AMENDATORY SECTION (Amending WSR 04-24-101, filed 12/1/04, effective 1/1/05)

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Year tax paid	Auction Year	Rate
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
<u>2006</u>	<u>2005</u>	<u>3.33%</u>

EXPEDITED

WSR 05-17-150
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed August 22, 2005, 1:42 p.m.]

Title of Rule and Other Identifying Information: Amending section WAC 458-18-220 Refunds—Rate of interest.

NOTICE

THIS RULE IS BEING PROPOSED UNDER 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 USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kim M. Qually, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-5543, e-mail kimq@dor.wa.gov, AND RECEIVED BY October 24, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to provide the rate of interest that will be included when property taxes paid in 2006 are refunded to taxpayers.

The rates of interest reflected in this rule are used when property taxes are refunded. The rates of interest are shown in chronological order with reference to the year the property taxes were paid. The rule is being amended to provide the rate of interest for treasury bill auction year 2005, which is used as a basis for refunding taxes paid in 2006. This rule is updated annually.

Reasons Supporting Proposal: RCW 84.69.100 requires interest to be paid when property taxes are refunded. It also requires the department to annually adopt a rule that specifies the amount of interest to be collected for each year property taxes were paid.

Statutory Authority for Adoption: RCW 84.69.100.

Statute Being Implemented: RCW 84.69.100.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Kim M. Qually, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6113; **Implementation and Enforcement:**

WSR 05-16-006
PERMANENT RULES
NORTHWEST
CLEAN AIR AGENCY

[Filed July 21, 2005, 1:36 p.m., effective August 21, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The regulation amendments will allow the NWCAA to clarify various sections of our rules. (See Summary below).

Citation of Existing Rules Affected by this Order:
Amendatory Sections

SECTION 100 - NAME OF AGENCY, revise to facilitate agency name change.

SECTION 102 - POLICY, delete option for alternative compliance methods to eliminate Control Officer discretion.

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES, update to incorporate new or revised state and federal regulations.

SECTION 131 - VIOLATION - NOTICES, clarify enforcement procedures and authority.

SECTION 133 - CIVIL PENALTY, clarify enforcement procedures and increase maximum civil penalty amount to account for inflation.

SECTION 200 - DEFINITIONS, revise to provide regulatory clarification.

SECTION 300 - NEW SOURCE REVIEW, minor revisions to provide consistency with the state new source review (NSR) program found in WAC 173-400-110. Add a subsection requiring sources to comply with their order of approval to construct (OAC).

SECTION 301 - TEMPORARY SOURCES, limit the regulation of nonroad engines to those that operate in a stationary manner.

SECTION 320 - REGISTRATION PROGRAM, minor clarifications.

SECTION 324 - FEES, clarify fee categories and update fee schedules through calendar year 2007.

SECTION 325 - TRANSFER OR PERMANENT SHUTDOWN, rename section and add notification and lockout requirements for sources that are permanently shutdown.

SECTION 340 - REPORT OF UPSET AND BREAKDOWN, revise reporting requirements for breakdown and upset events that exceed emissions limits.

SECTION 341 - REPORT OF SHUTDOWN OR STARTUP, minor clarifications, reduce the time required for the advanced notification, and add reporting requirement for shutdowns or startups that exceed emission limits.

SECTION 342 - OPERATION AND MAINTENANCE, minor clarifications.

SECTION 424 - OZONE STANDARD, revise to reflect the new federal 0.08 ppm, 8-hour, ambient ozone standard.

SECTION 460 - WEIGHT/HEAT RATE STANDARD - EMISSION OF SULFUR COMPOUNDS, provides clarifications and eliminates an unnecessary exemption.

SECTION 502 - OUTDOOR BURNING, add definitions and add a provision to deny the fire permits to a party if there is an outstanding penalty due for a Section 502 violation.

SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE, minor clarifications and revise the control standard from best available control technology

(BACT) to reasonable available control technology (RACT) because RACT is applicable only to existing sources per the Washington State Clean Air Act.

SECTION 570 - ASBESTOS CONTROL STANDARDS, revise criteria for asbestos removal notification, remove optional notification amendments and adjust notification fee schedule.

SECTION 590 - PERCHLOROETHYLENE DRY CLEANERS, add requirement to keep records on-site and available for inspection.

New Sections

SECTION 305 - PUBLIC INVOLVEMENT, this new section provides a process for public involvement when handling notice of construction (NOC) application, orders of approval to construct (OAC) revisions and other similar agency actions. This section is being added as an alternative to the state public involvement procedures of WAC 173-400-171.

SECTION 367 - GENERAL REQUIREMENTS FOR MONITORING AND TESTING, this new section along with Appendix A is a rewrite of the requirements for operating ambient and continuous emission monitors (CEMs) and the requirements for emission stack testing. Section 367 and Appendix A replaces Sections 360, 365, 366 and the NWCAA "Guidelines for Industrial Monitoring Equipment and Data Handling" that previously applied to these activities.

SECTION 403 - PARTICULATE STANDARDS (PM-2.5), add new federal ambient standard for fine particulate matter.

SECTION 506 - SOLID BURNING DEVICE STANDARDS, repeal existing Section 480 and rewrite under Section 506. Revisions include minor clarifications, new requirements for the installation of solid fuel heating devices, and clarifies under which conditions a resident can exercise an exemption during burn bans.

Repealers

SECTION 130 - CITATIONS - NOTICES, delete as this section is not necessary for enforcement.

SECTION 312 - ENVIRONMENTAL POLICY GUIDELINES, this old and outdated version of State Environmental Policy Act (SEPA) rules is being deleted. The agency will address the SEPA processing for applicable action items by incorporating chapter 197-11 WAC, SEPA rules, by reference in Section 104.

SECTION 360 - TESTING AND SAMPLING, these requirements are now contained in new Section 367 and Appendix A.

SECTION 365 - MONITORING, these requirements are now contained in new Section 367 and Appendix A.

SECTION 366 - INSTRUMENT CALIBRATION, these requirements are now contained in new Section 367 and Appendix A.

SECTION 480 - SOLID FUEL BURNING DEVICE STANDARDS, this section is being replaced by Section 506.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 05-10-098 on May 4, 2005.

A final cost-benefit analysis is available by contacting Northwest Clean Air Agency, 1600 South Second Street, Mount Vernon, WA 98273, phone (360) 428-1617, fax (360) 428-1620, e-mail jamie@nwcleanair.org.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

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Rules or Standards: New 1, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 5, Amended 20, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 5, Amended 20, 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.

Date Adopted: July 14, 2005.

James B. Randles
Control Officer

AMENDATORY SECTION

SECTION 100 - NAME OF AGENCY ((AUTHORITY))

100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties, having been formed pursuant to the Washington State Clean Air Act RCW 70.94, shall be known and cited as the "Northwest ((Air Pollution Authority)) Clean Air Agency", and hereinafter may be cited as (("NWAPA")) the "NWCAA" or the "Authority".

100.2 Any reference to the Northwest Air Pollution Authority, the Authority or the NWAPA in any document previously issued by the agency, including without limitation orders, permits, judgments, letters and the like shall be deemed reference to the Northwest Clean Air Agency or the NWCAA.

Amended: July 14, 2005

AMENDATORY SECTION

SECTION 102 - POLICY

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((102.7 Where the safety of individuals may be compromised by carrying out the requirements of the Authority, alternative methods of meeting emission standards or other requirements of this Regulation may be approved by the Control Officer.))

Passed: January 8, 1969 Amended: February 14, 1973, August 9, 1978, February 10, 1993, May 11, 1995, July 14, 2005

AMENDATORY SECTION

SECTION 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law as it now exists or may be hereafter amended, which is pertinent to the operation of the NWCAA ((Authority)), is hereby adopted by reference and made part of the Regulation of the NWCAA ((Authority)). Specifically, there is adopted by reference the Wash-

ington State Clean Air Act (RCW 70.94), the Administrative Procedure Act (RCW 34.05) and RCW 43.21A and 43.21B and the following state rules: WAC 173-400, (except -035, -070(8), -099, -100, -101, -102, -104, -110, -114, -116, -171), WAC 173-401, WAC 173-406, WAC 173-407, WAC 173-420, WAC 173-421, WAC 173-422, WAC 173-425, WAC 173-430, WAC 173-433, WAC 173-434, WAC 173-435, WAC 173-450, WAC 173-460, WAC 173-470, WAC 173-474, WAC 173-475, WAC 173-480, WAC 173-481, WAC 173-490, WAC 173-491, WAC 173-492, WAC 173-495, ((and)) WAC 173-802, and WAC 197-11.

104.2 All provisions of the following federal rules that are in effect as of July 1, ((2003)) 2005 are hereby adopted by reference and made part of the Regulation of the NWCAA ((Authority)): 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, B, C, Cb, Cc, Cd, Ce, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, K, Ka, Kb, L, M, N, Na, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AAA((a)), BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, AAA, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, BBBB, CCCC, DDDD; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, B, C, D, E, F, H, J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, J, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, GGGGG, HHHHH, IIIII, JJJJJ, KKKKK, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT; and 40 CFR 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

Amended: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

SECTION 130 - CITATIONS - NOTICES

AMENDATORY SECTION

SECTION 131 - VIOLATION - NOTICES

131.1 If the Board or Control Officer has reason to believe that a violation of this Regulation has occurred or is occurring, the Board, ((or)) Control Officer, or duly authorized representative may ((with or without notice as speci-

PERMANENT

~~filed in Section 130,))~~ cause written notice of violation to be served upon the alleged violator and the facts alleged to constitute a violation thereof. Written notice shall be served at least thirty days prior to the commencement of the imposition of a penalty ~~((any formal enforcement action))~~ under RCW 70.94.430 and 70.94.431.

131.2 The Board, ~~((or))~~ Control Officer, or duly authorized representative upon issuance of notice of violation may do any or all of the following:

131.21 Require that the alleged violator respond in writing or in person within thirty (30) ~~((ten (10) business))~~ days of the notice and specify the corrective action being taken.

131.22 Issue an order pursuant to Section 121 of this Regulation.

131.23 Initiate action pursuant to Sections 132, 133, 134 and 135 of this Regulation.

131.24 Hold a hearing pursuant to Section 120 of this Regulation.

131.25 Require the alleged violator or violators appear before the Board.

131.26 Avail itself of any other remedy provided by law.

131.3 Failure to respond as required in Section 131.21 shall constitute a prima facie violation of this Regulation and the Board or Control Officer may initiate action pursuant to Section 132, 133, 134, 135 of this Regulation.

131.4 Any suspended civil penalty, issued under Section 133 of this Regulation, which is issued as part of a violation shall be applicable in future penalties against the same person for not more than five years from the date of the same suspension. After five years the suspended portion of the Penalty shall be considered void and of no force or effect, appeals notwithstanding.

Amended: April 14, 1993, March 13, 1997, July 14, 2005

AMENDATORY SECTION

SECTION 133 - CIVIL PENALTY

133.1 In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW, Chapter 70.120 RCW, any of the rules in force under such chapters, including the Regulation of the Northwest Clean Air Agency shall be liable for a civil penalty in an amount of not more than fourteen thousand five hundred dollars ~~(((\$14,000)))~~ (\$14,500) per day per violation. Each violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order shall be liable for a civil penalty of not more than fourteen thousand five hundred dollars ~~(((\$14,000)))~~ (\$14,500) for each day of continued noncompliance.

133.2 Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this Section and subject to the same penalty. The penalty shall become due and payable when the person incurring the same receives a notice in writing from the Control Officer of the NWCAA ~~((Authority))~~ describing the violation with reasonable particularity and advising such person that the penalty is due unless a request

is made for a hearing to the Pollution Control Hearings Board (PCHB). Within ~~((fifteen days))~~ thirty days after the notice is received, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Upon receipt of the application the Control Officer shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstance such as the presence of information or factors not considered in setting the original penalty. If the amount of such penalty is not paid to the NWCAA ~~((Authority))~~ within thirty (30) days after receipt of notice imposing the same and request for a hearing has not been made, the attorney for the NWCAA ~~((Authority))~~, upon the request of the Control Officer, shall bring an action to recover such penalty in the Superior Court of Skagit County or of the County in which the violation occurred. All penalties recovered under this Section by the Board shall be paid unto the treasury of the NWCAA ~~((Authority))~~ and credited to its funds.

To secure the penalty incurred under this Section, the NWCAA ~~((Authority))~~ shall have a lien on any vessel used or operated in violation of this act which shall be enforced as provided in RCW 60.36.050.

133.3 Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

The maximum penalty amounts established in this Section may be increased annually to account for inflation as determined by the state office of the Economic and Revenue Forecast Council.

In addition to other penalties provided, persons knowingly under reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments, may be subject to a penalty equal to three times the amount of the original fee owed.

AMENDED: November 14, 1984, April 14, 1993, September 8, 1993, October 13, 1994, February 8, 1996, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005

REPEALER

SECTION 180 - SAMPLING AND ANALYTICAL METHODS - REFERENCES

AMENDATORY SECTION

SECTION 200 - DEFINITIONS

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~~((AUTHORITY Northwest Clean Air Agency (NWCAA). With regard to new source review, Authority shall include any other designated permitting agency.))~~

HEAT INPUT ((HEAT)) CAPACITY - Is the maximum actual or design heat capacity, whichever is greater, stated in British thermal units per hour (BTU/hr) generated by the stationary source and shall be expressed using the higher heating value of the fuel unless otherwise specified.

NEW SOURCE - means one or more of the following:

a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such stationary source or that results in the emission of any air contaminant not previously emitted, ~~((and))~~

b) the restart of a stationary source after permanent shutdown

~~((b))~~ c) any other project that constitutes a new stationary source under the Federal Clean Air Act.

PERMANENT SHUTDOWN - Permanently stopping or terminating all processes at a "stationary source" or "emissions unit." Except as provided in subsections a) and b), whether a shutdown is permanent depends on the intention of the owner or operator at the time of the shutdown as determined from all facts and circumstances, including the cause of the shutdown.

a) A shutdown is permanent if the owner or operator files a report of shutdown, as provided in NWCAA Regulation Sections 325. Failure to file such a report does not mean that a shutdown was not permanent.

b) Any shutdown lasting two (2) or more years is considered to be permanent.

~~((SIGNIFICANT - a) "Significant," as it applies to stationary sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112. b) "Significant" as it applies to stationary sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.))~~

AMENDED: October 13, 1982, November 14, 1984, April 14, 1993, October 13, 1994, February 8, 1996, May 9, 1996, March 13, 1997, November 12, 1998, June 14, 2001, July 10, 2003, July 14, 2005

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.1 A Notice of Construction and/or PSD permit application must be filed by the owner or operator and an Order of Approval and/or PSD permit issued by the ~~((Authority))~~ NWCAA, or other designated permitting agency, prior to the establishment of any new source, except for:

a) Those stationary sources exempt under NWCAA 300.4 (categorical) ~~((and))~~ or NWCAA 300.5 (emission thresholds); and

b) Relocation of any temporary source operating in accordance with NWCAA Section 301.

For purposes of this Section "establishment" shall mean to "begin actual construction", as that term is defined in NWCAA Section 200, and "new source" shall include any "modification" to an existing "stationary source", as those terms are defined in NWCAA Section 200.

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300.9 Notice of Construction - Final Determination

a) Within sixty (60) days of receipt of a complete Notice of Construction or PSD permit application, the NWCAA

~~((Authority))~~ shall either issue a final decision on the application or initiate public notice under NWCAA Section 305 ((WAC 173-400-171)) on a proposed decision, followed as promptly as possible by a final decision.

b) A person seeking approval to construct or modify a stationary source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction or PSD permit application required by this section. A Notice of Construction or PSD permit application designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. A PSD permit application under WAC 173-400-141, a notice of nonattainment area construction application for a major modification in a nonattainment area, or a Notice of Construction application for a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

c) Every final determination on a Notice of Construction or PSD permit application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the NWCAA ((Authority)).

d) If the new source is a major stationary source or the change is a major modification, the application shall be processed in accordance with the applicable sections of WAC 173-400-112, 113, 117 and 171. The permitting agency shall:

1) Submit any control technology determination included in a final Order of Approval or PSD permit to the RACT/BACT/LAER clearinghouse maintained by EPA; and

2) Send a copy of the final Order of Approval or PSD permit to EPA.

300.10 Order of Approval - Appeals

An Order of Approval or PSD permit, any conditions contained in an Order of Approval or PSD permit, or the denial of a Notice of Construction or PSD permit application may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. The NWCAA ((Authority)) shall promptly mail copies of each order approving or denying a Notice of Construction or PSD permit application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

300.11 Order of Approval - Time Limitations.

An Order of Approval or PSD permit becomes invalid if construction is not commenced within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA ((Authority)) may extend the eighteen-month period upon a satisfactory showing that an extension is justified. An extension for a project operating under a PSD permit must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence construction within eighteen months of the projected and approved commencement date.

300.12 Order of Approval - Change of Conditions.

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a) The owner or operator may request, at any time, a change in conditions of an Order of Approval or PSD permit and the NWCAA ((Authority)) may approve the request provided the NWCAA ((Authority)) finds that:

- 1) The change in conditions will not cause the stationary source to exceed an emissions standard;
- 2) No ambient air quality standard or PSD increment will be exceeded as a result of the change;
- 3) The change will not adversely impact the ability of Ecology or the NWCAA ((Authority)) to determine compliance with an emissions standard;
- 4) The revised order will continue to require BACT, as defined at the time of the original approval, for each new source approved by the order except where the Federal Clean Air Act requires LAER; and
- 5) The revised order meets the requirements of this section and WAC 173-400-110, 173-400-112, 173-400-113 and 173-400-141, as applicable.

b) Actions taken under this subsection are subject to the public involvement provisions of NWCAA Section 305 or WAC 173-400-171 as applicable.

c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a Notice of Construction application, that application must be acted upon using the timelines found in NWCAA 300.8 and NWCAA 300.9 and the fee schedule found in NWCAA 324.

300.13 Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source.

a) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the NWCAA ((Authority)). Replacement or substantial alteration of control technology does not include routine maintenance, repair or similar parts replacement.

b) For projects not otherwise reviewable under NWCAA Section 300, the NWCAA ((Authority)) may:

- 1) Require that the owner or operator employ RACT for the affected emission unit;
- 2) Prescribe reasonable operation and maintenance conditions for the control equipment; and
- 3) Prescribe other requirements as authorized by chapter 70.94 RCW.

c) Within thirty (30) days of receipt of a Notice of Construction application under this section the NWCAA ((Authority)) shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty (30) days of receipt of a complete Notice of Construction application under this section the NWCAA ((Authority)) shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

d) Construction shall not "commence," as defined in NWCAA Section 200, on a project subject to review under this section until the NWCAA ((Authority)) issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the NWCAA ((Authority))

takes no action within thirty (30) days of receipt of a complete Notice of Construction application.

e) Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months after receipt of such approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The NWCAA ((Authority)) may extend the eighteen-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date.

300.14 Incorporation of State NSR Regulations

In order to facilitate complete implementation of this Section, WAC 173-400(~~112~~)-112, -113, -117, -700, -710, -720, -730, -740, and -750 (~~and 171~~) are hereby incorporated by reference.

300.15 Order of Approval - Requirements to Comply

It shall be unlawful for an owner or operator of a source or emission unit to not abide by the operating and reporting conditions in the Order of Approval.

PASSED: November 12, 1998 Amended: November 12, 1999, March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005

AMENDATORY SECTION

SECTION 301 - TEMPORARY SOURCES

301.1 This section applies to temporary sources not exempt under NWCAA 300.4 or 300.5, which locate temporarily at sites within the jurisdiction of the NWCAA ((Authority)). Nonroad engines regulated by this section are limited to those listed in a)3) of the definition of "nonroad engine" found in Section 200 of this Regulation (i.e., those that are portable or transportable, but operate in a stationary manner). The regulation of nonroad engines under this section is subject to the limitations as set forth in 40 CFR Appendix A to Subpart A of 89 - State Regulation of Nonroad Internal Combustion Engines.

301.2 The owner or operator of a temporary source shall be allowed to operate at a temporary location without filing a Notice of Construction application or, for nonroad engines, obtaining a regulatory order from the NWCAA ((Authority)) providing that:

a) The owner or operator notifies the NWCAA ((Authority)) each calendar year of the intent to operate within the jurisdiction of the NWCAA ((Authority)) at least fifteen (15) days prior to starting operation and pays the appropriate fees identified in NWCAA Section 324.1;

b) The owner or operator notifies the NWCAA ((Authority)) of the intent to relocate within the jurisdiction of the NWCAA ((Authority)) at least fifteen (15) days prior to relocation;

c) The owner or operator supplies sufficient information to enable the NWCAA ((Authority)) to determine that the operation will comply with all applicable air pollution rules and regulations;

d) The operation does not cause a violation of ambient air quality standards;

e) If the operation is in a nonattainment area, it shall not interfere with the scheduled attainment of ambient standards;

f) The temporary source operates in compliance with all applicable air pollution rules and regulations;

g) A temporary source that is considered a major stationary source within the meaning of WAC 173-400-113 shall also comply with the requirements in WAC 173-400-141;

h) Except for nonroad engines, all temporary sources shall have a valid Order of Approval to Construct from an air quality permitting organization in the State of Washington. The temporary source shall operate in compliance with the conditions set forth in the Order of Approval to Construct. Any reports required by the Order of Approval to Construct shall be submitted to the NWCAA ((Authority));

i) Permission to operate shall not exceed ninety (90) operating days in any calendar year anywhere within the jurisdiction of the NWCAA. The NWCAA ((Authority)) may set specific conditions for operating during that time period. No source shall continue to operate beyond the allowable 90-day period unless an Order of Approval to Construct, or for nonroad engines, a regulatory order, has been issued by the NWCAA ((Authority)). For the purpose of this section, an operating day shall be considered any time equipment operates within a calendar day; and

j) Except for nonroad engines, based on the source type and emission quantity, temporary sources may be subject to new source review at the discretion of the Control Officer.

PASSED: November 12, 1998 Amended: March 9, 2000, June 14, 2001, July 10, 2003, July 14, 2005

NEW SECTION

SECTION 305 - PUBLIC INVOLVEMENT

305.1 Internet Notice

(A) A notice shall be published on the NWCAA website for each Notice of Construction (NOC) application received by the NWCAA, and for each proposed revision to an Order of Approval to Construct (OAC) for which there is no associated NOC application. The internet notice shall remain on the NWCAA website for a minimum of 15 consecutive days and shall include the following information:

- (1) name and location of the affected facility,
- (2) brief description of the proposed action, and
- (3) a statement that a public comment period may be requested within 15 days of the initial date of the internet posting.

(B) Requests for a public comment period shall be received by the NWCAA via letter, facsimile, or electronic mail within 15 days of the initial date of the internet posting. A public notice and comment period shall be provided in accordance with this Section, for any NOC application or proposed OAC revision that receives such a request. Any NOC application or proposed OAC revision for which a public comment period is not requested may be processed without further public involvement at the end of the 15-day request period.

305.2 Actions Requiring Public Notice and Comment Period

(A) The NWCAA shall provide public notice and a public comment period in accordance with 305.3 through 305.8 of this Section, before approving or denying any of the following types of applications or other actions:

(1) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, 2005) as part of review under Section 300 of this Regulation;

(2) Any order to determine Reasonably Available Control Technology (RACT);

(3) Any order to establish a compliance schedule or a variance;

(4) Any order to demonstrate the creditable height of a stack which exceeds the good engineering practice (GEP) formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation;

(5) Any order to authorize an emissions bubble pursuant to WAC 173-400-131;

(6) Any regulatory order to establish or debit of emission reduction credits (ERC);

(7) Any order issued under WAC 173-400-091 that establishes limitations on a source's potential to emit;

(8) Any extension of the deadline to begin actual construction of a "major stationary source" or "major modification" in a nonattainment area;

(9) The original issuance and any revisions to a general Order of Approval issued under WAC 173-400-560;

(10) Any Notice of Construction application or other proposed action for which the NWCAA determines there is substantial public interest;

(11) Any Notice of Construction application or proposed Order of Approval to Construct revision that receives a request for a public comment period in accordance with 305.1 of this Section.

(12) Any Notice of Construction application or proposed Order of Approval to Construct revision that would result in a significant emissions increase defined as follows.

Air Pollutant	Potential to Emit in Tons per Year
Carbon Monoxide (CO)	100.0
Volatile Organic Compounds (VOC)	40.0
Sulfur Dioxide (SO ₂)	40.0
Nitrogen Oxides (NO _x)	40.0
Particulate Matter (PM)	25.0
Fine Particulate Matter (PM-10)	15.0
Lead	0.6
Fluorides	3.0
Sulfuric Acid Mist (H ₂ SO ₄)	7.0
Hydrogen Sulfide (H ₂ S)	10.0
Total Reduced Sulfur (including H ₂ S)	10.0

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(B) Any Notice of Construction application designated for integrated review with an application to issue or modify an Air Operating Permit shall be processed in accordance with the Air Operating Permit program procedures and deadlines set forth in WAC 173-401.

305.3 Public Comment Period

If required, a public comment period shall be initiated through publication of a legal notice in a local newspaper. The public comment period shall be initiated only after the NWCAA has made a preliminary determination. The cost of providing legal notice shall be borne by the applicant. Public notice of any NOC application requiring a public comment period shall include the following:

(A) The NOC application and any written preliminary determination by the NWCAA shall be available on the NWCAA's internet website, excluding any confidential information as provided in Section 114 of this Regulation. In addition, the NOC application and any written determination shall be made available for public inspection in at least one location near the proposed project. The NWCAA's written preliminary determination shall include the conclusions, determinations and pertinent supporting information from the NWCAA's analysis of the effect of the proposed project on air quality.

(B) Publication of a legal notice in a newspaper of general circulation in the area of the proposed project which provides each of the following:

- (1) Name, location and a brief description of the project;
- (2) Location of documents made available for public inspection;
- (3) The deadline for submitting written comments;
- (4) A statement that any person, interested governmental agency, group, or the applicant may request a public hearing;
- (5) A statement that a public hearing may be held if the NWCAA determines within a 30-day period that significant public interest exists;
- (6) The date of the close of the public comment period in the event of a public hearing;

(C) Notice to the US Environmental Protection Agency Region 10 Regional Administrator.

305.4 Extent of Public Comment Period

The public comment period shall be the 30-day period following the date the public notice is first published, unless a public hearing is held. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, as specified in the notice of public hearing.

305.5 Public Hearings

Any person, interested governmental entity, group or the applicant, may request a public hearing within the comment period specified in the public notice. Any such request shall indicate, in writing, the interest of the entity filing it and why a hearing is warranted. The NWCAA may, in its discretion, hold a public hearing if it determines that significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the NWCAA deems reasonable. The NWCAA shall provide at least 30 days prior notice of any hearing.

305.6 Consideration of Public Comments

No final decision on any NOC application or OAC revision shall be made until all public comment periods have ended and any comments received have been considered.

305.7 Other Requirements of Law

Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section (e.g., SEPA). This subsection does not apply to an application for a "major modification" or an application from a "major stationary source".

305.8 Public Information.

All information provided to the public in accordance with this Section, except information protected from disclosure under any applicable law, including, but not limited to, NWCAA Section 114 and RCW 70.94.205, shall be available for public inspection at the NWCAA. This includes copies of Notices of Construction applications, orders, and modifications.

Passed: July 14, 2005

REPEALER

SECTION 312 - ENVIRONMENTAL POLICY GUIDELINES

AMENDATORY SECTION

SECTION 320 - REGISTRATION PROGRAM

320.3 Annual Registration Fees. An annual registration fee shall be paid by all registered sources. The Board ~~((requires that a fee accompany registration and))~~ has determined the ~~((amount of this))~~ fee for each class of air contaminant source to be as shown in Section 324.1. The amount of fees collected shall not exceed the costs of administering this registration program, which shall be defined as:

- a) initial registration and annual or other periodic reports from the source owner or operator providing the information directly related to air pollution registration;
- b) on-site inspections necessary to verify compliance with registration requirements;
- c) data storage and retrieval systems necessary for support of the registration program;
- d) emission inventory reports and emission reduction credits computed from information provided by sources pursuant to the requirements of the registration program;
- e) staff review, including engineering analysis for accuracy and completeness ~~((currentness))~~, of information provided by sources pursuant to the requirements of the registration program;
- f) clerical and other office support provided in direct furtherance of the registration program; and
- g) administrative support provided in directly carrying out the registration program.

320.4 Any registered source which does not pay the annual registration fee by the end of the registration period shall be considered a new source and shall submit a "Notice of Construction and Application for Approval" and receive

approval from the Board prior to resumption of operation or re-entry into the jurisdiction of the NWCAA ((Authority)).

Passed: November 12, 1998 Amended: November 12, 1999, July 14, 2005

AMENDATORY SECTION

SECTION 324 - FEES

324.1 Annual Registration Fees

a) The NWCAA ((Authority)) shall levy annual registration program fees as set forth in Section 324.1(c) to cover the costs of administering the registration program.

b) Upon assessment by the NWCAA ((Authority)), registration fees are due and payable. A source shall be assessed a late penalty in the amount of twenty-five percent (25%) of the registration fee for failure to pay the registration fee within thirty (30) days after the due date. The late penalty shall be in addition to the registration fee.

c) All registered air pollution sources shall pay the appropriate registration fee(s) listed in Section 324.1.

PERMANENT

REGISTERED SOURCES	Fee Code	((2003))	((2004))	2005	2006	2007
Wastewater treatment plants w/sludge incinerators	RS01	((575))	((595))	\$615	\$635	\$655
Temporary asphalt plants	RS02			\$360	\$375	\$390
Permanent asphalt plants	RS03			\$725	\$745	\$770
Temporary thermal soil desorption units	RS04			\$360	\$375	\$390
Permanent ((T))thermal soil desorption units	RS05	((680))	((700))	\$725	\$745	\$770
Odor source	RS06	((680))	((700))	\$725	\$745	\$770
Petroleum coke handling facility	RS07	((1,360))	((1,400))	\$1,445	\$1490	\$1535
Perchloroethylene dry cleaners	RS08	((170))	((175))	\$180	\$190	\$200
Gasoline stations ((and Bulk plants))	RS09	((170))	((175))	\$180	\$190	\$200
Bulk plants	RS10			\$180	\$190	\$200
Chrome plating	RS11	((170))	((175))	\$180	\$190	\$200
Other sources as determined by the Control Officer	RS12	((170))	((175))	\$180	\$190	\$200
Other temporary sources	RS13			\$180	\$190	\$200
((Volatile organic compound storage tanks))						
((> or = 6000 gallons, < 40,000 gallons))		((240))	((250))	((260))		
((> or = 40,000 gallons))		((575))	((595))	((615))		
FOR SOURCES NOT LISTED ABOVE:						
ACTUAL EMISSIONS OF TOTAL CRITERIA AND TOXIC AIR POLLUTANTS						
<10 tons per year	EM01	((170))	((175))	\$180	\$190	\$200
((> or =)) 10 tons per year, < 25 tons per year	EM02	((850))	((875))	\$905	\$930	\$960
((> or =)) 25 tons per year, < 50 tons per year	EM03	((1,695))	((1,745))	\$1,800	\$1855	\$1910
((> or =)) 50 tons per year	EM04	((2,820))	((2,905))	\$2,995	\$3085	\$3180
ADDITIONAL FEES						
Each source test per pollutant, per unit as required in the Approval Order (expect initial source test)	STR	((340))	\$350	\$360	\$375	\$390
Operation of a Continuous Emission or Opacity Monitor (per CEM or COM)	CEM	((340))	\$350	\$360	\$375	\$390
Each stationary source subject to NSPS, per applicable subpart. Excluding 40 CFR 60 subpart Dc (small boilers) and 40 CFR 60 subpart AAA (woodheaters) ((or NESHAP (per subpart) except dry cleaners and chrome platers))	NSPS	((575))	\$595	\$615	\$635	\$655
Each stationary source subject to NESHAP, per applicable subpart. Excluding 40 CFR 63 subpart M (dry cleaners) and 40 CFR 60 subpart N (chrome platers)	NESHAP			\$615	\$635	\$655
Synthetic minor designation	SM	((575))	\$595	\$615	\$635	\$655
Odor source	ODOR	((680))	\$700	\$725	\$745	\$770

324.2 New Source Review Fees

a) New source fees listed in Section 324.2 shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.

	((2003))	((2004))	2005	2006	2007
Filing fee	((120))	((125))	\$130	\$135	\$140
NSR FEES IN ADDITION TO THE FILING FEE: for each piece of equipment or control equipment					
General (not classified below)	((575))	((595))	\$615	\$635	\$655
Fuel Burning Equipment (as an aggregate)					

	((2003))	((2004))	2005	2006	2007
((>or=)) 0.5 MM Btu/hr, but <10 MM Btu/hr	(((\$290))	(((\$300))	\$310	\$320	\$330
((>or=)) 10 MM Btu/hr, but <100 MM Btu/hr	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
((>or=)) 100 MM Btu/hr, but <250 MM Btu/hr	(((\$11,250))	(((\$11,590))	\$11,940	\$12,300	\$12,670
((>or=)) 250 MM Btu/hr, but <500 MM Btu/hr	(((\$16,900))	(((\$17,410))	\$17,935	\$18,475	\$19,030
((>or=)) 500 MM Btu/hr, but <1000 MM Btu/hr	(((\$28,200))	(((\$29,050))	\$29,925	\$30,825	\$31,750
((>or=)) 1000 MM Btu/hr	(((\$45,100))	(((\$46,455))	\$47,850	\$49,285	\$50,765
Minor Order of Approval to Construct change	(((\$290))	(((\$300))	\$310	\$320	\$330
Asphalt plant	(((\$850))	(((\$875))	\$905	\$930	\$960
Coffee roaster	(((\$290))	(((\$300))	\$310	\$320	\$330
Dry cleaner ((and Chrome plater))	(((\$170))	(((\$175))	\$180	\$185	\$190
Chrome plater			\$180	\$185	\$190
Gasoline stations ((and Bulk plants))	(((\$340))	(((\$350))	\$360	\$370	\$380
Bulk plants			\$360	\$370	\$380
Refuse burning equipment					
< 6 tons per day	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
((>or=)) 6 tons per day, but < 12 tons per day	(((\$3,385))	(((\$3,490))	\$3,595	\$3,705	\$3,815
((>or=)) 12 tons per day, but < 250 tons per day	(((\$22,520))	(((\$23,195))	\$23,890	\$24,605	\$25,345
((>or=)) 250 tons per day	(((\$45,030))	(((\$46,380))	\$47,775	\$49,210	\$50,685
Paint spray booth	(((\$170))	(((\$175))	\$180	\$185	\$190
((Volatile Organic Compounds storage tanks))					
(((<40,000 gallons))	(((\$340))	(((\$350))	(((\$360))		
(((>or=40,000 gallons))	(((\$1,135))	(((\$1,170))	(((\$1,205))		
((Soil thermal desorption unit))	(((\$850))	(((\$875))	(((\$905))		
Other sources as determined by the Control Officer	(((\$170))	(((\$175))	\$180	\$185	\$190
ADDITIONAL FEES					
Synthetic minor determination ((WAC 173-400-091))	(((\$850))	(((\$875))	\$905	\$930	\$960
SEPA threshold determination (NWCAA lead agency, 14-day comment period)	(((\$290))	(((\$300))	\$310	\$320	\$330
Air toxics review	(((\$460))	(((\$475))	\$490	\$505	\$520
Major stationary source, major modification, PSD thresholds	(((\$2,260))	(((\$2,330))	\$2,400	\$2,470	\$2,545
PSD applicability analysis	(((\$3,400))	(((\$3,505))	\$3,610	\$3,720	\$3,830
Each stationary source subject to NSPS, per subpart, excluding 40 CFR 60 subpart((s)) Dc (small boilers) and 40 CFR 60 subpart AAA (wood heaters) ((or NESHAP per subpart except (dry cleaners) & (chrome platers))	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
Each stationary source subject to NESHAP, per subpart, excluding 40 CFR 63 subpart M (dry cleaners) and 40 CFR 60 subpart N (chrome platers)			\$1,205	\$1,240	\$1,275
Public notice (plus publication fee)	(((\$240))	(((\$250))	\$260	\$270	\$280
Public hearing (plus publication fee)	(((\$575))	(((\$595))	\$615	\$635	\$655
NOC applicability determination	(((\$240))	(((\$250))	\$260	\$270	\$280
Each CEM, COM, or alternate monitoring device ((installed)) required	(((\$575))	(((\$595))	\$615	\$635	\$655
Each source test ((€)) per pollutant, per unit ((‡)) as required in Approval Order ((NOC))	(((\$575))	(((\$595))	\$615	\$635	\$655
Bubble application	(((\$1,135))	(((\$1,170))	\$1,205	\$1,240	\$1,275
Netting analysis	(((\$575))	(((\$595))	\$615	\$635	\$655
Non-exempt units under Title IV acid rain program	(((\$2,700))	(((\$2,785))	\$2,870	\$2,955	\$3,045

PERMANENT

324.3 Variance Fee. \$3,000.00

324.4 Issuance of Emission Reduction Credits. \$850.00

324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing stationary sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

Amended: November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Passed: November 12, 1998

AMENDATORY SECTION**SECTION 325 - TRANSFER OR PERMANENT SHUTDOWN**

325.1 A registration, regulatory order, approval to construct, operate or use any article, machine, equipment, or other contrivance, shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another provided that, registered sources which are designed to be portable and are moved from one location to another may retain the same registration so long as they abide by the requirements of NWCAA Sections 300 and 301.

325.2 The registered owner or operator shall report the transfer of ownership or permanent shutdown of a registered "source" to the NWCAA within ninety (90) days of shutdown or transfer. The report shall contain the following information:

- a) Legal name of the registered owner or operator;
- b) Effective date of the shutdown or transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the registered owner's or operator's authorized representative.

325.3 Any party that assumes ownership and/or operational control of a registered "source" shall file a written report with the NWCAA within ninety (90) days of completing transfer of ownership and/or assuming operational control. The report shall contain the following information:

- a) Legal name of the company or individual involved in the transfer;
- b) Effective date of the transfer;
- c) Description of the affected emission units; and
- d) Name and telephone number of the owner's or operator's authorized representative.

325.4 In the case of a permanent shutdown, process and pollution control equipment may remain in place and on site, but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g., disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation).

Passed: February 4, 1970 Amended: February 14, 1973, July 10, 2003, July 14, 2005

AMENDATORY SECTION**SECTION 340 - REPORT OF BREAKDOWN AND UPSET**

340.1 If a breakdown or upset condition occurs which results in or may have resulted in an exceedance of an emission and/or ambient air quality standard established by this ((the)) Regulation ((of this Authority)) or an emission release to the air that requires agency notification as specified in 40 CFR 302 (CERCLA) or 40 CFR 355 (SARA), the owner or operator of the source shall take the following actions:

- a) ((340-11)) The upset or breakdown shall be reported as promptly as possible and in no event later than twelve (12) hours to the NWCAA ((Authority)).

b) ((340-12)) For Title V Air Operating Permit sources, the responsible official, or their designee, shall ((The person responsible shall, ((upon the request of the Control Officer, submit a full report within ten (10) days including the known causes, corrective measures taken, and preventive measures to be taken to minimize or eliminate a recurrence.)) submit a full report no later than 30 days after the end of the calendar month in which the breakdown or upset occurred that resulted in an exceedance of an ambient or emission standard of this Regulation. The report shall be submitted on forms provided by the NWCAA and must include, at a minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.

340.2 Compliance with the requirements of this Section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with all the requirements of this Regulation nor from the resulting liabilities for failure to comply.

340.3 It shall be prima facie evidence of violation of this Regulation if:

a) any control equipment is turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1, or

b) any other equipment creates new or increased emissions to the atmosphere as the result of being turned off, broken down or otherwise inoperative, and a notice of breakdown has not been filed under Section 340.1.

340.4 Excess emissions due to breakdowns and upsets shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that:

a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and

c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice.

d) The emissions did not result in a violation of an ambient air quality standard.

Amended: November 14, 1984, October 14, 1987, April 14, 1993, October 13, 1994, February 8, 1996, July 14, 2005

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION**SECTION 341 - REPORT OF SHUTDOWN OR STARTUP**

341.1 If the operator of any air contaminant source registered in the NWCAA jurisdiction or operating under a Title V air operating permit issued by the NWCAA ((Authority)) schedules a total or partial shutdown or startup of control or

process equipment (~~(which may)~~) that the source reasonably believes would result in emissions (or any additional emissions to the atmosphere) which may temporarily exceed ~~((the))~~ an emission standard(s) of this Regulation; the operator or owner of the source shall notify the NWCAA in advance of ((Authority prior to)) the shutdown or startup.

341.2 The advanced notification shall include ((be made within the ten (10) day period prior to a scheduled shutdown or startup. The operator or owner of the source shall submit)) a general schedule of steps to be taken to minimize the release of air contaminants to the atmosphere including the reasons for and duration of the proposed shutdown or startup, the nature of the action to be taken, the date and time for the action and an estimate of the anticipated rate and concentration of emission.

341.3 Compliance with the requirements of this Section does not relieve the owner or operator of the source from the responsibility to maintain continuous compliance with the requirements of this Regulation nor from the resulting liabilities for failure to comply.

341.4 Excess emissions due to shutdown or startup shall be considered unavoidable, and not subject to penalty, provided the stationary source adequately demonstrates that the excess emissions could not have been prevented through careful planning and design, the emissions did not result in a violation of an ambient air quality standard and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.

341.5 For Title V Air Operating Permit sources, the responsible official, or their designee, shall submit a full report no later than 30 days after the end of the calendar month in which the shutdown or startup occurred that resulted in an exceedance of an ambient or an emission standard of this Regulation. The report shall be submitted on forms provided by the NWCAA and must include, at minimum, the known causes, corrective action taken, preventive measures put in place to reduce the possibility of or eliminate a recurrence, and an estimate of the quantity of emissions above the applicable limit caused by the event. Other non-Title V Air Operating Permit sources shall file a full report to the NWCAA within 30 days upon the request of the Control Officer.

Amended: November 14, 1984, April 14, 1993, September 8, 1993, May 11, 1995, February 8, 1996, July 14, 2005

AMENDATORY SECTION

SECTION 342 - OPERATION AND MAINTENANCE

342.1 All air contaminant stationary sources are required to keep any process and/or air pollution control equipment in good operating condition and repair. ~~((If a breakdown or upset condition occurs and it is determined by the Control Officer to be due to poor operating and maintenance procedures, the Control Officer may take any legal steps necessary to prevent a recurrence of the breakdown or upset condition.))~~

342.2 Operating instructions and maintenance schedules for process and/or control equipment must be available ~~((and may be required to be posted))~~ on the site. ~~((This section is specifically applicable to the operation of equipment where untrained personnel may operate or otherwise have access to or use the equipment.))~~

~~((342.3 If a breakdown or violation occurs and is due to the improper operation or maintenance of equipment, the owner or operator of the source will, in addition to filing a report of breakdown under Section 340, submit a report if requested by the Control Officer on what measures will be taken in training or re-orienting personnel to prevent a recurrence of the breakdown.))~~

~~((342.4 Excess emissions due to scheduled maintenance shall be considered unavoidable provided the source adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance, better operation and maintenance practices, and emissions did not result in a violation of an ambient air quality standard.))~~

Amended: April 14, 1993, September 8, 1993, May 11, 1995, February 8, 1996, March 13, 1997, July 14, 2005

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Northwest Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

REPEALER

SECTION 360 - TESTING AND SAMPLING

REPEALER

SECTION 365 - MONITORING

REPEALER

SECTION 366 - INSTRUMENT CALIBRATION

NEW SECTION

SECTION 367 - GENERAL REQUIREMENTS FOR MONITORING AND TESTING

367.1 Any person operating a registered air contaminant source or an air operating permit source may, at any time, be required to monitor the ambient air, or process emissions, or conduct emission tests as deemed necessary by the Control Officer.

367.2 Before an approval to construct or a registration certificate is granted, the Control Officer may require the owner or applicant to provide and maintain such facilities as are necessary for sampling and testing purposes, including but not limited to safe access to sample locations, sample platforms, proper sample ports, and adequate shelter where appropriate.

367.3 All ambient monitoring, compliance testing, continuous emission monitoring systems, and continuous opacity

monitoring systems required by a regulation, order of approval or permit issued by the NWCAA shall comply with the applicable requirements of this Section and Appendix A of this Regulation. The applicable requirements of this Section and Appendix A are in addition to any monitoring, testing, calibration, or quality assurance/quality control requirements that otherwise apply.

367.4 The Control Officer may take such samples and may perform any tests and investigations as are deemed necessary to determine the accuracy of the monitoring reports and data submitted to the NWCAA. The owner or operator may also be required by the Control Officer to collect a sample using an approved procedure and submit the results of the analysis thereof within a reasonable period of time.

367.5 Any NWCAA mandated testing or monitoring which is not part of a federally-approved State Implementation Plan or other federally enforceable regulation must be approved by the NWCAA. Such testing or monitoring may include the use of alternative methods, modified standard methods, and requirements or procedures not described in Appendix A of this Regulation.

367.6 The Control Officer may approve site-specific minor and intermediate changes to testing, monitoring, recordkeeping, and reporting requirements under the following conditions:

(A) In determining whether a change is minor or intermediate, NWCAA will use as a guide the definitions in 40 CFR 63.90 (July 1, 2004);

(B) Where the testing, monitoring, recordkeeping, or reporting requirement is included in a permit, the approval is made through the applicable permit revision procedures;

(C) NWCAA maintains a record of all approved changes to all testing, monitoring, recordkeeping, and reporting and provides a list of such changes to EPA Region 10 at least semi-annually.

367.7 The Control Officer may approve major changes to testing, monitoring, recordkeeping, and reporting requirements if such requirements are not part of the federally-approved State Implementation Plan or otherwise federally enforceable. Major changes to testing, monitoring, recordkeeping, and reporting requirements that are part of the federally-approved State Implementation Plan or otherwise federally enforceable require EPA approval.

367.8 Significant Figures and Rounding:

(A) All parameters used in stack test measurements and calculations shall meet or exceed the precision implied by an applicable standard, that is, contain at least as many significant figures as the standard. Additional numbers may be retained until the final rounding to calculate the emission rate or concentration. Unless specified by using scientific notation, all digits displayed in a standard, including zeros, are considered significant

(B) Rounding shall use the following convention:

First digit to be discarded	Last valid digit
>5, or a 5 followed by a non zero	round up
<5	retain as is
5, or 5 followed by only zero	round up if odd, retain if even

Passed: July 14, 2005

NEW SECTION

SECTION 403 - PARTICULATE STANDARDS (PM-2.5)

403.1 The concentration in the ambient air of particulate matter with an aerodynamic diameter of less than two point five (2.5) microns (PM-2.5) shall not exceed:

(A) Sixty five (65) micrograms per cubic meter of air as a 24 hour average based on the 3-year average of the 98th percentile of 24-hour PM-2.5 concentrations.

(B) Fifteen (15) micrograms per cubic meter of air as an annual arithmetic mean based on the 3-year average of the annual arithmetic mean PM-2.5 concentrations.

403.2 Sampling and analysis for particulates shall be conducted in accordance with Appendix A of this Regulation.

Passed: July 14, 2005

AMENDATORY SECTION

SECTION 424 - OZONE STANDARD

424.1 The average eight hour concentration of ozone measured at an ambient air monitoring station shall not exceed ((0-120)) 0.080 ppm (157 micrograms ((235-milli-grams)) per cubic meter ((hourly concentration on more than one (1) day per calendar year)) as determined under the following conditions:

424.11 ((Three (3) calendar years of data shall be used in determining compliance with this standard. If three (3) calendar years of data are not available, a minimum of one (1) calendar year must be used and;)) The 3-year average of the annual fourth highest daily maximum 8-hour average concentrations shall be used to determine compliance with this standard;

424.12 All hourly measurements must start on the clock hour.

Amended: October 13, 1982, April 14, 1993, July 14, 2005

AMENDATORY SECTION

SECTION 460 - WEIGHT/HEAT RATE STANDARD - EMISSION OF SULFUR COMPOUNDS

All sources with an aggregate heat input capacity greater than five hundred million Btu per hour (500 MMBtu/hr) are subject to the following;

460.1 Emission of sulfur compounds, calculated as a calendar month average of sulfur dioxide, ((monthly average, from a source as defined in 460.4)) shall not exceed one and one-half pounds per million Btu of heat input per hour (1.5 lbs SO₂/MMBtu, calendar month average of hourly values).

((460.11 One and one-half (1.5) pounds of sulfur dioxide per million BTU of input heat per hour.))

((460.12 Sources may be exempt from subsection 460.11 of this Regulation under the following conditions:))

~~((460.121 That such exemption is not in excess of thirty (30) days in the aggregate in any calendar year.))~~

~~((460.122 That the owner or operator notify the Control Officer immediately when such exemption is contemplated, or as soon as possible after an emergency has occurred, indicating the expected length of time of such exemption and when normal operations have been resumed.))~~

~~((460.123 That the Control Officer or Board may require from the owner or operator any additional information deemed necessary to determine conditions of the proposed exemption and any impose additional restrictions or conditions on the exemption if it is determined that Section 410 and/or 462 may be violated and/or other applicable ambient air standards exceeded.))~~

~~((460.2 Sources subject to Section 460 shall submit a proposed schedule of compliance with this Section not less than one hundred and eighty (180) days after start-up providing the following:))~~

~~((460.21 The heat capacity of the source, the average heat output and the capacity and normal operating conditions of each emission unit which shall be submitted, reviewed and determined annually at a time and using a method determined by the Control Officer.))~~

460.2 (3) Sources subject to Section 460 shall submit an ambient monitoring proposal and monitoring schedule for sulfur dioxide within one hundred and eighty (180) days of start-up. Each proposal shall include:

460.21 ((31)) At least one recording meteorological station equipped to record wind speed and direction and located and operated as in accordance with Appendix A of this Regulation. ~~((approved by the Control Officer. The data shall be capable of being recorded and interpreted as hourly averages.))~~

460.22 ((32)) The sulfur content and quantity of all materials, gaseous or liquid, fed to any boilers, furnaces, heaters, flares or any other facility capable of generating heat, resulting in emissions to the atmosphere. The sulfur content shall be expressed in ~~((pounds/hour of sulfur dioxide))~~ percent by weight of sulfur in each fuel type and shall contain an explanation of how ~~((this quantity was actually))~~ each was determined. ~~((The sulfur content of the fuel shall be averaged over a period of time as determined and specified by the Control Officer.))~~

460.23 ((33)) The method for monitoring the sulfur content and quantity of fuel burned at ~~((any other))~~ each emission unit capable of emitting sulfur to the atmosphere in quantities in excess of one hundred (100) pounds/day of sulfur compounds calculated as sulfur dioxide. ~~((Provided that a))~~ All emission units capable of emitting less than one hundred (100) pounds/day of sulfur compounds, calculated as sulfur dioxide may be monitored ~~((estimated))~~ collectively as a single emission.

460.24 ((34)) The monitoring proposal shall comply ~~((complies))~~ with provisions of Section ~~((365))~~ 367 and Appendix A of this Regulation.

~~((460.4 Except as noted in 460.12 all sources with an input heat capacity greater than five hundred million BTU/hour are subject to Section 460.))~~

460.3 ((5)) The total emissions of all sources located in that portion of Sections 2, 3, 4, 5, 9, Township 34 North and

Sections 21, 27, 28, 29, 32, 33, 34, 35, in Township 35 North, Range 2 East, Willamette Meridian, all in Skagit County Washington, and commonly known as March Point heavy industrial area; shall not exceed seven thousand (7,000) pounds/hour of sulfur compounds, calculated as sulfur dioxide.

When the Control Officer reasonably believes that there exists a substantial likelihood that this total is likely to be exceeded, he or she shall establish additional temporary restrictions on any or all sources of sulfur compounds in said area to maintain a total emission of less than seven thousand (7,000) pounds/hour. ~~((Said))~~ The restrictions shall ~~((to))~~ remain in force only so long as the total emission will exceed 7,000 pounds/hour.

~~((460.6 Emissions from flares, torches and waste gas burners used by any source subject to this Section shall be governed by the provisions set forth in this Section. Provided that emissions from said sources that exceed the limits established by the Regulation of this Authority, shall also be subject to Section 340 "Report of Breakdown" when conditions set forth therein are applicable.))~~

Passed: November 11, 1971

Amended: February 14, 1973, January 9, 1974, August 9, 1978, February 8, 1996, July 14, 2005

REPEALER

SECTION 480 - SOLID FUEL BURNING DEVICE STANDARDS

AMENDATORY SECTION

SECTION 502 - OUTDOOR BURNING

.....
502.3 DEFINITIONS. Unless a different meaning is clearly required by context, words and phrases used in this section shall have the following meanings:

RARE AND ENDANGERED PLANT REGENERATION FIRES - means fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in chapter 79.70 RCW.

TUMBLEWEED BURNING - means outdoor burning to dispose of dry plants (typically Russian Thistle and Tumbleweed Mustard plants) that have been broken off, and rolled about, by the wind.

.....
502.4 PROHIBITIONS AND RESTRICTIONS APPLYING TO ALL OUTDOOR BURNING. The following general requirements apply to all outdoor burning regulated by this section, including any outdoor burning allowed without a permit, unless a specific exception is stated in this section.

.....
E. CURTAILMENTS. During episodes or periods of impaired air quality, the person responsible for the fire must contact the permitting agency and/or any other designated source for information on the burning conditions for each day.

1. No outdoor fire shall be ignited in a geographical area:
 a. Where Ecology has declared an air pollution episode; (RCW 70.94.775(2) and 70.94.780) or

b. Where Ecology or the NWCAA ((Authority)) has declared impaired air quality for the county where the air quality has been identified.

~~((e. Defined as Island County if impaired air quality is declared in both Skagit and Whatcom counties.))~~

c. ~~((d.))~~ Where the appropriate fire protection authority has declared a fire danger burn ban, unless the Authority grants an exception.

502.5 OUTDOOR BURNING PERMIT PROGRAM/REQUIREMENTS

C. FEES.

1. Permitting agencies may charge a fee for any permit issued, provided that a fee must be charged for all permits issued for weed abatement fires and fire fighting instruction fires.

2. All fees must be set by rule and must not exceed the level necessary to recover the costs of administering and enforcing a permit program.

TYPE OF PERMIT	FEE
Annual training (single location)	\$250.00/year
Extinguisher Training	\$25.00/training exercise
Structure training	\$50.00/training exercise
Weed abatement	(\$25.00 minimum/up to ten acres per location. \$2.00/acre thereafter.) <u>\$2.00/acre; \$25.00 minimum per location</u>

D. PERMIT DECISIONS.

1. Permitting agencies must approve with conditions, or deny outdoor burning permits as needed to achieve compliance with this section.

2. All permits must include conditions to satisfy general prohibitions and requirements that apply to all outdoor burning.

3. All permits may require other conditions, such as restricting the time period for burning, restricting permissible hours of burning, imposing requirements for good combustion practice, and restricting burning to specified weather conditions.

4. Permitting agencies may also include conditions to comply with other laws pertaining to outdoor burning.

5. Any person having an outstanding penalty obligation to the NWCAA as a result of a violation of Section 502, except under appeal to the Pollution Control Hearings Board (PCHB) or other judicial body, shall be denied additional outdoor burning permits until the remaining balance is discharged.

F. FIELD RESPONSE AND ENFORCEMENT

1. Any agency that issues permits, or adopts a general permit for any type of burning in an area, is responsible for field response to outdoor burning complaints and enforcement of all permit conditions and requirements unless another agency has agreed to be responsible.

2. Except for enforcing Section 502.4 ~~((D)(1)(e))~~ (E)(1)(d), the NWCAA ((Authority)) will be responsible for enforcing any requirements that apply to burning that are prohibited or exempt from permits in areas of its jurisdiction, unless another agency agrees to be responsible.

3. Permitting agencies and enforcing agencies may require that corrective action be taken, and may assess penalties to the extent allowed under their authority if they discover noncompliance.

4. A fire protection authority called to respond to, control, or extinguish an illegal or out-of-control fire may charge, and recover from the person responsible for the fire, the costs of its response and control action. The NWCAA may assist a fire protection authority, in fire suppression cost recovery, when assessing a penalty associated with a Notice of Violation.

Passed: June 14, 2001. Amended: July 10, 2003, July 14, 2005

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

SECTION 506 - SOLID FUEL BURNING DEVICE STANDARDS

506.1 PURPOSE.

This Section establishes emission standards, certification standards and procedures, curtailment rules, and fuel restrictions for solid fuel burning devices in order to maintain compliance with the National Ambient Air Quality Standards (NAAQS) for fine particulates and to further the policy of the NWCAA as stated in Section 102 of this Regulation.

506.2 DEFINITIONS.

Unless a different meaning is clearly required by context, words and phrases used in this Section shall have the following meaning as defined in Chapter 173-433-030 WAC:

ADEQUATE SOURCE OF HEAT - means a permanently installed furnace or heating system, connected or disconnected from its energy source, designed to maintain seventy degrees Fahrenheit at a point three feet above the floor in all normally inhabited areas of a residence or commercial establishment.

ANTIQUUE WOOD STOVE - is a stove manufactured before 1940 which has a current market value substantially greater than a common wood stove manufactured during the same time period.

CERTIFIED - means a solid fuel-burning device that meets emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by EPA in the Code of Federal Regulation - Title 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters as amended through July 1, 1990; or a solid fuel-burning device that has been determined by Ecology to meet emission performance standards, pursuant to RCW 70.94.457.

COOKSTOVE - means a wood-fired appliance designed primarily for cooking food and containing an integrally built

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in oven, with an internal temperature indicator and oven rack, around which the fire is vented, as well as a shaker grate, ash pan and an ash clean-out below the firebox. Any device with a fan or heat channels used to dissipate heat into the room shall not be considered a cookstove.

ECOLOGY - means the Washington State Department of Ecology.

EPA - means the United States Environmental Protection Agency.

SEASONED WOOD - means wood of any species that has been sufficiently dried so as to contain twenty percent or less moisture by weight.

SOLID FUEL BURNING DEVICE - means a device that burns wood, coal, or any other non-gaseous or non-liquid fuels, and includes wood stoves or any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes devices used for aesthetic or space-heating purposes in a private residence or commercial establishment, which have a heat input of less than one million British thermal units per hour.

SUBSTANTIALLY REMODELED - means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period.

TREATED WOOD - means wood of any species that has been chemically impregnated, painted, or similarly modified to improve resistance to insects, weathering or deterioration.

WOOD STOVE - means a wood-fueled appliance, other than a cookstove, capable of and intended for residential space heating and domestic water heating that meets the criteria contained in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990. Any combination of parts, typically consisting of but not limited to, doors, legs, flue pipe collars, brackets, bolts and other hardware, when manufactured for the purpose of being assembled, with or without additional owner supplied parts, into a wood stove, is considered a wood stove.

506.3 EMISSION PERFORMANCE STANDARDS.

(A) Solid Fuel Burning Devices - A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away any solid fuel burning device in Washington unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990, complies with WAC 173-433-100, and meets the following particulate air contaminant emission standards:

(1) Two and one-half grams per hour for catalytic wood stoves; and

(2) Four and one-half grams per hour for all other solid fuel burning devices.

(B) Fireplaces. A person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory built fireplace unless it has been tested in accordance with procedures and criteria specified in WAC 51-50-31200. Particulate emission factors for factory-built fireplaces shall not exceed 7.3 g/kg.

506.4 INSTALLATION OF SOLID FUEL HEATING DEVICES.

(A) No new solid fuel burning device shall be installed in new or existing buildings unless such device is either Oregon Department of Environmental Quality phase II or EPA certified to meet current Washington State standards in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters. (RCW 70.94.455)

(B) No used solid fuel burning device shall be installed in new or existing buildings unless such device is either Oregon Department of Environmental Quality phase II or EPA certified or a pellet stove either certified or exempt from certification by the EPA in accordance with CFR 40 Part 60 Subpart AAA - Standards of Performance for Residential Wood Heaters. (RCW 70.94.455)

(C) An adequate source of heat other than a solid fuel burning device is required in all new and substantially remodeled residential and commercial construction. The rule shall apply to

(1) Areas designated by a county to be an urban growth area under RCW 36.70A; and

(2) Areas designated by the EPA as being in non-attainment for particulate matter. (RCW 70.94.455 and WAC 51-40-0510)

(D) After January 1, 1997, no fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the 1990 EPA standards for wood stoves or equivalent standard established by the state building code council by rule in accordance with 70.94.457 RCW.

506.5 OPACITY STANDARDS.

(A) Opacity level. A person shall not cause or allow emission of a smoke plume from any solid fuel burning device to exceed an average of twenty percent opacity for six consecutive minutes in any one-hour period. This restriction does not apply during the starting of a new fire for a period not to exceed twenty minutes in any four-hour period.

(B) Test methods and procedures. EPA reference method 9 - Visual Determination of Opacity of Emissions from Stationary Sources shall be used to determine compliance with this Section.

(C) Enforcement. Smoke visible from a chimney, flue or exhaust duct in excess of the opacity standard shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This Regulation will be enforced on a complaint basis and through observations of inspectors certified to read opacity. This presumption may be refuted by demonstration that the smoke was not caused by an applicable solid fuel burning device.

506.6 PROHIBITED FUEL TYPES

(A) A person shall not burn any substance, other than properly seasoned fuel-wood, in a solid fuel burning device (RCW 70.94.477).

(B) A person shall not burn paper in a solid fuel burning device other than the amount of colorless paper necessary to start a fire.

506.7 CURTAILMENT

(A) Except as provided in Section 506.9, any person in a residence or commercial establishment that has an adequate source of heat without using a solid fuel burning device shall not use any solid fuel burning device under the following circumstances:

(1) Whenever Ecology has declared curtailment under an air pollution episode for the geographical area.

(2) Whenever Ecology or the NWCAA has declared curtailment under the first stage of impaired air quality for the geographical area unless the device is either Oregon Department of Environmental Quality Phase II or EPA certified or certified by Ecology or a pellet stove either certified or exempt from certification in accordance with Title 40 Part 60 of the Code of Federal Regulations. A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of sixty micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average.

(3) Whenever Ecology or the NWCAA has declared curtailment under a second stage of impaired air quality. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.

(B) Any person responsible for a solid fuel burning device already in operation at the time curtailment is declared under a stage of impaired air quality or an episode shall extinguish that device by withholding new solid fuel for the duration of the episode.

(C) Compliance with the above solid fuel burning device curtailment rules may be enforced after a time period of 3 hours has elapsed from the time the curtailment is declared. Smoke visible from a chimney, flue or exhaust duct three hours from the time of declaration of the curtailment shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that smoke was not caused by an applicable solid fuel burning device.

506.8 GENERAL EMISSION STANDARDS.

(A) Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any solid fuel burning device, in sufficient amounts and of such characteristics and duration as is likely to be injurious or cause damage to human health, plant or animal life, or property; or which unreasonably interfere with enjoyment of life and property.

(B) Odors. Any person who shall cause or allow the generation of any odor from any solid fuel burning device which may interfere with any other property owner's use or enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

506.9 EXEMPTIONS.

(A) The provisions of Section 506.7 shall not apply to any person who possesses a valid written exemption approved by the NWCAA. The NWCAA may allow written exemptions to any person who demonstrates any of the following to the satisfaction of the NWCAA:

(B) An economic need to burn solid fuel for residential space heating purposes by qualifying for energy assistance under the low income energy assistance program.

(C) That his/her heating system, other than a solid fuel heating device, is inoperable for reasons other than his/her own actions.

(1) That there is no adequate source of heat and the structure was constructed or substantially remodeled prior to July 1, 1992.

(2) That there is no adequate source of heat and the structure was constructed or substantially remodeled after July 1, 1992 and is outside an urban growth area, as defined in RCW 36.70A.

(D) Written exemptions shall be valid for a period determined by the NWCAA and shall not exceed one year from the date of approval.

Amended: April 14, 1993, November 12, 1991, July 14, 2005

AMENDATORY SECTION

SECTION 550 - PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

550.1 It shall be unlawful for any person or operation to cause or permit material to be handled, transported or stored without using Reasonably (~~(Best)~~) Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.2 It shall be unlawful for any person to cause or permit a building or its appurtenances to be constructed, altered, repaired or demolished, or conduct abrasive blasting (~~(sand-blasting)~~), without using Reasonably (~~(Best)~~) Available Control Technology to prevent the release of fugitive particulate matter to the ambient air.

550.3 It shall be unlawful for any person to cause or permit the release of fugitive particulate matter to the ambient air from public or private lots, roadways, or open areas without using Reasonably (~~(Best)~~) Available Control Technology.

550.4 It shall be unlawful for any person to cause or permit the emission of particulate matter which becomes deposited upon the property of others in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property.

PASSED: January 8, 1969 Amended: February 14, 1973, August 9, 1978, October 14, 1987, April 14, 1993, November 12, 1999, July 14, 2005

AMENDATORY SECTION

SECTION 570 - ASBESTOS CONTROL STANDARDS

570.4 NOTIFICATION REQUIREMENTS

a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the NWCAA on approved forms, in accordance with the advance notification period requirements contained in 570.4(d) of this Regulation.

1. The duration of an asbestos project shall be commensurate with the amount of work involved.

2. Notification is not required for asbestos projects involving less than 10 linear feet or 48 square feet (per structure, per calendar year) of any asbestos-containing material.

3. Notification is not required for removal and disposal of the following nonfriable asbestos-containing materials: caulking, window glazing, or roofing. All other asbestos project and demolition requirements remain in effect except as provided by Section 570.

4. Notification is required for all demolitions (~~involving public or commercial structures or multi-family residences with 5 or more units;~~) of structures with a greater than 120 square feet footprint even if no asbestos-containing material is present. All other demolition requirements remain in effect.

5. The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the NWCAA.

6. A copy of the notification, all amendments to the notification, the asbestos survey, and any Order of Approval for an alternate means of compliance shall be available for inspection at all times at the asbestos project or demolition site.

7. Notification for multiple asbestos projects or demolitions may be filed by a property owner on one form if all the following criteria are met:

A) The work will be performed continuously by the same contractor; and

B) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided the asbestos contractor and/or the demolition contractor shall participate in the NWCAA's work schedule fax program and will continue to participate in the program throughout the duration of the project.

C) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided the asbestos contractor and/or the demolition contractor shall participate in the NWCAA's work schedule fax program and will continue to participate in the program throughout the duration of the project.

8. Annual Notification

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

A) The annual notification shall be filed with the NWCAA before commencing work on any asbestos project included in an annual notification;

B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this Section is less than 260 linear feet on pipes or less than 160 square feet on other components; and

C) The property owner submits quarterly written reports to the Control Officer on NWCAA-approved forms within 15 days after the end of each calendar quarter.

b) Amendments

1. Mandatory Amendments

An amendment shall be submitted to the Control Officer for the following changes in a notification: ~~((and shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the Authority:))~~

A) Increases in the project type or job size category that increase the fee or change the advance notification period;

B) Changes in the type of asbestos-containing material that will be removed; or

C) Changes in the start date, completion date, or work schedule, including hours of work. Asbestos contractors or property owners participating in the NWCAA work schedule fax program are not required to submit amendments for work schedule changes occurring between the start and completion dates.

~~((2) Optional Amendments~~

~~A) An amendment may be submitted to the Control Officer for any other change in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in 570.4(d) of this Regulation unless prior arrangements for payment have been made with the Authority.~~

~~B) Contractors and property owners participating in the Authority work schedule fax program may, within 45 days after the last completion date on record, submit an amendment to the Control Officer for the removal of additional asbestos-containing material not identified during the asbestos survey. If more than 45 days have lapsed since the last completion date on record, the requirements of 570.4(a), including notification periods and fees, shall apply.)~~

c) Emergencies

The Control Officer may waive the advance notification period, if the property owner submits a written request that demonstrates to the Control Officer that an asbestos project or demolition must be conducted immediately because of any of the following:

1. There was a sudden, unexpected event that resulted in a public health or safety hazard;

2. The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;

3. Asbestos-containing materials were encountered that were not identified during the asbestos survey; or

4. The project must proceed to avoid imposing an unreasonable burden.

d) Notification Period and Fees

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Project	Size or Type	Notification Period	Fee
Owner-Occupied, Single Family Residence (asbestos project and/or demolition)	All	Prior Notice	\$25
All Other Demolitions with no asbestos project	All	10 days	\$0
Asbestos Project*	10-259 linear ft. 48-159 square feet.	3 days	\$150
Asbestos Project	260-999 linear ft. 160-4,999 sq. ft.	10 days	\$300
Asbestos Project	> 1,000 linear ft. > 5,000 sq. ft.	10 days	\$500
Emergency	570.4(c)	Prior Notice	((Add'l fee equal to project fee)) \$0
Amendment	570.4(b)	Prior Notice	(((\$25)) \$0
Alternate Means of Compliance (demolitions or friable asbestos-containing materials)	570.7 (a) or (c)	10 days	Add'l fee equal to project fee
Alternate Means of Compliance (non-friable asbestos-containing materials)	570.7(b)	10 days	Add'l fee equal to project fee
Annual	570.4 (a)(8)	Prior Notice	\$500

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*Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.

The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) asbestos-containing materials. All other asbestos project and demolition requirements remain in effect.

PASSED: November 12, 1998 Amended: July 14, 2005

AMENDATORY SECTION

SECTION 590 - PERCHLOROETHYLENE DRY CLEANERS

590.6 Recordkeeping. Each dry cleaning facility shall have an Operation and Maintenance Plan and the following records which shall be kept on-site and available for inspection upon request by the NWCAA ((that includes the following records)):

590.61 A record of dates and results of all monitoring, inspections, and repair of the dry cleaning system.

590.62 If a refrigerated condenser is used on a dry-to-dry machine, dryer, or reclaimer, a weekly record of the air temperature measured at the outlet of the refrigerated condenser during the cool-down period to verify compliance with Subsection 590.41.

590.63 If a refrigerated condenser is used on a washer, a weekly record of the difference between the air temperatures measured at the inlet and outlet of the refrigerated condenser to verify compliance with Subsection 590.42.

590.64 If a carbon adsorber is used on a dry cleaning system, a weekly record of outlet perchloroethylene concentration to verify compliance with 590.51.

590.65 A record of the volume of perchloroethylene purchased each month including receipts of perchloroethylene purchases and a calculation of the amount of perchloroethylene purchased over the previous 12 months.

590.7 Prohibitions. It shall be unlawful to operate a multi-machine dry cleaning operation in which washing and drying are performed in different machines (transfer system) after December 31, 1999.

590.8 Major Source Requirements. If the dry cleaning system is located at a facility that emits 10 tons or more of perchloroethylene annually, the facility must meet the additional requirements set forth in 40 CFR Part 63, Subpart M.

590.9 Exemptions. Dry cleaning systems that commenced construction or reconstruction prior to December 8, 1991 are exempt from 590.4 and 590.5 if the amount of perchloroethylene purchased over the previous 12 months is less than 140 gallons.

PASSED: February 8, 1996 Amended: July 14, 2005

NEW SECTION

APPENDIX A - AMBIENT MONITORING, EMISSION TESTING, AND CONTINUOUS EMISSION AND OPACITY MONITORING

(The effective date of Appendix A is July 14, 2006.)

I. AMBIENT MONITORING

CRITERIA POLLUTANTS

(A) METHODS AND EQUIPMENT

(1) Sulfur dioxide stations shall employ EPA's automated equivalent method. All other monitors shall be oper-

ated and maintained as described in the appropriate Sections of 40 CFR Part 50 and 40 CFR Part 58.

(2) Sample collection lines and instrument manifolds shall be constructed of Teflon or glass. Residence time in the sampling line shall not exceed 20 seconds.

(3) Analyzers shall be designated EPA reference or EPA designated equivalent method. Sulfur dioxide monitors shall be operated in the 0 to 1 ppm range.

(4) A Quality Assurance (QA) manual and a station log book shall be kept for all stations. The station log book shall be used to record all ongoing activities associated with station operation. Upon approval by the NWCAA, electronic log books may be utilized.

(5) Strip charts shall be used for all monitors unless the data acquisition system is capable of generating trend graphs from one-minute measurement averages. Paperless strip charts are acceptable if configured to store one-minute measurement averages. For sulfur dioxide stations using data acquisition based storage, one-minute data shall be reviewed for possible 5-minute violations.

(6) All stations shall be operated on Pacific Standard Time (PST).

(B) CALIBRATION

(1) Instruments shall be calibrated with National Institute of Standards and Technology (NIST) reference materials or NIST-traceable secondary standards, using standard reference methods and EPA-approved procedures.

(2) Each instrument shall be calibrated at least once every six (6) months and whenever span or precision checks deviate by more than 10% of the true value or the absolute value of the zero response is equal to or greater than five times the resolution of the monitor (for sulfur dioxide monitors, 0.005 ppm)

(3) Data precision shall be determined using single point precision checks performed at least once every two (2) weeks. Precision tests are performed by challenging the analyzer with a test gas of known concentration (between 0.080 and 0.100 ppm for sulfur dioxide). Precision data must be within $\pm 10\%$ of the true value.

(4) Data accuracy shall be assessed by performance audits and weekly span checks. All continuous analyzers are to be zeroed and spanned at least weekly at 70% to 90% of scale using a test gas of known concentration. Make appropriate calibration adjustments if the analyzer response deviates by more than 10% from the true value.

(5) All standard materials used for calibrations, precision and span checks shall be recertified every 6 months, or new standard materials shall be used.

(6) If precision and span checks are conducted at the same time, the precision test shall be conducted prior to any zero and span adjustments.

(7) Gaseous monitors shall not be zeroed or span checked manually when pollutant levels are detected at more than 50% of any applicable 5-minute or hourly short-term standard. Monitors shall not be zeroed or spanned more than twice a day.

(8) Written calibration and precision/span check procedures shall be included in the QA manual required under paragraph I(A)(4).

(C) MAINTENANCE

(1) Preventive maintenance for the ambient analyzers and calibration systems shall be performed in accordance with procedures described in the QA manual required under paragraph I(A)(4) and the methods referenced in I(A)(1).

(2) All scheduled and unscheduled maintenance shall be recorded in the station log book.

(3) Written preventive maintenance procedures shall be included in the QA manual required under paragraph I(A)(4).

(D) AUDITING

(1) A station audit shall be conducted by the NWCAA at least once per year. The NWCAA audit does not fulfill any requirements specified under I(B).

(2) The NWCAA audit shall include an assessment of precision/accuracy of the instrument, a review of QA manual and other QA materials, siting parameters and operating procedures, as well as an inspection of the station log for maintenance and calibration documentation.

(3) When a monitor does not fall within defined limits or tolerances, ambient data shall be invalidated back to the most recent point in time at which measurements are known to be accurate or an event which can be identified as the probable cause of the failure.

(E) DATA RECORDING, VALIDATION AND REPORTING

(1) For each station visit, the following information shall be recorded in the station log book:

(a) Date, time, and personnel identification

(b) Room temperature minimum/maximum and current value

(c) Reason for visit

(d) Actions taken

(e) Time period for which the analyzer was offline

(2) All quality assurance procedures shall be described in detail in the QA manual, including but not limited to:

(a) General description of the monitor installation, including model and serial numbers

(b) General operating procedures

(c) Calibration, precision, span check procedures, and associated control limits

(d) Preventive maintenance procedures

(e) Corrective maintenance procedures

(f) Data recording, processing, and validation procedures

(g) Spare parts list

(h) Evidence of operator training

(i) Vendor contact information

(j) List of current station operators

(3) For reporting purposes, ambient air quality data are to be averaged for each clock hour. Strip chart recorder time shall not differ from the time of the data acquisition system by more than 10 minutes.

(4) Data shall be collected on strip chart recorders (except as noted under I(A)(5)), as well as a digital data acquisition system. Strip charts shall be reviewed, and checked against the appropriate data logger values. The strip charts shall be initialed by the station operator during each station visit.

(5) All questionable data such as significant sudden spikes, excessively noisy signals, or other unusual data patterns should be investigated, and, if appropriate, voided. For an hour/day to be considered valid, a minimum of 45 minutes/18 hours of valid data shall be collected, respectively.

Data collected during span/precision checks, calibrations or maintenance shall be considered invalid. Data collected during periods of exceedance of the acceptable temperature range are invalid and shall be flagged; validation shall be subject to review by the Control Officer.

(6) Monthly diskettes containing the validated pollutant concentration data in SAROAD format shall be submitted to the NWCAA no later than thirty (30) days after the end of the reporting month. Other file formats, as well as data submittal via e-mail may be approved by the Control Officer.

(7) Whenever the ambient SO₂ concentration is measured to be equal to or greater than 0.800 ppm for five (5) or more consecutive minutes, a supplemental written report shall be submitted with the monthly monitoring data, indicating the time, actual concentrations, and possible reason(s) (if known) for each period of excess SO₂.

(8) Whenever monitoring equipment required by an Order of Approval to Construct, an air operating permit, or enforcement action, for any reason, fails to provide data for a continuous period of twenty-four (24) hours or longer, or if more than two (2) consecutive days with less than eighteen (18) hours of valid data occur, the NWCAA shall be notified. Notification shall be made within seventy-two (72) hours after the first invalid day occurs.

(9) For each monitoring station, the operator shall provide a supplemental report when monthly data capture falls below 90%. This report shall list the reasons for the low data capture.

(10) All data strip charts and site logs shall be kept for at least five years.

NON - CRITERIA POLLUTANTS

(F) METHODS AND EQUIPMENT

(1) Ambient measurements of pollutants not listed as criteria pollutants in the FCAA may be required by the NWCAA. Guidelines for methods, equipment, associated operations, data recording and reporting shall be approved by the NWCAA on a case by case basis.

METEOROLOGICAL DATA

(G) METHODS AND EQUIPMENT

(1) The meteorological system shall accurately measure wind speed and wind direction and be approved by the Control Officer. The data accuracy shall fall within the following control limits:

- (a) wind speed: ± 2 mph
- (b) wind direction: ± 10 degrees
- (c) temperature: ± 2 degrees F

(2) Instruments measuring wind direction shall be oriented to true north.

(3) A log book shall be kept for each meteorological system. Dates and description of initial installation, results of calibrations, preventive maintenance and operational checks, and operator initials shall be recorded in the log book. Upon approval by the NWCAA electronic log books may be utilized.

(4) All station installations shall meet EPA siting criteria (*Quality Assurance Handbook for Air Pollution Measurement Systems - Volume IV - Meteorological Measurements*) (EPA-600/4-82-060, revised 1989).

(H) AUDITING

(1) A performance audit shall be conducted once every two years (22-24 months from the last performance audit) by an independent auditor. A performance audit shall also be performed if the siting parameters or location changes or new equipment is installed. The audit shall be conducted within 90 days, if new equipment is installed or a change in siting parameters occurs, and shall evaluate the following:

- (a) As-found orientation
- (b) Wind speed threshold check
- (c) Wind direction threshold check
- (d) Wind speed accuracy check
- (e) Wind direction accuracy check

(2) A system audit may be conducted periodically by the NWCAA. This audit shall include an examination of all site logs, instrument siting and installation, daily operating procedures, preventive maintenance, and calibration data and methods.

(I) DATA RECORDING AND REPORTING

(1) All meteorological data shall be reported as hourly averages. When wind speed is less than two (2) miles per hour and there is no predominant wind direction, the direction may be reported as 000 degrees. If there is a predominant wind direction, an average shall be reported.

(2) Meteorological data calibration reports and results from independent performance audits shall be submitted to the NWCAA no later than thirty (30) days after the end of the month in which they were conducted.

(3) Monthly diskettes containing the validated meteorological data in SAROAD format shall be submitted no later than thirty (30) days after the end of the reporting month. Other file formats, as well as data submittal via e-mail may be approved by the Control Officer.

II. EMISSION TESTING

(A) GENERAL

(1) Unless specified in an applicable subpart, the test length for an emission test shall, whenever possible, equal or exceed the time period of the standard with which the test is to demonstrate compliance.

(2) Emission tests shall, whenever possible, employ methods with established detection limits (DL) lower than the applicable standard. Minor modifications to the test methods, designed to increase method precision, may be approved by the Control Officer, provided that such modifications do not represent a major modification to the test method, or a less stringent interpretation of applicable regulations.

(3) Where measured concentrations or emissions of pollutants are below the method detection limit, the value of the detection limit shall be used to calculate average emissions, and the results shall be reported as "less than DL" if all runs were below the DL, and "less than" the average of the runs if one or more runs were above the DL. The detection limit shall be in units of the standard and actual DLs, whether standard or calculated, must be reported. Reagent blanks below the DL shall use a value of zero. In Method 23, DLs shall be treated as written in the method. DLs for similar pollutants cannot be added or averaged.

(4) Gas dilution systems used for instrument calibration shall comply with EPA Method 205.

(B) TEST PLANS AND TEST DATES

(1) A source test plan shall be submitted for approval by the NWCAA for all compliance source tests at least thirty (30) days prior to the scheduled date, unless otherwise specified in an applicable subpart. A summary of the test shall accompany the test plan and be submitted on a template provided by the NWCAA. CGA and RATAs are not considered source tests.

(2) Once a test plan has been approved by the NWCAA, any changes in test dates or methodology shall require NWCAA approval, provided such changes do not conflict with other requirements or extend the test date beyond the date specified in a subpart.

(C) OPERATING CONDITIONS

(1) Unless otherwise specified in an applicable subpart or a permit condition, the facility shall operate at normal conditions. Normal operation shall exclude periods of startup, shutdown, or unit malfunction. Soot blowing is considered part of normal operations.

(2) If maximum capacity does not represent the condition which results in the highest emissions, the facility may be required to repeat the test at different load conditions and/or during use of a different fuel.

(3) All operating parameters, listed and approved under II(B) shall be recorded during the test.

(D) TEST STOPPAGES

(1) Once initiated, a compliance test shall be completed, except as noted in II(D)(2). Failure to complete a test shall be a violation of the requirement to test, and, in cases where the initial data indicate non-compliance with the applicable emission standard, the results may be considered a violation of that standard.

(2) A stack test may be stopped due to severe weather, tester equipment failure, unit failure, safety considerations, or other conditions beyond the control of the facility. The NWCAA observer may void a test or individual run on-site if procedures are determined to be employed incorrectly.

(3) Data generated during aborted tests shall be appended to the report of the valid repeat test. Documentation of the reasons for test stoppage shall be included in the test report. Test stoppages under II(D)(2) do not provide an extension of any test deadline.

(E) POSTPONEMENT

(1) Compliance tests shall be completed prior to the required test deadline as listed in the applicable subpart or a permit condition. Failure to conduct a timely compliance test constitutes a violation of the requirement to test.

(F) TEST REPORT

(1) A test report shall be submitted to the NWCAA no later than 60 (sixty) days after the completion of the test, unless otherwise specified by an applicable subpart.

(2) A summary of the test shall accompany the test report and submitted on a template provided by the NWCAA.

(3) All field data, operational data listed in the test plan, quality assurance information, sample calculations, and other supporting information, such as certificates for gas standards, or meter box and calibrations, shall be included in the test report.

(G) REQUIREMENTS FOR RE-TESTING

(1) A facility shall be required to repeat a test, and may be required to conduct source tests more frequently, if one or more of the following conditions are encountered:

(a) The facility exceeded the applicable standard.

(b) If the test was stopped for any reason.

(c) If operating conditions or testing methodology deviated significantly from those described in the original test plan.

(d) If the test was voided by the NWCAA.

III. CONTINUOUS EMISSION AND OPACITY MONITORING

(A) GENERAL

(1) Unless subject to acid rain regulations (40 CFR Part 75), all continuous emission monitoring (CEM) systems shall be capable of meeting the appropriate EPA performance specification using procedures outlined in 40 CFR 60, Appendix B. CEMs subject to acid rain regulations shall be capable of meeting the specifications outlined in the appropriate Section of 40 CFR Part 75.

(2) All CEMs shall be operated in accordance with the appropriate Section of 40 CFR 60, Appendix F.

(3) A Quality Assurance (QA) and a station log book shall be kept for all stations. The station log book shall be used to record all ongoing activities associated with station operation.

(4) The operator shall assess the operation of each CEM daily. The date, time, operator and location shall be written on the strip chart and log book each time the monitor is checked manually. Recorder charts shall be documented with explanations for unusual traces, maintenance, invalid data, calibrations, etc. On a case-by-case basis the NWCAA may approve the use of electronic log books.

(5) For gaseous CEMs, "continuous" shall be defined as a minimum of one measurement every 15 minutes, i.e., four equally spaced data points comprising an hourly average.

(6) For continuous opacity monitors (COMs), "continuous" shall be defined as a minimum of one measurement every 15 seconds.

(7) Continuous emission rate monitors shall comply with 40 CFR Part 60, Appendix B, Specification 6. The flow portion of the system shall be checked periodically against EPA Method 2.

(B) CALIBRATION

(1) CEM calibration drift (precision) checks shall be conducted daily in accordance with 40 CFR Part 60, Appendix F and the written operational procedures.

(2) The instrument shall be adjusted in accordance with the requirements of the applicable performance specification of 40 CFR Part 60, Appendix B.

(3) Temperature monitors shall be accurate to within 5 degrees F, unless otherwise specified in a subpart.

(4) A section on calibration check and adjustment procedures shall be included in the CEM QA document.

(5) Continuous opacity monitors shall be calibrated as outlined in 40 CFR Part 60, Appendix B, Specification 1 and the manufacturer's procedures.

(C) MAINTENANCE

(1) Continuous opacity monitors shall be maintained according to "Recommended Quality Assurance Procedures

for Opacity Continuous Emission Monitoring Systems" (EPA 340/I-86-10) and the manufacturer's procedures.

(2) All gaseous CEMs shall be maintained using QA criteria of 40 CFR Part 60, Appendix F and the manufacturer's procedures.

(3) Temperature monitors shall be maintained according to manufacturer's recommendations.

(4) A section on preventive maintenance procedures shall be included in the CEM QA document.

(D) AUDITING - CONTINUOUS OPACITY MONITORS (COMS)

(1) Accuracy checks shall be performed according to EPA "Recommended Quality Assurance Procedures for Opacity Continuous Emission Monitoring Systems" (EPA 340/I-86-10). Testing in addition to otherwise applicable requirements shall be implemented as follows:

(a) On-stack performance audit: A calibration error check shall be conducted if accuracy or linearity of data does not comply with applicable specifications.

(b) An off-stack (clear path) zero alignment shall be conducted if the percentage difference between the simulated zero check response and the true value is greater than suggested manufacturer's limits or standards.

(2) System audits may be conducted by the NWCAA. The audit may include an on-site inspection of the opacity monitor and a review of operating procedures, site log, documentation of data collection activity, and location criteria.

(3) Multi-performance audits may be conducted by the NWCAA to assess data accuracy and to determine if the opacity monitor meets the applicable performance specification.

(E) AUDITING - GASEOUS MONITORS

(1) Data accuracy assessments shall be performed at least once every calendar quarter and at periodic intervals determined by monitor performance and data accuracy.

Data accuracy assessments shall be conducted in accordance with procedures outlined in 40 CFR Part 60, Appendix F. The following testing methods shall be used as described in Part 60:

(a) Relative Accuracy Test Audit (RATA)

(b) Relative Accuracy Audit (RAA)

(c) Cylinder Gas Audit (CGA)

The Relative Accuracy Test Audit shall be conducted at least once every four (4) calendar quarters as described in the applicable performance specification outlined in 40 CFR Part 60, Appendix B.

(2) All RATAs shall assess accuracy in units of the applicable standard with which compliance is being determined and shall test the entire system. Accuracy calculations shall be based on the output of the CEM's data acquisition system.

(3) Data accuracy assessments which require the CEM to be off-line shall not be performed during periods in which the CEM is measuring greater than 75% of the applicable standard without prior approval by the NWCAA.

(4) System audits may be conducted by the NWCAA. The audit may include an on-site inspection of the CEM and a review of operating procedures, site log, documentation of data collection activity, and location criteria.

(5) Multi-performance audits may be conducted by the NWCAA to assess data accuracy and to determine if the CEM meets the applicable performance specification.

(F) DATA RECORDING, VALIDATION AND REPORTING

(1) Strip charts shall be used for all monitors unless the data acquisition system is capable of generating trend graphs from one-minute averages. Paperless strip charts are acceptable if configured to store one-minute averages (15-second or better averages for opacity monitors). Strip chart times shall not deviate from the time of the data acquisition system by more than 10 minutes.

(2) All gaseous CEMs shall be able to digitally capture and store data in at least 5-minute averages, unless the data acquisition system is used to replace strip charts in which case one-minute storage shall be required. Opacity monitoring systems shall be capable of storing 15-second averages.

(3) All data shall be retained for a period of at least five (5) years and be available to the NWCAA upon request.

(4) Each CEM shall have a log book or file on site. Any work performed on any portion of CEM system shall be recorded, including the following information:

(a) Date, time, and personnel identification

(b) Reason for station visit

(c) Action(s) taken

(d) Time period for which the analyzer was offline

(5) Each CEM shall have a QA manual on site which address all quality control requirements outlined in 40 CFR Part 60, Appendix F, Section 3. All QA procedures should be described in sufficient detail to assure that all operators carry out procedures in the same manner. At a minimum, the following shall be included:

(a) Instrument installation description including model and serial numbers

(b) Operating procedures including daily check procedures and pertinent instrument settings

(c) Procedures for calibration and calibration drift assessment

(d) Quality control limits and instrument adjustments procedures

(e) Preventive maintenance procedures

(f) Data recording, validation, backup, and reporting procedures

(g) Accuracy assessment procedures for CGAs and RATAs

(h) Corrective action plan for malfunctioning CEM, including reporting requirements

(i) List of current station operators

(j) Vendor names and addresses

(k) Spare parts inventory

(l) Evidence of operator training

(6) Data from strip chart recorders or recording devices approved under III(F)(1), shall be reviewed and, if applicable, compared to corresponding data logger values, and then signed by the station operator. At a minimum, the following information shall be checked and appropriately labeled:

(a) Zero and span/precision checks

(b) Preventive maintenance operations

(c) QA activities

(d) Unusual chart traces

(e) Time, date, and personnel identification

(7) Pre-adjustment values for automatically adjusting monitors shall be documented (40 CFR Part 60, Appendix F, Section 4.2).

(8) All unusual or questionable data shall be investigated and, if appropriate, be voided. For gaseous monitors, a minimum of 45 minutes of valid data in a 1-hour period is required for the hour to be considered valid. A minimum of 18 hours of valid data in a 24 hour period is required for the day to be considered valid.

(9) CEM data shall be considered invalid, and flagged for reporting purposes, if:

(a) The monitor is not operated and maintained in accordance with the applicable performance specifications of 40 CFR Part 60, Appendix B.

(b) Quality assurance procedures are not in accordance with 40 CFR Part 60, Appendix F.

(c) The CEM or is not operative or off line.

(d) The monitor is being zeroed or spanned.

(e) The CEM is "out-of-control" as defined in 40 CFR Part 60, Appendix F.

(10) Data generated during QA audits (e.g., CGAs), calibration, and calibration drift checks shall be excluded for purposes of compliance determination.

(11) For reporting purposes, averaging periods for CEMs are one (1) clock hour for gaseous monitors, six (6) minutes for opacity monitors, and fifteen (15) minutes for temperature monitors, unless otherwise specified by applicable limits.

(12) Missing data substitution: Missing or invalid data shall be substituted using the following procedures:

(a) Missing data from CEMs that are turned off during periods of excess emissions shall be reported as exceedances of all applicable emission standards.

(b) Parametric, engineering, or source test data may be utilized for data substitution during periods of normal operation as demonstrated by operating data.

(c) Data substitution is not required if invalid data are the result of CEMs drift checks, calibrations, audits, or preventative maintenance.

(d) If neither (a) nor (b) above apply, the following substitution scheme is to be used:

Previous 30 day data availability	Up to 24 hours of missing data:	Greater than 24 hours of missing data
90% and < 95%	Average of last and first valid hour bracketing the missing data period	The average of first and last valid hour or the 95th percentile value during the last 720 hours, whichever is greater
< 90%	Maximum hourly average over the last 30 days	Maximum hourly average over the last 30 days

(13) Data availability (in percent) shall be defined as the [(number of valid (excluding substituted) hours of CEM data in a reporting month) minus (hours of calibration/CD/QA checks)] divided by [total hours of operation of the corresponding unit in that month] times 100.

(14) CEMs are required to maintain greater than 90% data availability on a monthly basis. A supplemental report shall be submitted if during any calendar month a CEM system fails to produce 90% data availability, stating the reason(s) for the low data availability.

(15) The following data shall be submitted to the NWCAA on a monthly basis or according to the applicable standard:

(a) Time, date, magnitude, and cause of all emissions or temperatures which exceed the applicable standard(s).

(b) The cause and time periods of any bypass of the air pollution control equipment.

(c) The cause and time periods of CEM downtime not associated with routine QA or maintenance operations.

(d) Data availability for each CEM, listed by unit and parameter.

(e) Supplemental report for system with 90% monthly data availability.

(f) Other data or information as required by the Control Officer.

(16) Monthly reports shall be postmarked no later than thirty (30) days after the end of the reporting month.

(17) A Data Assessment Report as defined in 40 CFR Part 60 Appendix F, Section 7 shall be submitted to the NWCAA on a quarterly basis and other time interval as specified by the NWCAA.

PASSED: July 14, 2005

Reviser's note: The typographical error in the above material occurred in the copy filed by the Northwest Clean Air Agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Previous 30 day data availability	Up to 24 hours of missing data:	Greater than 24 hours of missing data
95%	Average of last and first valid hour bracketing the missing data period.	The average of first and last valid hour or the 90th percentile value during the last 720 hours, whichever is greater
Previous 30 day data availability	Up to 8 hours of missing data:	Greater than 8 hours of missing data

PERMANENT

WSR 05-17-002
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-166—Filed August 3, 2005, 2:41 p.m., effective September 3, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend Puget Sound commercial salmon rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-47-001, 220-47-302, 220-47-311, 220-47-325, 220-47-401, 220-47-411, and 220-47-428.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-12-143 on June 1, 2005.

Changes Other than Editing from Proposed to Adopted Version: Office of Code Reviser corrected text in WAC 220-47-302(4) to eliminate reviser's note.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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.

Date Adopted: August 3, 2005.

J. P. Koenings
 Director

AMENDATORY SECTION (Amending Order 78-16, filed 4/13/78)

WAC 220-47-001 (~~General provision~~) **Puget Sound salmon—Quick reporting.** (~~It shall be unlawful to take, fish for or possess salmon for commercial purposes in any Puget Sound Salmon Management and Catch Reporting Area unless taken lawfully by specific regulations in chapter 220-47 or 220-28 WAC.~~) **All Puget Sound salmon fisheries are designated as "quick reporting required" fisheries, and commercial purchasers and receivers must comply with the provisions of WAC 220-69-240(10).**

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-302 Puget Sound—Lawful gear—Gill net. (1) (~~Lawful~~) **It is unlawful to use** drift gill net salmon gear in Puget Sound (~~shall not~~) **that exceeds** 1,800 feet in length (~~not~~) **or contains** meshes of a size less than 5 inches, except in Area 9A, where gill nets may not exceed 600 feet in length, or be more than 60 mesh deep, or contain mesh size less than 5 inches.

(2) (~~Lawful~~) **It is unlawful to use** skiff gill net salmon nets in Puget Sound (~~shall not~~) **that** exceed 300 feet in length (~~and~~) **or** 90 meshes in depth (~~not~~), **or** contain meshes of a size less than 5 inches, except in Area 9A, where gill nets may not exceed 600 feet in length, or be more than 60 meshes deep, or contain mesh size less than 5 inches. **It is unlawful to retrieve skiff gill nets** (~~must be retrieved~~) **by any means except** hand (no hydraulics may be used). **It is unlawful to fail to attend skiff gill 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) It is unlawful to take or fish for salmon with gill net gear 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 {210/30d}~~) 210/30d (#12) diameter nylon twine.

(5) It is unlawful to take or fish for salmon with gill net gear in Areas 7 or 7A between the dates of September 30 and October (~~17~~) 16 unless the gill net vessel has aboard and uses operable recovery boxes as described in this subsection.

(a) Dimensions and capacities of required recovery boxes:

(i) Recovery boxes must have two chambers, if one box, or it may be two boxes with one chamber in each box.

(ii) Each recovery box chamber must have an inside length measurement of 48 inches, an inside width measurement of 10 inches, and an inside height measurement of 16 inches.

(iii) Each chamber of the recovery box must have an inlet hole measuring between 3/4 inch and 1 inch in diameter, and the inlet hole must be centered horizontally across the door or wall of the chamber and the bottom of the hole must be located 1 3/4 inches above the floor of the chamber.

(iv) Each chamber of the recovery box must include a water outlet hole on the opposite wall from the inlet hole, and the outlet hole must be at least 1 1/2 inches in diameter with the bottom of the outlet hole located 12 inches above the floor of the chamber.

(v) Flow of water through each chamber of the recovery boxes must be not less than 16 gallons per minute nor more than 20 gallons per minute.

(b) Each box and chamber must be operating during any time that the net is being retrieved or picked.

(c) The vessel operator must demonstrate to department employees, upon request, that the pumping system is delivering the proper volume of fresh seawater into each chamber.

(d) All salmon not to be retained must be released immediately with care and the least possible injury to the fish, or placed into the operating recovery box.

(e) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

(f) All fish placed in the recovery boxes must be released within the same catch area as the area of capture, and the release must occur prior to landing or docking.

(6) It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a

"Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-311 Purse seine—Open periods. 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 during the periods provided for hereinafter in each respective Management and Catch Reporting Area:

((AREA	TIME	DATE
7, 7A:	7AM - 6PM with use of recovery box	10/13, 10/14
	7AM - 3:15 PM without use of recovery box	
	8AM - 6 PM with use of recovery box	10/20, 10/21, 10/27, 10/28
	8AM - 2:30 PM without use of recovery box	
	7AM - 5 PM with use of recovery box	11/3, 11/4
	7AM - 2:30 PM without use of recovery box	
7B, 7C:	6AM - 8PM	8/18, 8/25, 9/1 Limited participation, 4 boats to be selected by lottery
7B:	7AM 9/7	- 8PM 9/9
	7AM 9/13	- 7PM 9/15
	7AM 9/19	- 4PM 10/23
	7AM 10/25	- 4PM 10/29
	7AM 11/1	- 4PM 11/5
	7AM 11/8	- 4PM 11/12
	7AM 11/15	- 4PM 11/19
	7AM 11/22	- 4PM 11/26
	8AM 11/29	- 4PM 12/3
Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning 12:01 a.m. on the last Monday in October and is open until 4:00 p.m. on the first Friday in December.		
8A:	7AM - 7PM	9/27, 10/4 Limited participation, 2 boats to be selected by lottery
	7AM - 6PM	10/11
	8AM - 6PM	10/18, 10/25, 10/27
	7AM - 5PM	11/3, 11/8, 11/10, 11/17
	7AM - 4PM	11/22, 11/24
8D:	7AM - 7PM	9/23, 10/4
	7AM - 6PM	10/11
	8AM - 6PM	10/18, 10/25, 10/27
	7AM - 5PM	11/3, 11/8, 11/10, 11/17
	7AM - 4PM	11/22, 11/24
10, 11:	7AM - 6PM	10/11
	8AM - 6PM	10/18, 10/25, 10/26
	7AM - 5PM	11/1, 11/8, 11/15
	7AM - 4PM	11/22
12, 12B:	8AM - 6PM	10/18, 10/25, 10/26

((AREA	TIME	DATE
	7AM - 5PM	11/1, 11/8, 11/15
12C:	7AM - 5PM	11/9, 11/16
	7AM - 4PM	11/23)

AREA	TIME	DATE
7, 7A:	7AM - 6PM with use of recovery box	10/12, 10/13, 10/19, 10/20, 10/26, 10/27
	7AM - 3:15PM without use of recovery box	
	7AM - 5PM with use of recovery box	11/2, 11/3
	7AM - 2:30PM without use of recovery box	
7B, 7C:	6AM - 8PM	8/17, 8/24, 8/31
	7AM - 7PM	9/7
7B:	7AM - 7PM	: 9/12, 9/13, 9/14
	7AM 9/18	: 8PM 10/29
	7AM 10/31	: 4PM 11/4
	7AM 11/7	: 4PM 11/11
	7AM 11/14	: 4PM 11/18
	7AM 11/21	: 4PM 11/25
	8AM 11/28	: 4PM 12/2

Note: That portion west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37"N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then south-eastward along that line to Fish Point is closed 9/1-9/30.

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to purse seines beginning 12:01 a.m. on the last Monday in October and is open until 4:00 p.m. on the first Friday in December.

8A:	7AM - 7PM	Limited participation - two boats (9/26, 10/3).
	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	11/2, 11/7, 11/9, 11/16
	7AM - 4PM	11/21, 11/23
8D:	7AM - 7PM	9/22, 9/26, 10/3
	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	11/2, 11/7, 11/9, 11/16
	7AM - 4PM	11/21, 11/23
10, 11:	7AM - 6PM	10/10, 10/17, 10/24, 10/26
	7AM - 5PM	10/31, 11/7, 11/14
	7AM - 4PM	11/21
12, 12B:	7AM - 6PM	10/17, 10/24, 10/26
	7AM - 5PM	10/31, 11/7, 11/14
12C:	7AM - 5PM	11/8, 11/15
	7AM - 4PM	11/22

It is unlawful to retain the following salmon species taken with purse seine gear within the following areas during the following periods:

- Chinook salmon - at all times in Areas 7, 7A, 8, 8A, 8D, 10, 11, 12, 12B, and 12C and after October 30 in Area 7B
- Coho salmon - at all times in Areas 7, 7A, 10, and 11, and prior to September ((8)) 11 in Area 7B
- Sockeye salmon - prior to September ((8)) 24 in Areas 7B and 7C

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Chum salmon - prior to October 1 in Areas 7 and 7A. All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

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) In Areas 7 and 7A and prior to September 5 in Areas 7B and 7C, 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.

(5) ~~(If fishers are enrolled in the "rolling wedge" evaluation program, they may use the rolling wedge in lieu of brailing provided they comply with the following conditions:~~

~~(a) Have enrolled by contacting the department at 360-902-2717 prior to June 1, 2004;~~

~~(b) Pay the funding fee of \$100 per day of the opening;~~

~~(c) Allow WDFW observer on board for all fishing activities;~~

~~(d) No more than 125 fish may be on deck at any one time;~~

~~(e) Place all lethargic or injured fish in the operating recovery box until they appear recovered or they are dead;~~

~~(f) Dimensions and capacities of required recovery boxes:~~

~~(i) Recovery boxes must have two chambers, if one box, or it may be two boxes with one chamber in each box;~~

~~(ii) Each recovery box chamber must have an inside length measurement of not less than 39 1/2 inches nor more than 48 inches, an inside width measurement of not less than 8 inches nor more than 10 inches, and an inside height measurement of not less than 14 inches nor more than 16 inches;~~

(AREA	TIME	-	DATE(S)	MINIMUM MESH
6D:	7AM	-	7PM 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, 10/25, 10/26, 10/27, 10/28, 10/29	5"

Note: In Area 6D it is unlawful to use other than 5 inch minimum and 5 1/2 inch maximum mesh in the skiff gill net fishery. 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, chum or pink salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

~~(iii) Each chamber of the recovery box must have an inlet hole measuring between 3/4 inch and 1 inch in diameter, and the inlet hole must be centered horizontally across the door or wall of the chamber and the bottom of the hole must be located 1 3/4 inches above the floor of the chamber;~~

~~(iv) Each chamber of the recovery box must include a water outlet hole on the opposite wall from the inlet hole, and the outlet hole must be at least 1 1/2 inches in diameter with the bottom of the outlet hole located 12 inches above the floor of the chamber;~~

~~(v) Flow of water through each chamber of the recovery boxes must be not less than 16 gallons per minute nor more than 20 gallons per minute;~~

~~(g) Each box and chamber must be operating during any time that the net is being retrieved or picked;~~

~~(h) The vessel operator must demonstrate to department employees, upon request, that the pumping system is delivering the proper volume of fresh seawater into each chamber;~~

~~(i) All salmon not to be retained must be released immediately with care and the least possible injury to the fish, or placed into the operating recovery box.)) Fishers using a recovery box must have and operate the box in compliance with the provisions of WAC 220-47-302 (5)(a) through (f), and it is unlawful to fail to do so.~~

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-401 Reef net open periods. (1) 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	-	((9/12-11/13)) 9/25 - 11/12

(2) It is unlawful to retain chinook salmon taken with reef net gear at all times, and it is unlawful to retain chum or wild coho salmon taken with reef net gear prior to October 1.

(3) All other saltwater and freshwater areas - closed.

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-411 Gill net—Open periods. 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)	MINIMUM MESH
7, 7A:	7AM	-	8PM Use of recovery box required 10/13, 10/14	6 1/4"
	8AM	-	8PM Use of recovery box not required 10/20, 10/21, 10/27, 10/28	
	7AM	-	7PM 11/3, 11/4	

Note: In Areas 7 and 7A after September 30 but prior to October 20, it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gill net web enters the water until the gill net is fully retrieved from the water.

7B/C:	7PM	-	7AM NIGHTLY 8/16, 8/22, 8/24, 8/26, 8/29, 8/31, 9/2	7"
7B:	7PM	-	8AM NIGHTLY 9/6, 9/7, 9/9	5"
	6PM	-	8AM NIGHTLY 9/12, 9/14, 9/16	
	7AM 9/19	-	8PM 10/23	
	8AM 10/25	-	4PM 10/29	6 1/4"
	7AM 11/1	-	4PM 11/5	
	7AM 11/8	-	4PM 11/12	
	7AM 11/15	-	4PM 11/19	
	7AM 11/22	-	4PM 11/26	
	8AM 11/29	-	4PM 12/3	

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gill nets using 6 1/4-inch minimum mesh beginning 12:01AM on the last day in October and is open until 4:00 PM on the first Friday in December.

8A:	6PM	-	8AM NIGHTLY 10/5	5"
	5PM	-	8AM NIGHTLY 10/12, 10/14, 10/15	
	8AM	-	8PM 10/19, 10/21, 10/22, 10/25, 10/26, 10/27, 10/28	6 1/4"
	7AM	-	7PM 11/2, 11/4, 11/5, 11/9, 11/11, 11/12, 11/16, 11/18, 11/19	
	7AM	-	6PM 11/23, 11/25, 11/26	
8D:	6PM	-	8AM NIGHTLY 9/19, 9/21, 9/23, 9/26, 9/28, 9/30, 10/3, 10/5, 10/7	5"
	5PM	-	8AM NIGHTLY 10/10, 10/12, 10/14	
	5PM	-	9AM NIGHTLY 10/17, 10/19, 10/21	
	5PM	-	9AM NIGHTLY 10/25, 10/26, 10/27, 10/28	6 1/4"
	4PM	-	8AM NIGHTLY 10/31, 11/2, 11/4, 11/8, 11/9, 11/10, 11/11, 11/14, 11/16, 11/18	6 1/4"
	3PM	-	8AM NIGHTLY 11/22, 11/23, 11/24, 11/25	
9A:	7PM	-	7AM NIGHTLY 8/24, 8/26	5"
	6AM 8/29	-	8PM 10/30	

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1 and unlawful to retain chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

10, 11:	5PM	-	8AM NIGHTLY 10/10, 10/12, 10/14	6 1/4"
	5PM	-	9AM NIGHTLY 10/17, 10/19, 10/21, 10/24, 10/26, 10/28	
	4PM	-	8AM NIGHTLY 10/31, 11/2, 11/4, 11/7, 11/9, 11/11	
12, 12B:	8AM	-	8PM 10/19, 10/20, 10/21, 10/26, 10/28, 10/29	6 1/4"
	7AM	-	7PM 11/1, 11/2, 11/4, 11/9, 11/10, 11/11, 11/16, 11/17, 11/18	
12C:	7AM	-	7PM 11/9, 11/10, 11/11, 11/16, 11/17, 11/18	6 1/4"
	7AM	-	6PM 11/23, 11/24, 11/25	

All other saltwater and freshwater areas—closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.))

AREA	TIME	:	DATE(S)	MINIMUM MESH
6D: Skiff gill net only.	7 AM	:	7 PM 9/21, 9/22, 9/23, 9/26, 9/27, 9/28, 9/29, 9/30, 10/3, 10/4, 10/5, 10/6, 10/7, 10/10, 10/11, 10/12, 10/13, 10/14, 10/17, 10/18, 10/19, 10/20, 10/21, 10/24, 10/25, 10/26, 10/27, 10/28	5"

Note: In Area 6D it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. 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, chum or pink salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

7, 7A:	7AM	:	8PM Use of recovery box required 10/12, 10/13	6 1/4"
	8AM	:	8PM 10/19, 10/20, 10/26, 10/27	6 1/4"
	7AM	:	7PM 11/2, 11/3	6 1/4"

AREA	TIME	DATE(S)	MINIMUM MESH
<u>Note: In Areas 7 and 7A after September 30 but prior to October 16, coho and chinook salmon must be released and it is unlawful to use a net soak time of more than 45 minutes. Net soak time is defined as the time elapsed from when the first of the gill net web enters the water until the gill net is fully retrieved from the water. Fishers must also use a recovery box in compliance with WAC 220-47-302 (5)(a) through (f).</u>			
7B/7C:	7PM	= 7AM	NIGHTLY 8/15, 8/21, 8/23, 8/25, 8/28, 8/30, 9/1
	6PM	= 8AM	NIGHTLY 9/5, 9/6, 9/8
7B:	6PM	= 8AM	NIGHTLY 9/11, 9/13, 9/15
	7AM 9/18	= 8PM 10/29	5"
	7AM 10/31	= 4PM 11/4	5"
	7AM 11/7	= 4PM 11/11	6 1/4"
	7AM 11/14	= 4PM 11/18	6 1/4"
	7AM 11/21	= 4PM 11/25	6 1/4"
	8AM 11/28	= 4PM 12/2	6 1/4"

Note: That portion west of a line from Point Francis (48°41'42"N, 122°36'40"W) to the red and green buoy southeast of Point Francis (48°40'22"N, 122°35'30"W) then to the northernmost tip of Eliza Island (48°39'37" N, 122°35'45"W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48°38'35"N, 122°34'40"W) and Fish Point (48°34'35"N, 122°29'45"W) and then southeastward along that line to Fish Point is closed 9/1-9/30.

Note: That portion of Area 7B east of a line from Post Point to the flashing red light at the west entrance to Squalicum Harbor is open to gill nets using 6 1/4-inch minimum mesh beginning 12:01 AM on the last day in October and is open until 6:00 PM on the first Friday in December.

8A:	6PM	= 8AM	NIGHTLY 10/4	5"
	5PM	= 8AM	NIGHTLY 10/11, 10/13, 10/14	5"
	8AM	= 8PM	10/18, 10/20, 10/21	5"
	8AM	= 8PM	10/24, 10/25, 10/26, 10/27	6 1/4"
	7AM	= 7PM	11/1, 11/3, 11/4, 11/8, 11/10, 11/11, 11/15, 11/17, 11/18	6 1/4"
	7AM	= 6PM	11/22, 11/24, 11/25	6 1/4"
8D:	6PM	= 8AM	NIGHTLY 9/18, 9/20, 9/22, 9/25, 9/27, 9/29, 10/2, 10/4, 10/6	5"
	5PM	= 8AM	NIGHTLY 10/9, 10/11, 10/13, 10/16, 10/18, 10/20	5"
	8AM	= 8PM	10/27, 10/28	5"
	7AM	= 7PM	11/3, 11/4	5"
	7AM	= 7PM	11/10, 11/11, 11/17, 11/18	6 1/4"
	7AM	= 6PM	11/24, 11/25	6 1/4"
9A:	7PM	= 7AM	NIGHTLY 8/23, 8/25	5"
	7AM 8/28	= 8PM 10/29		5"

Note: It is unlawful to retain chum salmon taken in Area 9A prior to October 1 and unlawful to retain chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

10, 11:	4PM	= 7AM	NIGHTLY 10/9	6 1/4"
	5PM	= 8AM	NIGHTLY 10/11, 10/12	6 1/4"
	4PM	= 7AM	NIGHTLY 10/16	6 1/4"
	5PM	= 8AM	NIGHTLY 10/18, 10/19, 10/23, 10/25, 10/26	6 1/4"
	4PM	= 7AM	NIGHTLY 10/30	6 1/4"
	4PM	= 8AM	NIGHTLY 11/1, 11/2	6 1/4"
	4PM	= 7AM	NIGHTLY 11/6	6 1/4"
	4PM	= 8AM	NIGHTLY 11/8, 11/9	6 1/4"
	4PM	= 7AM	NIGHTLY 11/13	6 1/4"
	4PM	= 8AM	NIGHTLY 11/15, 11/16	6 1/4"
	4PM	= 7AM	NIGHTLY 11/20	6 1/4"
	3PM	= 8AM	NIGHTLY 11/22, 11/23	6 1/4"
12A: Skiff gill net only.	7AM	= 7PM	8/22, 8/31, 9/7, 9/14, 9/21, 9/28	5"

Note: In Area 12A it is unlawful to use other than 5-inch minimum and 5 1/2-inch maximum mesh in the skiff gill net fishery. It is unlawful to retain chinook or pink salmon taken in Area 12A at any time, any salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

12, 12B:	8AM	= 8PM	10/18, 10/19, 10/20, 10/25, 10/27, 10/28	6 1/4"
	7AM	= 7PM	11/1, 11/2, 11/3, 11/8, 11/9, 11/10, 11/15, 11/16, 11/17	6 1/4"
12C:	7AM	= 7PM	11/8, 11/9, 11/10, 11/15, 11/16, 11/17	6 1/4"
	7AM	= 6PM	11/22, 11/23, 11/24	6 1/4"

All other saltwater and freshwater areas - closed.

Nightly openings refer to the start date.

Within an area or areas, a mesh size restriction remains in effect from the first date indicated until a mesh size change is shown, and the new mesh size restriction remains in effect until changed.

PERMANENT

AMENDATORY SECTION (Amending Order 04-202, filed 8/4/04, effective 9/4/04)

WAC 220-47-428 Beach seine—Open periods. 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)
7B	7AM—7PM Daily	10/11, 10/12, 10/13, 10/14, 10/15, 10/18, 10/19, 10/20, 10/21, 10/22, 10/25, 10/26, 10/27, 10/28, 10/29, 11/1, 11/2, 11/3, 11/4, 11/5, 11/8, 11/9, 11/10, 11/11, 11/12
12A	7AM—7PM Daily	8/23, 8/24, 8/25, 8/26, 8/27, 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

Note: By condition of the salmon experimental beach seine permit, only the following waters of Area 7B and Area 12A are open to beach seine fishing for salmon during the open dates designated in WAC 220-47-428: Area 7B—Those waters of Area 7B lying northerly and easterly of a line extending from Governors Point to the Red #2 bell buoy to the point where the pipeline from Tilbury Cement Pier contacts the shore. Area 12A—Those waters of Area 12A lying northerly of a line extending from Whitney Point to the flashing light off Fishermans Point then to Fishermans Point on the Bolton Peninsula.))

All areas: Closed.

It is unlawful to retain chinook taken with beach seine gear in all areas, and unlawful to retain chum from Area 12A.

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.

Date Adopted: August 3, 2005.

August 3, 2005
J. P. Koening
Director

AMENDATORY SECTION (Amending Order 01-288, filed 12/27/01, effective 1/27/02)

WAC 220-44-035 ((Coastal pelagic gear)) Highly migratory species fisheries—Possession and landing requirements—Gear restriction. It is unlawful to possess, transport through the waters of the state, or land into any Washington port highly migratory species taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in violation of any permit or data collection requirements, established by the Pacific Fishery Management Council and published in the *Federal Register*, Volume 70, No. 27, published February 10, 2005. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington state waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at 360-902-2930. Except as authorized under the federal rules referenced in this section, it is unlawful to use drift gill net gear in state and offshore waters west of the Bonilla-Tatoosh line, north of the Washington-Oregon boundary, and south of the United States-Canada boundary.

PERMANENT

**WSR 05-17-003
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-165—Filed August 3, 2005, 2:42 p.m., effective September 3, 2005]

Effective Date of Rule: Thirty-one days after filing.
Purpose: Amend coastal pelagic fisheries rules.
Citation of Existing Rules Affected by this Order: Amending WAC 220-44-035.
Statutory Authority for Adoption: RCW 77.12.047.
Adopted under notice filed as WSR 05-11-089 on May 17, 2005.

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.

**WSR 05-17-004
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed August 3, 2005, 2:55 p.m., effective September 3, 2005]

Effective Date of Rule: Thirty-one days after filing.
Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The landscape architect exam will be administered on December 5 and 6, 2005, and this rule change will be in effect by that date.

Purpose: WAC 308-13-150, sets registration and examination fees, those examination fees to be collected and passed on to the examination vendor.

Citation of Existing Rules Affected by this Order: Amending WAC 308-13-150.

Statutory Authority for Adoption: RCW 18.96.080 Applications—Contents—Fees.

Other Authority: RCW 43.24.086.

Adopted under notice filed as WSR 05-13-026 on June 3, 2005.

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.

Date Adopted: July 26, 2005.

John Swannack
for Andrea Archer
Assistant Director

AMENDATORY SECTION (Amending WSR 05-04-050, filed 1/28/05, effective 2/28/05)

WAC 308-13-150 Landscape architect fees and charges. The following fees will be collected from the candidates:

Title of Fee	Fee
Application fee	\$50.00
Reexamination administration fee	50.00
Renewal (2 years)	200.00
Late renewal penalty	100.00
Duplicate license	25.00
Initial registration (2 years)	200.00
Reciprocity application fee	200.00
Replacement wall certificate	20.00

The following charges assessed by the Council of Landscape Architectural Registration Boards (CLARB), collected from candidates for the costs of the examinations shall be paid to CLARB.

Examination and Sections	Charges
Entire examination	\$470.00
Section C:	
Planning and site design	((235.00)) <u>245.00</u>
Section E:	
Grading, drainage and storm water management	((235.00)) <u>245.00</u>

The following sections of the examination will only be administered by CLARB:

Section A:

Legal and administrative aspects of practice

Section B:

Analytical aspects of practice

Section D:

Structural considerations and materials and methods of construction

**WSR 05-17-006
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-167—Filed August 3, 2005, 3:43 p.m., effective September 3, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend coastal harbor commercial salmon seasons.

Citation of Existing Rules Affected by this Order: Amending WAC 220-36-023 and 220-40-027.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-10-106 on May 4, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 3, 2005.

J. P. Koenings
Director
by Larry Peck

AMENDATORY SECTION (Amending Order 04-183, filed 7/22/04, effective 8/22/04)

WAC 220-36-023 Grays Harbor salmon—Fall fishery. August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes, except that:

Fishing periods

(1) Gill net gear may be used to fish for ~~((coho and chum))~~ salmon(;) and sturgeon. All nonlegal sturgeon and steelhead must be handled with care to minimize injury and released immediately:

PERMANENT

Time Areas
 ((6:00 a.m. October 8 through 6:00 p.m. October 8, and 6:00 a.m. October 14 through 6:00 p.m. October 14, 2004

That portion of Area 2A upstream from the Highway 101 Bridge at Aberdeen, and that portion of Area 2D north and east of a line projected due south from the 28th street boat launch to Renney Island then southeasterly to Range Marker G then to the eastern boundary of Area 2D at the Highway 101 Bridge.))

7:30 a.m. October 8 through 6:30 p.m. October 8, 2005 2C

9:30 a.m. October 13 through 5:30 p.m. October 13, 2005, and 10:30 a.m. October 14 through 6:30 p.m. October 14, 2005

That portion of Area 2A upstream from the Highway 101 Bridge at Aberdeen to a line projected from the Lakeside Industries asphalt plant tower at a right angle to the thread of the stream to the opposite shore.

AND

That portion of Area 2D north and east of a line projected due south from the 28th street boat launch to Renney Island then southeasterly to Range Marker G then to the eastern boundary of Area 2D at the Highway 101 Bridge.

(a) Drift gill net gear only. It is unlawful to use set net gear.

(b) 6-inch maximum mesh restriction, no more than 55 meshes deep.

(c) Soak time shall not exceed 45 minutes. Soak time, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

(d) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box shall be operating during any time that the net is being retrieved or picked. The flow in the recover box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recover box must

include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is at least 1 1/2 inches in diameter. The center of the outlet hole must be located a minimum of 12 inches above the floor of the box or chamber. The fisher must demonstrate to department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.

(e) All chinook, nonlegal sturgeon, and steelhead must be handled with care to minimize injury to fish and released immediately to the river/bay or to an operating recovery box.

(f) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.

(g) All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.

(h) Quick reporting is required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." WAC 220-69-240.

(i) Fishers must ((be willing to)) take department observers if requested by department staff when participating in these openings, and provide notice of intent to participate by contact to the quick reporting phone, fax or e-mail, WAC 220-69-240, ((by)) prior to 10:00 a.m. ((October 7 if intending to fish on October 8, or 10:00 a.m. October 13 if intending to fish on October 14)) the day preceding each opening.

(2) Gill net gear may be used to fish for salmon and sturgeon:

Time	Areas
((6:00 a.m. October 21 through 6:00 p.m. October 21	Area 2B
6:00 a.m. October 22 through 6:00 p.m. October 22	
6:00 a.m. October 27 through 6:00 p.m. October 27	
6:00 a.m. October 28 through 6:00 p.m. October 28, and	
6:00 a.m. October 29 through 6:00 p.m. October 29, 2004))	
<u>7:30 a.m. October 15 through 6:30 p.m. October 15, 2005</u>	
<u>7:30 a.m. October 16 through 6:30 p.m. October 16, 2005</u>	
<u>7:30 a.m. October 28 through 6:30 p.m. October 28, 2005, and</u>	
<u>7:30 a.m. October 29 through 6:30 p.m. October 29, 2005</u>	

(a) Drift gill gear only. Unlawful to use set net gear.

(b) 6 1/2-inch maximum mesh restriction.

(c) Quick reporting required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." WAC 220-69-240.

PERMANENT

(d) Fishers must ~~((be willing to))~~ take department observers if requested by department staff when participating in these fisheries. Notice of intent to participate not required.

AMENDATORY SECTION (Amending Order 04-183, filed 7/22/04, effective 8/22/04)

WAC 220-40-027 Salmon—Willapa Bay fall fishery. August 16 through December 31 of each year, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

Fishing periods

(1) Gill net gear may be used to fish for salmon:

Time	Area
6:00 p.m. September ((47)) <u>18</u> through 6:00 p.m. September ((30, 2004)) <u>23, 2005</u>	Areas 2G east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, 2H west of Willapa Channel Marker 40, 2M, and 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2)
6:00 p.m. September 21 through 6:00 p.m. September 22 and 6:00 p.m. September 28 through 6:00 p.m. September 29, ((2004)) <u>2005</u>	Area 2K
<u>6:00 p.m. September 24 through 6:00 p.m. October 3, 2005</u>	<u>Area 2G east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach, Area 2H, Area 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and Area 2M.</u>
6:00 p.m. October ((10)) <u>9</u> through 6:00 p.m. October 11, ((2004)) <u>2005</u>	Areas 2G east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, 2H, 2M, and 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2)

Time	Area
6:00 p.m. October ((15)) <u>17</u> through 6:00 p.m. October ((17)) <u>20</u> , ((6:00 p.m. October 18 through 6:00 p.m. October 20;)) and 6:00 p.m. October 24 through 6:00 p.m. October ((26, 2004)) <u>27, 2005</u>	Areas 2G west of a line drawn true north-south through Willapa Channel Marker 10 and east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach but excluding the area southerly and easterly of a line from Island Sands Light to Ramsey Point, 2M, and 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2)
Noon, November 6 through noon November 30, ((2004)) <u>2005</u>	Areas 2G, 2H, 2J and 2M

(2) The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

Gear

- (3) Gill net gear restrictions - All areas:
 - (a) Drift gill net gear only. It is unlawful to use set net gear.
 - (b) September 1 through October 3, ~~((2004))~~ 2005 - 6-inch maximum mesh, no more than 55 meshes deep. Net must hang straight from top to bottom. Strings may only be used to secure break away panels.
 - ~~((d))~~ (c) October 4 through October 31, ~~((2004))~~ 2005 - 6-1/2 inch maximum mesh.
 - ~~((e))~~ (d) November 1 through November 30, ~~((2004))~~ 2005 - 9-inch minimum mesh.

Other

(4) Quick reporting required for wholesale dealers and fishers retailing their catch under a "direct retail endorsement." WAC 220-69-240.

**WSR 05-17-007
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-168—Filed August 3, 2005, 3:44 p.m., effective September 3, 2005]

Effective Date of Rule: Thirty-one days after filing.
Purpose: Amend personal use salmon rules.

PERMANENT

Citation of Existing Rules Affected by this Order: Amending WAC 220-16-470, 220-56-100, 220-56-118, 220-56-123, 220-56-180, 220-56-195, 232-12-619, 232-28-619, 232-28-620, and 232-28-621.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-10-107 on May 4, 2005.

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 10, 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.

Date Adopted: August 3, 2005.

J. P. Koenings
Director
by Larry Peck

AMENDATORY SECTION (Amending Order 04-201, filed 8/4/04, effective 9/4/04)

WAC 220-16-470 Wild. "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish with all fins intact. A fish missing an adipose or ventral fin with a healed scar at the site is not a wild fish. When "wild" is used to describe a salmon, "wild" means a salmon with an ~~((intact))~~ unclipped adipose fin, regardless of whether the ~~((fish))~~ salmon is ventral fin clipped. A salmon with a clipped adipose fin and having a healed scar at the site of the clipped fin is not a wild salmon.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 220-56-118 Fish handling rules—Removal from water. In order to protect fish that are required to be released:

(1) It is unlawful to totally or partially remove oversize sturgeon from the water.

(2) It is unlawful to totally or partially remove six-gill shark from the water.

(3) In all freshwater areas, except the Columbia River downstream from a line between Rocky Point and Tongue Point, it is unlawful to totally remove salmon, steelhead, Dolly Varden or bull trout from the water if it is unlawful to retain those salmon, steelhead, Dolly Varden or bull trout.

(4) In Marine Areas 5 through 13, it is unlawful to bring wild salmon or a species of salmon aboard a vessel if it is unlawful to retain that salmon. For purposes of this subsection, "aboard" means inside the gunnel of a vessel.

(5) In Marine Area 2-2 east of the Buoy 13 line, salmon required to be released may not be totally removed from the water, except anglers fishing from vessels thirty feet or longer as shown on their state registration or Coast Guard documentation are exempt from this subsection.

AMENDATORY SECTION (Amending Order 04-306, filed 11/23/04, effective 12/24/04)

WAC 220-56-123 Unlawful provisions—Westport and Ocean Shores boat basins. During the period August 16 through January 31, in the waters of the Westport and Ocean Shores Boat Basins:

(1) It is unlawful to fish for or possess salmon taken for personal use using any gear other than the gear provided for in this section:

(a) Nonbuoyant lures other than natural bait lures must have no more than one single point hook and that hook may not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have no more than two single point hooks each of which may not exceed 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(c) Barbed hooks allowed.

(d) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

~~((d))~~ (e) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use forage fish jigger gear.

AMENDATORY SECTION (Amending Order 04-306, filed 11/23/04, effective 12/24/04)

WAC 220-56-100 Definitions—Personal-use fishing. The following definitions apply to personal use fishing in Titles 220 and 232 WAC:

(1) "Bait" means any substance which attracts fish by scent or flavors. Bait includes any lure which uses scent or flavoring to attract fish.

(2) "Barbless hook" means a hook on which all barbs have been deleted when manufactured or filed off or pinched down.

(3) "Bow and arrow fishing" means any method of taking, or attempting to take, fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisher is above the surface of the water.

(4) "Buoy 10 line" means a true north-south line projected through Buoy 10 at the mouth of the Columbia River. "Buoy 10 fishery" means a fishery between a line in the Columbia River from Tongue Point in Oregon to Rocky Point in Washington and the Buoy 10 line.

(5) "Channel Marker 13 line" means a true north-south line through Grays Harbor Channel Marker 13.

(6) "Daily limit" means the maximum number or pounds of fish, shellfish, or seaweed of the required size of a given

species or aggregate of species which a person may retain in a single day.

(7) "Fresh" means fish or shellfish that are refrigerated, iced, salted, or surface glazed.

(8) "Freshwater area" means:

(a) Within any freshwater river, lake, stream or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream or pond.

(9) "Frozen" means fish or shellfish that are hard frozen throughout.

(10) "Gaffing" means an effort to take fish by impaling the fish with a hook attached directly to a pole or other device.

(11) "Hatchery" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish missing an adipose fin or a ventral fin with a healed scar at the location of the missing fin (~~(a single)~~ ~~except~~). A hatchery salmon is a salmon ((missing only the)) having a clipped adipose fin and a healed scar at the location of the clipped fin, regardless of whether the fish is missing a ventral fin.

(12) "Hook" means one single point, double or treble hook. A "single point hook" means a hook having (~~(a single)~~) only one point. A "double hook" means a hook having two points on a common shank. A "treble hook" means a hook having three points on a common shank.

(13) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with three hooks attached to a pole held in hand while landing fish, or the use of a hand operated line without rod or reel, to which may be attached not more than three hooks. When fishing for bottom fish, "angling" and "jigging" shall be identical in meaning.

(14) "In the field or in transit" means at any place other than at the ordinary residence of the harvester. An ordinary residence is a residential dwelling where a person normally lives, with associated features such as address, telephone number, utility account, etc. A motor home or camper parked at a campsite or a vessel are not considered to be an ordinary residence.

(15) "Juvenile" means a person under fifteen year of age.

(16) "Lure" means a manufactured article constructed of feathers, hair, fiber, wood, metal, glass, cork, leather, rubber or plastic which does not use scent or flavoring to attract fish. "Nonbuoyant lure" means a lure complete with hooks, swivels or other attachments, which does not float in freshwater.

(17) "Night closure" means closed to fishing from one hour after official sunset to one hour before official sunrise.

(18) "Nonbuoyant lure restriction" means nonbuoyant lures, defined as lures with hooks and attachments (eyes, swivels, etc.), that do not have enough buoyancy to float in freshwater, may have only one single hook measuring not more than 3/4 inch point to shank. No weights may be attached below or less than twelve inches above a buoyant lure defined as a lure with hooks and attachments that has enough buoyancy to float in freshwater, and all hooks must be attached to or no more than three inches below a buoyant

lure or within three inches of bait or a nonbuoyant lure. No hook may be attached to the line above a buoyant lure.

(19) "Possession limit" means the number of daily limits allowed to be retained in the field or in transit.

(20) "Processed" means fish or shellfish which have been processed by heat for human consumption as kippered, smoked, boiled, or canned.

(21) "Seasonal wild steelhead limit" means the maximum number of wild steelhead trout any one angler may retain from April 1st through the following March 31st.

(22) "Selective gear rules" means terminal fishing gear is limited to artificial flies with barbless single hooks or lures with barbless single hooks, bait is prohibited, and fishing from a floating device equipped with a motor is prohibited unless otherwise provided. Up to three hooks may be used. In waters under selective gear rules, fish may be released until the daily limit is retained.

(23) "Slough" means any swamp, marsh, bog, pond, side-channel, or backwater connected to a river by water. Waters called sloughs that are not connected to a river are considered lakes.

(24) "Snagging" means an effort to take fish with a hook and line in a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(25) "Spearing" or "spear fishing" means an effort to take fish or shellfish by impaling the fish or shellfish on a shaft, arrow or other device.

(26) "Stationary gear restriction" means the line and weight and lure or bait must be moving while in the water. The line and weight and lure or bait may not be stationary.

(27) "Unmarked salmon" means a salmon with intact adipose and ventral fins.

(28) "Whitefish gear rules" means terminal fishing gear is restricted to one single hook, maximum hook size three-sixteenths inch point to shank (hook size 14), and bait is allowed. All species: Release all fish except whitefish.

(29) "Wild" when used to describe the difference between a hatchery fish and a nonhatchery fish, except salmon, means a fish with all fins intact.

(30) "Wild (~~(salmon))~~" when (~~(wild is))~~ used to describe a salmon (chinook, coho, chum, pink or sockeye), (~~(wild))~~ means a salmon with an (~~(intact))~~ unclipped adipose fin, regardless of whether the fish is ventral fin-clipped. A salmon with a clipped adipose fin and a healed scar at the site of the clipped fin is not a wild salmon.

AMENDATORY SECTION (Amending Order 04-306, filed 11/23/04, effective 12/24/04)

WAC 220-56-180 Salmon statewide rules. (1) In fresh water and in Marine Areas 2-1 beginning August 16 and 2-2 east of the Buoy 13 line beginning September 1, adult salmon are:

Chinook over 24 inches in length,

Coho over 20 inches in length,

Pink, chum or sockeye over 12 inches in length, and

Atlantic salmon of any size. In these waters the minimum size for salmon is 12 inches, except no minimum size for Atlantic salmon.

(2) In Marine Areas 1 through 4, in Area 2-1 from the opening date of adjacent ocean waters through August 15, and in Area 2-2 west of the Buoy 13 line, chinook salmon must be not less than ((26)) 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(3) In Marine Areas 5 through 13, chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(4) The salmon possession limit shall not exceed the equivalent of two daily limits in fresh form. An additional 40 pounds of salmon may be possessed in frozen or processed form.

(5) In all areas where the daily limit allows adult salmon to be taken, it is unlawful to continue to fish for salmon after the adult portion of the daily limit has been retained.

(6) Where landlocked salmon rules apply, no sport catch record card is required for salmon, the season, daily limit, and size and gear restriction rules for salmon are the same as trout rules. The angler's combined catch of landlocked salmon and trout applies toward the trout limit.

AMENDATORY SECTION (Amending Order 04-306, filed 11/23/04, effective 12/24/04)

WAC 220-56-195 Closed areas—Saltwater salmon angling. The following areas shall be closed to salmon angling during the times indicated:

(1) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island thence following the shoreline to Yellow Bluff on the southwest corner of Guemes Island thence to Yellow Bluff Reef range marker thence to the ferry terminal dock east of Shannon Point and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling July 1 through August 15.

(2) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling July 1 through September 30.

(3) Dungeness Bay: Those waters westerly of a line from Dungeness Spit Light to the number 2 red Buoy, and then to the Port Williams boat ramp are closed to salmon angling May 1 through September 30 and November 1 through April 30.

(4) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

(5) Columbia River Mouth Control Zone 1: Washington waters within Control Zone 1, which Control Zone is described as an area at the Columbia River mouth bounded on the west by a line running northeast/southwest between the red lighted Buoy #4 (46°13'35" N/124°06'50" W) and the

green lighted Buoy #7 (46°15'09" N/124°06'16" W); on the east by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N/124°03'07" W to its intersection with the north jetty; on the north by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N/124°05'20" W) and then along the north jetty to the point of intersection with the Buoy #10 line; and on the south by a line running northeast/southwest between the red lighted Buoy #4 and the tip of the south jetty (46°14'03" N/124°04'05" W) and then along the south jetty to the point of intersection with the Buoy #10 line are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Control Zone are open to salmon angling or the Buoy 10 fishery is open.

(6) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed July 1 through ((July 31)) August 12.

(7) Southern Rosario Strait and eastern Strait of Juan de Fuca:

~~((a)) Waters of Area 7 in Rosario Strait and the eastern portion of the Strait of Juan de Fuca southerly of a line running from Sandy Point to Point Migley on Lummi Island, and following the westerly shore of Lummi Island to a straight line running from shore through Lummi Rocks Buoy to Peapod Rocks Buoy, then to Lydia Shoal Buoy, then southerly to Black Rock, then to the easternmost point on James Island, then to Bird Rocks, then westerly to the southernmost point on Decatur Island, then across Lopez Pass to Lopez Island and following the shore of Lopez Island southerly and westerly to Iceberg Point, then from Iceberg Point to Cattle Point, then south southwest to the Salmon Bank Buoy, and then true south from Salmon Bank Buoy to the Area 7 boundary—Closed to fishing for salmon July 1—July 31.~~

~~((b))~~ Waters of Area 7 in Rosario Strait and the eastern portion of the Strait of Juan de Fuca southerly of a line running true south from the westernmost point on Fidalgo Head to Burrows Island, then westerly and southerly along the shore of Burrows Island to the Burrows Island Lighthouse, then to Bird Rocks, then westerly from Bird Rocks to the southernmost point on Decatur Island, then across Lopez Pass to Lopez Island and following the shore of Lopez Island southerly and westerly to Iceberg Point, then from Iceberg Point to Cattle Point, then south southwest to the Salmon Bank Buoy, and then true south from the Salmon Bank Buoy to the Area 7 boundary - Closed to fishing for salmon ((August)) July 1 - September 30.

(8) Kydaka Point - waters south of a line from Kydaka Point to Shipwreck Point are closed to fishing for salmon July 1 through September 30.

(9) Port Angeles Harbor - waters westerly of a line from the tip of Ediz Hook to the I.T.T. Rayonier Dock are closed to fishing for salmon from July 1 through August 31.

(10) Port Susan - waters north of a line from Camano Head to a boundary marker approximately 1.4 miles northwest of Hermosa Point closed to salmon fishing August 1 through August 31.

(11) Grays Harbor Control Zone: Waters within a line from the lighthouse one mile south of the south jetty, thence

to Buoy number 2, thence to Buoy number 3, thence to the tip of the north jetty, thence to the exposed end of the south jetty, thence following the south jetty and shoreline to the lighthouse closed to fishing for salmon August 1 through September 18.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 232-12-619 Permanent Washington statewide game fish rules. The following statewide rules apply to all waters unless modified under regional regulation exceptions.

(1) Fishing seasons open at 12:01 a.m. on the first day and close at 11:59 p.m. on the last day and fishing is allowed 24 hours per day.

(2) It is unlawful to:

(a) Use a gaff hook to land game fish.

(b) Take bullfrogs except by angling, hand dip netting, spearing (gigging) or with bow and arrow.

(c) Feed or use any substance to attract game fish unless specifically authorized by special regulations.

(d) Fish for game fish with a bow and arrow or spear.

(e) Possess fish which are under the minimum size or over the maximum size as shown in general or exceptions to state-wide rules.

(3) Seasonal steelhead limit: Each angler who possesses a valid steelhead catch record card may not retain more than thirty steelhead April 1st through the following March 31st of which no more than one may be a wild steelhead from waters in which wild steelhead retention is allowed.

(4) Military personnel, regardless of the length of time in the state of Washington, who are permanently stationed at a military installation within the state, are entitled to purchase a resident license. Military personnel must have a license to fish for game fish anywhere in the state. Dependents must establish a ninety-day residency.

(5) Wild cutthroat release: In waters requiring a wild cutthroat release, it is unlawful to possess any cutthroat that does not have a missing adipose fin and a healed scar in the location of the missing fin.

(6) Wild steelhead release: In waters requiring wild steelhead release, it is unlawful to possess any steelhead trout that does not have a missing adipose or ventral fin and a healed scar at the location of the missing fin.

(7) Free fishing weekend: The Saturday and Sunday following the first Monday in June is declared as free fishing weekend in Washington. On this weekend a fishing license is not required for any person, regardless of residency or age, to fish for or possess game fish and a fish and wildlife lands vehicle use permit is not required to utilize department parking facilities, except that it is unlawful to fish for or possess steelhead trout without the required catch record card. During free fishing weekend only the licensing requirement is affected, and all other rules remain in effect.

(8) Trout taken with bait: When fishing with bait, all trout equal to or greater than the minimum size are counted as part of the daily limit, whether kept or released, except steelhead trout may be caught and released while using bait until the daily limit is retained.

(9) Fish taken with artificial flies and lures: Where use of bait is prohibited, or where artificial flies or lures are used voluntarily, fish may be released until the daily limit is retained. If any fish has swallowed the hook or is hooked in the gill, eye or tongue, it should be kept if legal to do so.

(10) Burbot taken with set line: Where use of a set line is allowed for burbot, a single set line identified with the fisher's name and address and a maximum of five hooks may be used.

(11) Rainbow trout taken from landlocked lakes: Rainbow trout taken from landlocked lakes shall not be considered steelhead and no catch record card is required.

(12) OPEN SEASONS:

LAKES, PONDS, AND RESERVOIRS: YEAR AROUND, unless specified otherwise under exceptions to state-wide rules.

RIVERS, STREAMS AND BEAVER PONDS: JUNE 1 THROUGH OCTOBER 31, unless specified otherwise under exceptions to state-wide rules.

Note: The date set for "traditional" April openers for Lakes, Ponds, and Reservoirs for this year and future years is the last Saturday in April.

(13) Daily limits and minimum sizes:

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
BASS	Five - release bass greater than twelve but less than seventeen inches in length, only one over seventeen inches may be retained	None
GRASS CARP....	It is unlawful to fish for or retain grass carp.	
TROUT (except Eastern Brook trout)	A total of five trout, of which no more than two may be from Rivers, Streams, and Beaver Ponds.	None in Lakes, Ponds, and Reservoirs.
	No more than two of the trout daily catch limit of 5 may be Steelhead.	Eight inches in Rivers, Streams, and Beaver Ponds.

PERMANENT

GAME FISH SPECIES	DAILY LIMIT	MINIMUM SIZE LIMIT
EASTERN BROOK TROUT (Salvelinus fontinalis)	Five - to be considered part of the trout daily catch limit. Counts as a bonus limit in rivers, streams and beaver ponds. Total of five fish, including brook trout, in these waters.	None
BURBOT	Five	None
CHANNEL CATFISH	Five.	None.
(a) The following game fish species are managed as trout:		
<ul style="list-style-type: none"> Eastern brook trout Brown trout Cutthroat trout Dolly Varden/Bull trout Golden trout Grayling Kokanee/Silver trout Lake trout Landlocked Atlantic salmon Rainbow trout/Steelhead Landlocked chinook and coho Tiger trout 		
(b) Wild steelhead release is required year-round, except as provided in exceptions to statewide rules.		
(c) All waters, statewide, are CLOSED YEAR AROUND to fishing for or retaining Dolly Varden/Bull Trout.		
Where exceptions to the above closure for Dolly Varden/Bull Trout occur under individual listings in the exceptions to statewide rules, Dolly Varden/Bull Trout count as part of the combined trout daily limit of five.		
WALLEYE	Five, not more than one over twenty-two inches Walleye may be caught, retained, and released alive from a livewell until a daily limit is in possession.	Sixteen inches
WHITEFISH	Fifteen	None
ALL OTHER GAME FISH	No Limit	None
BULLFROGS	No Limit	None

(14) Daily wild steelhead limit: It is unlawful for any person to retain more than one wild steelhead per day from those waters in which wild steelhead retention is allowed.

(15) Possession limit. Except as otherwise provided, the possession limit is two daily limits in fresh, frozen or processed form.

(16) Marine waters rules: These rules apply to all marine waters contained within the boundaries of Washington state, within Puget Sound, Hood Canal, the Strait of Juan de Fuca, the San Juan Islands, the Strait of Georgia, and the Pacific Ocean, including estuaries (river mouths) from salt water upstream to a line between the outermost headlands measured at the highest high tide (usually the debris line furthest inshore on surrounding beaches), unless otherwise described under area regulations (see individual areas, below):

(a) Fishing hours: Twenty-four hours per day year around except:

(i) Lake Washington Ship Canal - Those waters of Area 10 west of the Lake Washington Ship Canal to a north-south line 175 feet west of the Burlington-Northern Railroad Bridge are closed waters((~~and~~)).

(ii) Toliva Shoal - Waters within 500 yards of the Toliva Shoal buoy are closed waters from June 16 through April 30.

(iii) Freshwater Bay - Waters south of a line from Angeles Point westerly to Observatory Point are closed July 1 through August 31.

(iv) Tulalip Bay - Waters of Tulalip Bay east of a line from Hermosa Point to Mission Point are closed waters.

(b) License requirements: A valid current Washington state department of fish and wildlife saltwater license, and, if appropriate, a sport catch record card, is required to fish for game fish including steelhead in marine waters. All steelhead taken from marine areas shall be entered on the catch record card using the words Marine Area and followed by the appropriate marine area code number.

(c) Gear restrictions: Angling gear only, and in those waters of Area 10 downstream of the First Avenue South Bridge to an east-west line through southwest Hanford Street on Harbor Island and parallel to southwest Spokane Street where it crosses Harbor Island, nonbuoyant lure restriction July 1 through November 30. In all areas, underwater spearfishing, spearing, gaffing, clubbing, netting, or trapping game fish is unlawful.

(d) All species: Release all fish except up to two hatchery steelhead may be retained per day.

AMENDATORY SECTION (Amending Order 05-15, filed 2/10/05, effective 5/1/05)

WAC 232-28-619 Washington food fish and game fish—Freshwater exceptions to statewide rules. (1) All freshwater streams and lakes not listed as open for salmon fishing are closed.

(2) County freshwater exceptions to statewide rules:

(a) Adams and Grant counties: All seasons in specific freshwater exceptions to statewide rules apply to inlet and outlet streams of named lakes in Grant and Adams counties.

PERMANENT

(b) Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River): Lawful to fish to base of all dams.

(c) Benton County: Rivers, streams and beaver ponds open year around.

(d) Ferry and Lincoln counties: Except those tributaries listed under specific water exceptions to statewide rules, all tributaries to Lake Roosevelt between Grand Coulee Dam and the State Highway 25 Bridge at Northport except Barnaby and Nancy creeks: Trout: Daily limit 5, no minimum size.

(e) Kitsap County and Mason County on Tahuya Peninsula west of Belfair-Bremerton Highway (S.R. 3): Beaver ponds: Last Saturday in April through October 31 season. Trout: No minimum length.

(3) Specific freshwater exceptions to statewide rules:

Aberdeen Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Abernathy Creek (Cowlitz County):

From mouth to a point five hundred feet downstream from salmon hatchery: June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

From Abernathy Falls to posted markers five hundred feet downstream from salmon hatchery: Closed waters.

Aeneas Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Ahtanum Creek, including North and Middle Forks (Yakima County): Selective gear rules. North Fork from Grey Rock Trailhead Bridge crossing to Shellneck Creek: Closed waters.

Alder Creek (Cowlitz County): Closed waters.

Aldrich Lake (Mason County): Last Saturday in April through October 31 season.

Aldwell Lake (Clallam County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with a motor permitted. Trout: Daily limit two, minimum length twelve inches.

Alexander Lake (Kitsap County): Closed waters.

Alkali Lake (Grant County): Crappie: Not more than five greater than eight inches in length. Bluegill: Not more than five greater than six inches in length.

Alta Lake (Okanogan County): Last Saturday in April through September 30 season.

Amber Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules, except electric motors allowed. Trout: Daily limit two, minimum length fourteen inches; release rainbow trout missing adipose fin. Additional season October 1 through November 30 and March 1 through last Saturday in April. Selective gear rules except electric motors allowed. All species: Release all fish.

American Lake (Pierce County): Chumming permitted.

American River (Yakima County): Selective gear rules.

Anderson Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. From September 1 through October 31, selective gear rules and all species: Release all fish.

Armstrong Lake (Snohomish County): Last Saturday in April through October 31 season.

Asotin Creek, mainstem and forks (Asotin County): Closed to fishing for steelhead.

From SR 129 Bridge upstream to the forks: Lawful to fish up to base of Headgate Dam.

North Fork from mouth upstream to USFS boundary: Selective gear rules.

North Fork from USFS boundary upstream and all other tributaries: Closed waters.

South Fork and tributaries: Closed waters.

B.C. Mill Pond (Stevens County): Last Saturday in April through October 31 season.

Bachelor Creek (Yakima County): Year around season. Trout: Daily limit five, no minimum length.

Badger Lake (Spokane County): Last Saturday in April through September 30 season.

Baker Lake (Whatcom County): Last Saturday in April through October 31 season, except closed waters in an area two hundred feet in radius around the pump discharge at the south end of the lake. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Baker River (Skagit County): Mouth to Highway 20 Bridge: September 1 through October 31 season. Nonbuoyant lure restriction and night closure. Trout: Minimum length fourteen inches, except Dolly Varden/Bull Trout. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only July 1 through July 31 except closed 12:01 a.m. July ((6)) 5 through 2:00 p.m. July ((7)) 6 and 12:01 a.m. July ((12)) 11 through 2:00 p.m. July ((13)) 12. Nonbuoyant lure restriction and night closure. Daily limit 2 sockeye salmon.

Highway 20 Bridge to Baker River fish barrier dam: Closed waters.

Banks Lake (Grant County): Chumming allowed. Perch: Daily limit twenty-five.

Barnaby Slough (Skagit County): Closed waters.

Battle Ground Lake (Clark County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches or greater in length may be retained.

Bay Lake (Pierce County): Last Saturday in April through October 31 season.

Bayley Lake (Stevens County): Last Saturday in April through July 4 season. Fly fishing only. Fishing from a float-

ing device equipped with a motor prohibited. Trout: Daily limit one, minimum length fourteen inches. Additional season, July 5 through October 31. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish. Inlet stream: Closed waters.

Bear Creek (Yakima County), tributary to South Fork Tieton River: From the mouth to the falls (approximately 3/4 mile): Closed waters.

Bear Lake (Spokane County): Juveniles, holders of disability licenses, and licensed adults accompanied by a juvenile only.

Bear River (Pacific County): June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 downstream from the Lime Quarry Road. Upstream from the Lime Quarry Road: Selective gear rules June 1 through March 31. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from mouth to Lime Quarry Road. Daily limit 6 fish of which no more than 2 may be adult fish and of these two fish no more than one may be a wild adult coho. Release adult chinook.

Beaver Creek (tributary to Elochoman River) (Wahkiakum County): Closed waters.

Beaver Lake (Clallam County): Selective gear rules except electric motors allowed. Trout: Maximum size 12 inches in length.

Beaver Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Beda Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Beehive (Lake) Reservoir (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Bennington Lake (Mill Creek Reservoir) (Walla Walla County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Benson Lake (Mason County): Last Saturday in April through October 31 season.

Berry Creek (tributary to Nisqually River) (Lewis County): Selective gear rules.

Big Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Big Beaver Creek (Whatcom County):

From closed water markers on Ross Lake upstream one-quarter mile: Closed waters.

From one-quarter mile markers upstream, including tributary streams, and beaver ponds that are tributary to Big Beaver Creek: July 1 through October 31 season. Selective gear rules. All species: Release all fish.

Big Beef Creek (Kitsap County): June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Big Four Lake (Columbia County): March 1 through October 31 season. Fly fishing only. Fishing from any floating device prohibited. Trout: Daily limit two.

Big Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches. Salmon: Landlocked salmon rules apply.

Big Meadow Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Big Quilcene River (Jefferson County):

From mouth to upper boundary of Falls View Campground: June 1 through last day in February season. Closed waters: August 16 through October 31 from mouth to Rodgers Street. Rodgers Street to the Highway 101 Bridge: Selective gear rules June 1 through last day in February and night closure August 16 through December 31. From electric weir to upper boundary of Falls View Campground: Selective gear rules June 1 through last day in February. All game fish: Release all fish from mouth to campground. Salmon: Open only August 16 through October 31 from Rodgers Street to the Highway 101 Bridge. Daily limit 4 coho salmon.

From Highway 101 Bridge upstream to the electric weir at the Quilcene National Fish Hatchery: Closed waters.

Big River (Clallam County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Big Twin Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules except electric motors permitted. Trout: Daily limit one.

Bird Creek (Klickitat County): Trout: Daily limit five.

Black Lake (Lower Wheeler Reservoir) (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Black Lake (Okanogan County): Selective gear rules.

Black Lake (Pacific County): Last Saturday in April through October 31 season.

Black Lake (Stevens County): Last Saturday in April through October 31 season.

Black Lake (Thurston County): Crappie: Daily limit ten, minimum length nine inches.

Black River (Thurston County), from mouth to Black Lake and including all tributaries west of Interstate Highway 5, including Waddell Creek, Mima Creek, Dempsey Creek, Beaver Creek, Salmon Creek and Blooms Ditch: Selective gear rules. Trout: Minimum length fourteen inches.

Blockhouse Creek (Klickitat County): Trout: Daily limit five.

Bloodgood Creek (Klickitat County): Trout: Daily limit five.

Blue Creek (Lewis County), from mouth to Spencer Road: Closed waters except December 1 through December 31 season from mouth to posted sign at rearing pond outlet. Closed

waters: Upstream from cable crossing to posted signs at fence. Nonbuoyant lure restriction and night closure. Only wheelchair-bound anglers may fish from posted signs above rearing pond to posted signs approximately 40 feet downstream at fence including the rearing pond outlet. Trout: Daily limit five. Minimum size 12 inches no more than two fish over 20 inches. Release wild cutthroat, wild steelhead and hatchery steelhead with missing right ventral fin.

Blue Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Blue Lake (Cowlitz County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Blue Lake (Grant County): Last Saturday in April through September 30 season.

Blue Lake (near Sinlahekin) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Blue Lake (near Wannacut Lake) (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules, except electric motors allowed. Trout: Daily limit one.

Bobcat Creek and Ponds (Adams County): April 1 through September 30 season.

Bogachiel River (Clallam County), from mouth to Olympic National Park boundary: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to Olympic National Park boundary. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Bonaparte Lake (Okanogan County): Trout: No more than one over twenty inches in length may be retained.

Bosworth Lake (Snohomish County): Last Saturday in April through October 31 season.

Boundary Creek (Clallam County): Closed waters.

Bowman Creek (Klickitat County): Trout: Daily limit five.

Box Canyon Creek (Kittitas County), from mouth to waterfall approximately 2 miles upstream: Closed waters. From waterfall approximately 2 miles upstream of mouth to USFS Road #4930 Bridge: Selective gear rules.

Boxley Creek (North Bend) (King County), from its mouth to the falls located at approximately river mile 0.9: Closed waters.

Boyle Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Boyle Lake are closed waters.

Bradley Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Bridges Lake (King County): Last Saturday in April through October 31 season. The inlet and outlet streams to Bridges Lake are closed waters.

Brookies Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Browns Creek (Pend Oreille County): Fly fishing only.

Browns Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: No more than one fish greater than 11 inches in length may be retained.

Buck Lake (Kitsap County): Last Saturday in April through October 31 season.

Buckskin Creek and tributaries (Yakima County), from mouth to the west boundary of Suntides Golf Course: Closed waters.

Bumping Lake (Reservoir) (Yakima County): Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Bumping River (Yakima County):

From mouth to Bumping Reservoir: Lawful to fish to base of Bumping Dam. Selective gear rules June 1 through October 31. Whitefish: Additional December 1 through March 31 season. Whitefish gear rules apply.

Burbank Slough (Walla Walla County): Fishing from any floating device prohibited.

Burke Lake (Grant County): March 1 through July 31 season.

Burley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Butter Creek (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Buttermilk Creek, mouth to confluence of East and West Forks (Okanogan County): Closed waters.

Cady Lake (Mason County): Fly fishing only. Fishing from a floating device equipped with an internal combustion motor prohibited. All species: Release all fish.

Cain Lake (Whatcom County): Last Saturday in April through October 31 season.

Calawah River (Clallam County), from mouth to forks: June 1 through April 30 season. December 1 through April 30, selective gear rules from Highway 101 to forks. Trout: Minimum length fourteen inches. December 1 through April 30, mouth to Highway 101, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of

which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. July 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Calawah River, South Fork (Clallam County) from mouth to Olympic National Park boundary: June 1 through last day in February season. December 1 through last day in February, selective gear rules. Trout: Minimum length fourteen inches.

Caldwell Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: Daily limit two, minimum length twelve inches.

Caliche Lakes, Lower, Upper and West (Grant County): March 1 through July 31 season.

Calispell Creek (Calispell River) (Pend Oreille County):

From mouth to Calispell Lake: Year around season.

From Calispell Lake upstream to source: Selective gear rules.

Calligan Lake (King County): June 1 through October 31 season. All tributary streams, and the upper third of the outlet are closed waters.

Camas Slough: Waters of the Columbia River downstream from the mouth of the Washougal River, north of Lady Island, and downstream of the Highway 14 Bridge at the upstream end of Lady Island. Season: Same rules as adjacent waters of the Columbia River.

Campbell Creek (Mason County): Closed waters.

Campbell Lake (Okanogan County): April 1 through August 31: Selective gear rules and all species: Release all fish.

Campbell Lake (Skagit County): Crappie: Daily limit ten, minimum length nine inches.

Canyon Creek (Clark County): Trout: Daily limit five.

Canyon River (Mason County and Grays Harbor County): Closed waters.

Canyon Creek (S.F. Stillaguamish River) (Snohomish County), mouth to forks: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Capitol Lake (Thurston County), from its outlet to a point four hundred feet below the lowest Tumwater Falls (Deschutes River) fish ladder: Closed waters: Percival Cove, west of a set of markers on the western shoreline of the south basin of Capitol Lake. June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: June 1 through July 31 daily limit five, minimum length eight inches. August 1 through March 31 daily limit two, minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Carbon River (Pierce County), from its mouth to Voight Creek: June 1 through last day in February season. Nonbuoyant lure restriction, night closure and single point barbless hooks August 1 through November 30. Trout: Minimum length fourteen inches. Voight Creek to Highway 162 Bridge: June 1 through August 15 and December 1 through last day in February season: Trout: Minimum length 14 inches. Salmon: Open only September 1 through November 30 mouth to Voight Creek. Daily limit 6 fish of which no more than 4 may be adult salmon and of these 4 fish no more than 2 may be adult hatchery chinook. Release chum and wild adult chinook salmon.

Carlisle Lake (Lewis County): Last Saturday in April through last day in February season. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carl's Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Carney Lake (Pierce County): Last Saturday in April through June 30 and September 1 through November 30 seasons. Fishing from a floating device equipped with an internal combustion motor prohibited. Salmon: Landlocked salmon rules apply.

Carson Lake (Mason County): Last Saturday in April through October 31 season.

Cascade Lake (Grant County): March 1 through July 31 season.

Cascade Lake (San Juan County): Last Saturday in April through October 31 season.

Cascade River (Skagit County):

From the mouth to the Rockport-Cascade Road Bridge: October 1 through last day in February season. Nonbuoyant lure restriction and night closure September 16 through November 30. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through November 30. Daily limit 4 coho salmon.

From the Rockport-Cascade Road Bridge upstream: June 1 through last day in February season. Trout: Trout except Dolly Varden/Bull Trout, minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

Cases Pond (Pacific County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Cassidy Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Castle Lake (Cowlitz County): Selective gear rules. Trout: Daily limit one, minimum length sixteen inches.

Cattail Lake (Grant County): April 1 through September 30 season.

Cavanaugh Lake (Skagit County): Chumming permitted.

Cedar Creek (tributary of N.F. Lewis) (Clark County), from mouth to 100 feet upstream of the falls: From the Grist Mill Bridge to 100 feet upstream of the falls: Closed waters. June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cedar Creek (Jefferson County): June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Cedar Creek (Okanogan County), from mouth to Cedar Falls: Closed waters.

Cedar Lake (Stevens County): Last Saturday in April through October 31 season.

Cedar River (King County), from mouth to Landsburg Road: June 1 through August 31 season. Selective gear rules and night closure. All species: Release all fish. Landsburg Road to Cedar Falls: Closed waters.

Chain Lake (Pend Oreille County): Last Saturday in April through October 31 season. Release kokanee.

Chambers Creek Estuary (downstream from markers 400 feet below the Boise-Cascade Dam to the Burlington Northern Railroad Bridge) (Pierce County): July 1 through November 15 season. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

Chambers Lake (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules, except electric motors allowed. Trout: Release all trout.

Chaplain Lake (Snohomish County): Closed waters.

Chapman Lake (Spokane County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Chehalis River (Grays Harbor County), from Highway 101 Bridge in Aberdeen to high bridge on Weyerhaeuser 1000 line (approximately 400 yards downstream from Roger Creek): June 1 through April 15 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only April 16 through July 31 from mouth to high bridge, October 1 through January 31 from mouth to Porter Bridge, and October 16 through last day in February from Porter Bridge to high bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through November 30, mouth to Porter Bridge, ~~((the daily limit may contain not more than 1))~~ release adult chinook. October 16 through November 30, Porter Bridge to High Bridge, release adult chinook. December 1 through January 31, mouth to Porter Bridge, the daily limit may contain no more than one wild adult coho, and release adult chinook. December 1 through last day in February, Porter Bridge to High Bridge, release adult chinook and wild adult coho. Sturgeon: Open year-round and no night closure from mouth to high bridge on Weyerhaeuser 1000 line.

Chehalis River, South Fork (Lewis County), from mouth to Highway Bridge at Boistfort School: June 1 through April 15 season. Trout: Minimum length fourteen inches.

Chehalis River Potholes (adjacent to the Chehalis River south of Highway 12 in Grays Harbor County, this does not include sloughs or beaver ponds): Last Saturday in April through October 31 season.

Chelan Hatchery Creek (Chelan County): Closed waters.

Chelan Lake (Chelan County): Closed waters: Within 400 feet of all tributaries south of a line from Purple Point at Stehekin and Painted Rocks. Trout except kokanee and lake trout: Daily limit 5. Release wild cutthroat. Lake trout not counted in daily trout limit. Lake trout no minimum size, no daily limit. Kokanee not counted in daily trout limit. Kokanee daily limit five, no minimum length. Burbot: Set line gear allowed. North of a line between Purple Point at Stehekin and Painted Rocks: April 1 through July 31: All species: Release all fish. Salmon: Open only May 1 through May 31 south of a line from Purple Point to Painted Rocks: Daily limit 1, minimum length 15 inches.

Chelan Lake Tributaries (Chelan County), from mouths upstream one mile except Stehekin River: August 1 through September 30 season. Selective gear rules. Trout: Release wild cutthroat.

Chelan River (Chelan County): From the railroad bridge to the Chelan P.U.D. safety barrier below the power house: May 15 through August 31 season. Nonbuoyant lure restriction. Trout: Release all trout.

Chewuch River (Chewack River) (Okanogan County), from mouth to Eight Mile Creek: June 1 through September 30 season. Selective gear rules. All species: Release all fish.

Upstream from Eight Mile Creek to Pasayten Wilderness boundary: Closed waters June 1 through October 31.

From mouth to Pasayten Wilderness boundary: Additional December 1 through March 31 season. Whitefish gear rules apply.

Chikamin Creek (Chelan County): Selective gear rules.

Chimacum Creek (Jefferson County):

From mouth to Ness's Corner Road: June 1 through August 31 season. Trout: Minimum length fourteen inches.

From Ness's Corner Road to headwaters: Trout: Minimum length fourteen inches.

Chiwaukum Creek (Chelan County): Mouth to Fool Hen Creek: Closed waters.

Chiwawa River (Chelan County): Mouth to Buck Creek: Closed waters.

Chopaka Lake (Okanogan County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one.

Cispus River (Lewis County), from mouth to North Fork: Trout: Release all cutthroat. Additional season November 1 through May 31, release all game fish other than steelhead. Salmon: Open year around. Daily limit 6 fish, of which no

more than 2 fish may be adult salmon. Salmon minimum size 8 inches. Release wild coho at all times and release wild chinook January 1 through July 31.

Cispus River, North Fork (Lewis County): Trout: No more than one over twelve inches in length. Release cutthroat.

Clallam River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Clara Lake (Mason County): Last Saturday in April through October 31 season.

Clear Creek (Chelan County): Closed waters.

Clear Lake (Chelan County): Last Saturday in April through October 31 season. From July 5 through October 31, selective gear rules and all species: Release all fish.

Clear Lake (Pierce County): Last Saturday in April through October 31 season. Chumming permitted. Salmon: Landlocked salmon rules apply.

Clear Lake (Spokane County): Last Saturday in April through October 31 season.

Clear Lake (Thurston County): Last Saturday in April through October 31 season.

Clearwater River (Jefferson County):

From mouth to Snahapish River: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon.

From Snahapish River upstream: Trout, minimum length fourteen inches.

Cle Elum Lake (Reservoir) (Kittitas County): Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen, no minimum size. Burbot: Set line gear allowed.

Cle Elum River (Kittitas County), from mouth to Cle Elum Dam: Lawful to fish to base of Cle Elum Dam. Year-round season. Selective gear rules, except December 1 through March 31 bait and one single point barbed hook three-sixteenths or smaller point to shank may be used. Trout: Release all trout. Above Cle Elum Lake to outlet of Hvas Lake except Tucquala Lake: Selective gear rules.

Cliff Lake (Grant County): March 1 through July 31 season.

Cloquallum Creek (Grays Harbor County):

From mouth to second bridge on Cloquallum Road: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From mouth to Highway 8 Bridge: Additional March 1 through March 31 season. Trout: Minimum length fourteen inches.

Clough Creek (North Bend) (King County): Closed waters.

Clover Creek (Pierce County), within the boundaries of McChord Air Force Base: Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Coal Creek (Cowlitz County), from mouth to four hundred feet below falls: June 1 through August 31 and November 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Coal Creek (tributary of Lake Washington) (King County): Closed waters.

Coal Creek (near Snoqualmie) (King County), from mouth to Highway I-90: Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Coffee Pot Lake (Lincoln County): March 1 through September 15 season. Selective gear rules except motors allowed. Trout: Daily limit two. Bass: Daily limit two, maximum length fourteen inches. Crappie: Daily limit ten, minimum length nine inches.

Coldwater Lake (Cowlitz County): Selective gear rules except use of electric motors allowed. Trout: Daily limit one, minimum length sixteen inches.

Coldwater Lake inlet and outlet streams (Cowlitz County): Closed waters.

Collins Lake (Mason County): Last Saturday in April through October 31 season.

Columbia Basin Hatchery Creek (Grant County): Hatchery outflow to confluence with mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only. Mainstem Hatchery Creek: April 1 through September 30 season. Juveniles and holders of reduced fee disability licenses only.

Columbia Park Pond (Benton County): Juveniles and holders of reduced fee disability licenses only. All species: Daily limit of five fish combined.

Columbia River, including impoundments and all connecting sloughs, except Wells Ponds: Year-round season unless otherwise provided. General species provisions (unless otherwise provided for in this section): Bass: Below Priest Rapids Dam: Daily limit five fish, bass 12 to 17 inches in length may be retained. Up to but not more than three of the daily limit may be over 15 inches. Trout: Daily limit two fish, minimum length 12 inches, except release all Dolly Varden/Bull Trout. Walleye: Daily limit five fish of which not more than one may be over 24 inches, minimum length 18 inches. Whitefish: Daily limit 15 fish. All other game fish: No daily limit, except release all grass carp.

In the Columbia River between Washington and Oregon, the license of either state is valid. Anglers must comply with the fishing regulations of the state in which they are fishing. This provision does not allow an angler licensed in Oregon to fish on the Washington shore, or in the sloughs or tributaries in Washington except Camas Slough, where the license of either state is valid when fishing from a floating device.

Anglers fishing the Columbia River are restricted to one daily limit, as defined by the laws of the state in which they are fishing, even if they are licensed by both states.

From a true north-south line through Buoy 10 to a line between Rocky Point in Washington to Tongue Point in Oregon: Trout: Release wild cutthroat. Release all trout April 1

through July 31. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Fishing from the north jetty is allowed during salmon season openings. Salmon: Open only August 1 through March 31. August 1 through September 30, daily limit 2 salmon of which not more than one may be a chinook salmon. Release chum, sockeye, wild coho, chinook less than 24 inches in length, and coho less than 16 inches in length. October 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon and not more than one of which may be ((*) an adult chinook salmon. Release chum, sockeye, and wild coho. January 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, wild coho and wild chinook. Fishing from the north jetty for salmon open during both Area 1 and Buoy 10 fishery openings with barbed hooks allowed and the daily limit is the more liberal if both areas are open. Sturgeon: Release sturgeon May 1 through May 14 and July 24 through December 31. Minimum size when open to retain sturgeon is 45 inches.

From the Rocky Point - Tongue Point line to the I-5 Bridge: Trout: Release wild cutthroat. Release all trout April 1 through May 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Salmon: Open only May 16 through March 31. May 16 through June 15 daily limit 6 hatchery jack chinook. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release ((~~wild chinook and~~)) sockeye. August 1 through March 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum, sockeye, and wild coho. August 1 through December 31 the daily limit may contain not more than 1 adult chinook. Release wild chinook January 1 through March 31. Sturgeon: (1) Release sturgeon May 1 through May 14 and July 24 through December 31 downstream from the Wauna powerlines. Minimum size when open to retain sturgeon is 45 inches; (2) I-5 Bridge downstream to Wauna powerlines, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31, and October 1 through December 31. Release sturgeon on other days and during other time periods.

From the I-5 Bridge to the Highway 395 Bridge at Pasco: Closed waters: (1) From the upstream line of Bonneville Dam to boundary markers located six hundred feet below the fish ladder, and closed to fishing from a floating device or fishing by any method except hand-casted gear from shore from Bonneville Dam downstream to a line from the Hamilton Island boat ramp to an Oregon boundary marker on Robins Island. (2) Waters from the upstream side of the Interstate Bridge at The Dalles to upper line of The Dalles Dam except that bank fishing is permitted up to the downstream navigation lock wall on the Washington shore. (3) From John Day Dam downstream about three thousand feet except that bank fishing is permitted up to four hundred feet below the fishway entrance on the Washington shore. (4) From McNary Dam downstream to a line across the river from the red and white marker on the Oregon shore on a line that intersects the downstream end of the wing wall of the boat lock near the Washington shore. August 1 through October 15: Nonbuoy-

ant lure restriction and night closure from Bonneville Dam to The Dalles Dam. Trout: Release wild cutthroat from I-5 Bridge to Bonneville Dam and release all cutthroat in the waters of Drano Lake. Release all trout April 1 through June 15. Walleye: No minimum size. Daily limit ten, of which no more than five may be greater than eighteen inches in length and one greater than twenty-four inches in length. Sturgeon: (1) Sturgeon fishing is closed from Bonneville Dam to a line from a boundary marker on the Washington shore approximately 4,000 feet below the fish ladder to the downstream end of Cascade Island to an Oregon angling boundary on Bradford Island (the Cascade Island - Bradford Island line). (2) It is unlawful to fish for sturgeon from May 1 through July 31 from Cascade Island - Bradford Island line downstream to markers on the Washington and Oregon shores at Beacon Rock. (3) Cascade Island - Bradford Island line downstream to I-5 Bridge, lawful to retain sturgeon only on Thursdays, Fridays, and Saturdays from February 1 through July 31 and October 1 through December 31, except for May 1 - July 31 closure to Beacon Rock. Release sturgeon on other days and during other time periods. (4) Release sturgeon September 1 through December 31 from the upstream line of Bonneville Dam and 400 feet below McNary Dam. Salmon: Open only June 16 through December 31 except closed November 1 through December 31 from Beacon Rock to Bonneville Dam. June 16 through July 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release ((~~wild chinook and~~)) sockeye. August 1 through December 31, daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and sockeye. Release wild coho downstream of Bonneville Dam. August 1 through December 31, daily limit may contain not more than 1 adult chinook downstream from Bonneville Dam.

From the Highway 395 Bridge at Pasco to the old Hanford townsite (wooden towers) powerline crossing, in Sec. 30, T13N, R28E except Ringold Hatchery waters: Closed waters: Ringold Springs Creek (Hatchery Creek). Trout: Release all trout except hatchery steelhead having both adipose and ventral fin clips October 1 through October 31. Release all trout except hatchery steelhead November 1 through March 31. Salmon: Open only June 16 through July 31 and August 16 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release ((~~wild chinook and~~)) sockeye June 16 through July 31. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Ringold Springs Rearing Facility waters (from WDFW markers 1/4 mile downstream from the Ringold wasteway outlet to WDFW markers 1/2 mile upstream from Spring Creek): Open only April 1 through April 15 to fishing from the bank on the hatchery side of the river. Trout: Release all fish except hatchery steelhead.

From the old Hanford townsite (wooden towers) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge, (Highway 24): All species: February 1 through October 22 season. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 fish

may be adult salmon. Release (~~wild chinook and~~) sockeye June 16 through July 31.

From Vernita Bridge (Highway 24) to Priest Rapids Dam: Closed waters: (1) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam downstream to the boundary markers six hundred fifty feet below the fish ladders. (2) Jackson (Moran Creek or Priest Rapids Hatchery outlet) Creek - all waters of the Priest Rapids Hatchery system to the outlet on the Columbia River, extending to mid-stream Columbia between boundary markers located one hundred feet upstream and four hundred feet downstream of the mouth. Trout: Release all trout. Walleye: Daily limit 10 fish. No minimum size, no more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Salmon: Open only June 16 through July 31 and August 16 through October 22. Daily limit 6 fish of which no more than 2 may be adult salmon. Release (~~wild chinook and~~) sockeye June 16 through July 31.

From Priest Rapids Dam to Chief Joseph Dam, including up to base of Washburn Pond outlet structure: Closed waters: (1) Wanapum Dam - waters between the upstream line of Wanapum Dam to the boundary markers seven hundred fifty feet downstream of the east fish ladder and five hundred feet downstream of the west fish ladder. (2) Rock Island Dam to boundary markers four hundred feet downstream of the fish ladders. (3) Rocky Reach Dam - waters between the upstream line of Rocky Reach Dam to boundary markers four hundred feet downstream of the fish ladders. (4) Wells Dam - waters between the upstream line of Wells Dam to boundary markers four hundred feet downstream of the spawning channel discharge (Chelan County) and fish ladder (Douglas County). (5) Chief Joseph Dam - closed to fishing from the Okanogan County shore between the dam and the Highway 17 Bridge. Closed to fishing from a floating device from the boundary marker to the Corps of Engineers safety zone marker. Trout: Release all trout. Salmon: Open only July 16 through October 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho and sockeye. From Wells Dam to Chief Joseph Dam, open only from Highway 173 Bridge at Brewster to Highway 17 Bridge at Bridgeport. Sturgeon: Release all sturgeon.

Above Chief Joseph Dam: See Lake Roosevelt and Rufus Woods Lake.

Colville River (Stevens County):

From mouth to bridge at Town of Valley: Year-round season. Trout: Daily limit five fish, not more than two of which may be brown trout October 1 through November 30. Walleye: No minimum size. Daily limit five fish not more than one of which may be longer than 18 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

From bridge at Valley upstream and tributaries: Selective gear rules.

Conconully Lake (Okanogan County): Last Saturday in April through October 31 season.

Conconully Reservoir (Okanogan County): Last Saturday in April through October 31 season.

Conger Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Connelly Creek and tributaries (Lewis County), from four hundred feet below the city of Morton Dam to its source: Closed waters.

Conner Lake (Okanogan County): Last Saturday in April through October 31 season.

Cooper River (Kittitas County): Mouth to Cooper Lake: Selective gear rules.

Coot Lake (Grant County): April 1 through September 30 season.

Copalis River (Grays Harbor County): June 1 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through January 31 from mouth to Carlisle Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Cottage Lake (King County): Last Saturday in April through October 31 season.

Cottonwood Creek (Lincoln County): Year-round season.

Cougar Creek (tributary to Yale Reservoir) (Cowlitz County): June 1 through August 31 season.

Cougar Lake (near Winthrop) (Okanogan County): September 1 through March 31 season.

Coulter Creek (Kitsap/Mason counties): Trout: Minimum length fourteen inches.

County Line Ponds (Skagit County): Closed waters.

Coweeman River (Cowlitz County), from mouth to Mulholland Creek: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Cowiche Creek (Yakima County): Selective gear rules.

Cowlitz Falls Reservoir (Lake Scanewa) (Lewis County): June 1 through last day in February season. The upstream boundary of the reservoir in the Cowlitz arm is the posted PUD sign on Peters Road. The upstream boundary of the reservoir in the Cispus arm is the posted markers at the Lewis County PUD kayak launch, approximately 1.5 miles upstream from the confluence of the Cowlitz and Cispus arms. Trout and salmon: Minimum length eight inches. Trout: Release cutthroat. Salmon: Daily limit 6 fish, of which not more than 2 may be adult salmon. Release wild coho. Release wild chinook June 1 through July 31.

Cowlitz River (Lewis County):

From mouth to Mayfield Dam: Closed waters: From 400 feet or posted markers below Cowlitz salmon hatchery barrier dam to boundary markers near the Cowlitz salmon hatchery water intake approximately 1,700 feet upstream of the Cowlitz salmon hatchery barrier dam, and from 400 feet below the Mayfield powerhouse upstream to Mayfield Dam. Year-round season except closed to fishing from south bank May 1 through June 15 from Mill Creek to the Cowlitz salmon hatchery barrier dam. Lawful to fish up to four hundred feet or the posted deadline at the Cowlitz salmon hatchery barrier dam. Lawful to fish up to Tacoma Power safety signs at Onion Rock below Mossyrock Dam. Lawful to fish

up to Lewis County P.U.D. safety signs below Cowlitz Falls Dam. From the Cowlitz salmon hatchery barrier dam downstream to a line from the mouth of Mill Creek to a boundary marker on the opposite shore, it is unlawful to fish from any floating device. Nonbuoyant lure restriction and night closure April 1 through October 31 from mouth of Mill Creek to the Cowlitz salmon hatchery barrier dam. All game fish: Release all fish except steelhead April 1 through May 31. Trout: Daily limit five, minimum length twelve inches, no more than two over twenty inches. Release wild cutthroat. Release all steelhead missing right ventral fin. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Mill Creek to Blue Creek - release all chinook October 1 through December 31. Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods.

From posted PUD sign on Peters Road to mouth of Ohanepecosh River and mouth of Muddy Fork: Trout: Release cutthroat. Additional November 1 through May 31 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round from upstream boundary of Lake Scanewa. Daily limit 6 fish of which no more than 2 may be adult salmon. Salmon minimum size 12 inches. Release wild coho. Release wild chinook January 1 through July 31.

Cowlitz River, Clear and Muddy Forks (Lewis County): Trout: Release cutthroat.

Coyote Creek and Ponds (Adams County): April 1 through September 30 season.

Crab Creek (Adams/Grant counties):

From Highway 26 to Morgan Lake Road in Section 36: March 1 through September 30 season.

From Morgan Lake Road in Section 36 to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

Crab Creek (Lincoln/Grant counties) and tributaries: Year-round season. March 1 through May 31 terminal gear restricted to one single hook measuring 3/4 inch or less point to shank in those waters from Grant County Road 7 to the fountain buoy and shoreline markers or 150 feet downstream of the Alder Street fill, and from Moses Lake downstream to the confluence of the outlet streams.

Crabapple Lake (Snohomish County): Last Saturday in April through October 31 season.

Cranberry Creek (Mason County), mouth to Lake Limerick: Closed waters.

Crawfish Lake (Okanogan County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Crescent Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Crescent Lake (Pierce County): Last Saturday in April through October 31 season.

Crocker Lake (Jefferson County): Closed waters.

Crystal Lake (Grant County): March 1 through July 31 season.

Cup Lake (Grant County): March 1 through July 31 season.

Curl Lake (Columbia County): Last Saturday in April through October 31 season. Fishing from any floating device prohibited.

Curley Creek (Kitsap County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Cushman Reservoir (Mason County): Salmon: Landlocked salmon rules apply.

Dakota Creek (Whatcom County): Salmon: Open only October 1 through December 31 from mouth to Giles Road Bridge. Daily limit 2 salmon.

Damon Lake (Grays Harbor County): June 1 through October 31 season.

Davis Lake (Ferry County): Last Saturday in April through October 31 season.

Davis Lake (Lewis County): Last Saturday in April to last day in February season.

Davis Lake (Okanogan County): April 1 through August 31: Selective gear rules except electric motors allowed, and all species: Release all fish.

Davis Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dayton Pond (Columbia County): Juveniles only.

Deadman Lake (Adams County): April 1 through September 30 season.

De Coursey Pond (Pierce County): Last Saturday in April through November 30 season. Juveniles only. Salmon: Landlocked salmon rules apply.

Deep Creek (Clallam County): December 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead may be retained.

Deep Creek (tributary to Bumping Lake) (Yakima County): Mouth to second bridge crossing on USFS Rd. 1808 (approximately 3.7 miles from junction of USFS Rds. 1800 and 1808): Closed waters.

Deep Lake (Grant County): Last Saturday in April through September 30 season.

Deep Lake (Stevens County): Last Saturday in April through October 31 season.

Deep Lake (Thurston County): Last Saturday in April through October 31 season.

Deep River (Wahkiakum County): Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round only

from mouth to town bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Release sturgeon May 1 through May 14 and July 24 through December 31. Minimum size when open is 45 inches.

Deer Creek (Mason County): Closed waters.

Deer Creek and Little Deer Creek (tributaries to North Fork Stillaguamish) (Skagit County): Closed waters.

Deer Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Deer Lake (Island County): Last Saturday in April through October 31 season.

Deer (Deer Springs) Lake (Lincoln County): Last Saturday in April through September 30 season.

Deer Lake (Mason County): Last Saturday in April through October 31 season.

Deer Lake (Stevens County): Last Saturday in April through October 31 season. Trout: No more than two over twenty inches in length may be retained.

De Roux Creek (Yakima County): Selective gear rules.

Deschutes River (Thurston County): Closed waters: From 400 feet below lowest Tumwater Falls fish ladder to Old Highway 99 Bridge. From old U.S. Highway 99 Bridge near Tumwater to Henderson Boulevard Bridge near Pioneer Park: June 1 through March 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From Henderson Boulevard Bridge upstream: Year-round season. Selective gear rules. All game fish: Release all fish except hatchery steelhead. Salmon: Open only July 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Devereaux Lake (Mason County): Last Saturday in April through October 31 season.

Devil's Lake (Jefferson County): Last Saturday in April through October 31 season.

Dewatto River (Mason County): Selective gear rules. Game fish: Release all fish. Salmon: Open only September 16 through October 31 mouth to Dewatto-Holly Road Bridge. Daily limit two coho. Release all salmon other than coho.

Diamond Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Dickey River (includes all forks) (Clallam County): June 1 through April 30 season. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only July 1 through November 30 from mouth to East Fork Dickey including Olympic National Park. Daily limit 6 fish of which no more than 2 may be adult salmon July 1 through August 31 and of which no more than 3 may be adult salmon September 1

through November 30. July 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or a combination of adult chinook and adult wild coho.

Dillacort Creek (Klickitat County): Trout: Release all trout.

Dog Lake (Yakima County): Trout: Daily limit may contain not more than 1 fish over 14 inches in length.

Dosewallips River (Jefferson County), from mouth to Olympic National Park boundary about three-quarters mile downstream of falls: June 1 through last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only November 1 through December 15 from mouth to Highway 101 Bridge. Daily limit 2 chum salmon.

Dot Lake (Grant County): March 1 through July 31 season.

Downs Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season. Crappie: Daily limit ten, minimum length nine inches.

Dry Falls Lake (Grant County): April 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Duck Lake (Grays Harbor County): Crappie: Daily limit ten, minimum length nine inches.

Duckabush River (Jefferson County), from mouth to the Olympic National Park Boundary: June 1 through last day in February season except closed September 1 through October 31 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only November 1 through December 15 from mouth to Mason County P.U.D. No. 1 overhead electrical distribution line. Daily limit 2 chum salmon.

Dungeness River (Clallam County):

From mouth to junction of Gray Wolf and Dungeness rivers: October 16 through last day in February season. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31 from mouth to the hatchery intake pipe at river mile 11.3. Daily limit 4 coho salmon.

From junction of Gray Wolf River upstream to Gold Creek - Closed waters.

From junction of Gold Creek upstream to headwaters: Trout: Minimum length fourteen inches.

Dusty Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one fish.

Early Winters Creek (Okanogan County): Closed waters.

East Twin River (Clallam County): Trout: Minimum length fourteen inches.

Easton Lake (Kittitas County): Saturday before Memorial Day through October 31 season. Trout: Daily limit five fish

of which no more than 2 may be trout other than Eastern brook trout. Minimum length 8 inches.

Ebey Lake (Little Lake) (Snohomish County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit one, minimum length eighteen inches.

Echo Lake (Snohomish County): Last Saturday in April through October 31 season.

Eightmile Lake (Chelan County): Trout: Daily limit five, not more than two mackinaw may be retained.

Elbow Lake (Stevens County): Last Saturday in April through October 31 season.

Elk River (Grays Harbor County), from the Highway 105 Bridge upstream: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30 downstream of the confluence of the east and middle branches. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from Highway 105 Bridge to the confluence of the East and Middle Branches. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ell Lake (Okanogan County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit one.

Ellen Lake (Ferry County): Last Saturday in April through October 31 season.

Elochoman River (Wahkiakum County): Closed waters: Waters from 100 feet above the upper hatchery rack downstream to the Elochoman Hatchery Bridge located 400 feet below the upper hatchery rack; waters from a point 50 feet above to 100 feet below the outlet pipes from the most downstream Elochoman Hatchery rearing pond and extending 30 feet out from the south bank of the river; waters between the department of fish and wildlife temporary rack downstream to Foster (Risk) Road Bridge while rack is installed in the river; mainstem waters from the confluence of the west fork to source.

From mouth to West Fork: June 1 through March 15 season. Nonbuoyant lure restriction and night closure September 1 through October 31. Stationary gear restriction September 1 through October 31. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult chinook. Release chum and wild coho. October 1 through December 31 release chinook upstream of Highway 4 Bridge.

Eloika Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Elwha River (Clallam County): Closed waters: From south spillway on Aldwell Lake Dam downstream two hundred feet and from approximately fifty yards upstream to fifty yards downstream of Elwha Tribal Hatchery outfall as posted.

From mouth to two hundred feet below the south spillway on the Aldwell Lake Dam: June 1 through last day in February season, except closed June 1 through September 30

mouth to marker at outfall of rearing channel at about river mile 3.2. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 15. Daily limit 6 coho salmon of which no more than 4 may be adult coho salmon.

From Lake Aldwell upstream to Olympic National Park boundary, including all tributaries except Indian Creek: Selective gear rules. Trout: Minimum length twelve inches.

Empire Lake (Ferry County): Last Saturday in April through October 31 season.

Enchantment Park Ponds (Chelan County): Juveniles only.

Entiat River (Chelan County), from mouth to Entiat Falls: December 1 through March 31 season. Whitefish gear rules apply.

Ephrata Lake (Grant County): Closed waters.

Erie Lake (Skagit County): Last Saturday in April through October 31 season.

Failor Lake (Grays Harbor County): Last Saturday in April through October 31 season.

Fan Lake (Pend Oreille County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fazon Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15. Channel catfish: Daily and possession limit two.

Fio Rito Lakes (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Fish Lake (Chelan County): Trout: No more than two over fifteen inches in length may be retained.

Fish Lake (Ferry County): Last Saturday in April through October 31 season.

Fish Lake (Okanogan County): Last Saturday in April through October 31 season.

Fish Lake (Spokane County): Last Saturday in April through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Fisher Slough (Snohomish County):

From mouth to Highway 530 Bridge: Year-round season. Trout: Minimum length fourteen inches.

Upstream from Highway 530 Bridge: Trout: Minimum length fourteen inches.

Fishhook Pond (Walla Walla County): March 1 through October 31 season. Fishing from any floating device prohibited.

Fishtrap Creek (Whatcom County): From Koh Road to Bender Road: June 1 through October 31 season. Juveniles only.

Fishtrap Lake (Lincoln/Spokane counties): Last Saturday in April through September 30 season.

Forde Lake (Okanogan County): Last Saturday in April through October 31 season.

Fort Borst Park Pond (Lewis County): Last Saturday in April through last day in February season. Juveniles only.

Fortson Mill Pond # 2 (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Fourth of July Lake (Adams/Lincoln counties): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than two over fourteen inches in length may be retained.

Franz Lake (Skamania County): Closed waters.

Frater Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Frenchman Hills Lake (Grant County): February 1 through September 30 season.

Gadwall Lake (Grant County): April 1 through September 30 season.

Garfield Juvenile Pond (Whitman County): Juveniles only.

George Lake (Grant County): March 1 through July 31 season.

Geneva Lake (King County): Last Saturday in April through October 31 season.

Germany Creek (Cowlitz County), from mouth to end of Germany Creek Road (approximately five miles): June 1 through August 31 and November 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Gibbs Lake (Jefferson County): Selective gear rules except electric motors allowed. Trout: Release all trout.

Gillette Lake (Stevens County): Last Saturday in April through October 31 season.

Gissberg Pond, North (Snohomish County): Juveniles only.

Gissberg Ponds (Snohomish County): Channel catfish: Daily limit 2, no minimum size.

Goat Creek (Okanogan County): Closed waters.

Gobar Creek (tributary to Kalama River) (Cowlitz County): June 1 through March 15 season. Trout: Minimum length 14 inches. Release steelhead and wild cutthroat.

Gold Creek, Gold Creek Pond and Outlet Channel (tributary to Keechelus Lake) (Kittitas County): Closed waters.

Gold Creek (Okanogan County): From mouth to confluence north fork Gold Creek: Closed waters.

Goldsborough Creek (Mason County): Trout: Minimum length fourteen inches.

Goodman Creek (Jefferson County) outside Olympic National Park: June 1 through last day in February season. Trout, minimum length fourteen inches. December 1 through

last day in February, one wild steelhead per day may be retained.

Goodwin Lake (Snohomish County): Chumming permitted.

Goose Creek (Lincoln County), within the city limits of Wilbur: Year around season. Juveniles and holders of disability licenses only.

Goose Lake, Lower (Adams County): Crappie: Daily limit ten, minimum length nine inches. Bluegill: Not more than five over six inches in length.

Gorst Creek (Kitsap County): Closed waters: From lower bridge on the old Belfair Highway upstream to source (including tributaries). From mouth upstream to lower bridge: Trout: Minimum length fourteen inches.

Gosnell Creek and tributaries (tributary to Lake Isabella) (Mason County): Trout: Minimum length fourteen inches.

Goss Lake (Island County): Last Saturday in April through October 31 season.

Grande Ronde River (Asotin County):

From mouth to County Road Bridge about two and one-half miles upstream: Year-round season. Selective gear rules September 1 through May 31. Trout: Minimum length ten inches, maximum length twenty inches.

From County Road Bridge upstream to Oregon state line and all tributaries: June 1 through October 31 season. Selective gear rules, June 1 through August 31 and barbless hooks required September 1 through October 31. Additional season November 1 through April 15: Barbless hooks required. All tributaries: Closed waters. All species: Release all fish except whitefish and hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Granite Creek and tributaries (Pend Oreille County): Closed waters.

Granite Lakes (near Marblemount) (Skagit County): Grayling: Release all grayling.

Grass Lake (Mason County): Last Saturday in April through October 31 season.

Gray Wolf River (Clallam County): From junction with Dungeness River to bridge at river mile 1.0 - Closed waters.

From bridge at river mile 1.0 upstream - selective gear rules. Trout: Minimum length fourteen inches.

Grays River (Wahkiakum County), from mouth to Highway 4 Bridge: September 1 through October 15 and November 15 through March 15 season; and from Highway 4 Bridge to mouth of South Fork: September 1 through October 15 and December 15 through March 15 season. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 15. All game fish: Release all fish except hatchery steelhead. Salmon: Open only September 1 through October 15 from mouth to South Fork. Daily limit 6 fish of which no more than two may be adult salmon. Release chinook, chum, and wild coho.

Grays River, East Fork (Wahkiakum County): Selective gear rules. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Grays River, West Fork (Wahkiakum County), downstream from hatchery intake footbridge: June 1 - August 31 season. Trout: Additional December 15 through March 15 season downstream from hatchery intake footbridge. Release all fish other than hatchery steelhead.

Green Lake (Okanogan County): April 1 through November 30: Selective gear rules except electric motors allowed, and all species: Release all fish.

Green Lake (Lower) (Okanogan County): April 1 through November 30: Selective gear rules, and all species: Release all fish.

Green River (Cowlitz County): Closed waters: All tributaries.

From mouth to 2800 Bridge: April 1 through November 30 season except closed from 400 feet above to 400 feet below the water intake at the upper end of the hatchery grounds during the period September 1 through November 30 and from 400 feet or posted signs above and below the salmon hatchery rack when the rack is installed in the river. Nonbuoyant lure restriction and night closure September 1 through October 31 from mouth to 400 feet below salmon hatchery rack. All species: When nonbuoyant lure restriction in effect, only fish hooked inside the mouth may be retained. All game fish: Release all fish except steelhead. Salmon: Open only April 1 through May 31 from mouth to 400 feet below the water intake at the upper end of the hatchery grounds and June 1 through November 30 from mouth to 2800 Bridge. April 1 through July 31: Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild chinook. August 1 through November 30: Daily limit 6 salmon not more than 2 of which may be adult salmon. Release chum and wild coho. October 1 through November 30 release chinook.

From 2800 Bridge to source: Closed waters.

Green (Duwamish) River (King County):

From the First Avenue South Bridge to (~~SW 43rd Street/South 180th Street~~) Interstate 5 Bridge: June 1 through July 31 and September ~~((16))~~ 1 through February 15 season. Nonbuoyant lure restriction and night closure September 1 through November 30 First Avenue South Bridge to (~~Pacific Highway South Bridge and September 16 through November 30 from Pacific Highway South Bridge to SW 43rd Street/180th Street~~) Interstate 5 Bridge. Fishing from any floating device prohibited November 1 through (~~last day in~~) February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September ~~((16))~~ 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 1 through December 31 (~~First Avenue Bridge to Pacific Highway South Bridge~~). Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 1 may be a chinook. (~~Release chinook. Open only September 16 through December 31 Pacific Highway South Bridge to SE 43rd Street/South 180th Street Bridge. Daily limit 6 fish of which~~

~~not more than 3 may be adult salmon. Release chinook salmon.))~~

From the Interstate 5 Bridge to SW 43rd Street/South 180th Street Bridge: June 1 through July 31 and September 16 through February 15 season. Nonbuoyant lure restriction and night closure September 16 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and September 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only September 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the SW 43rd Street/South 180th Street Bridge to South 277th Street Bridge in Auburn: Open only June 1 through July 31 and October 1 through February 15. Nonbuoyant lure restriction and night closure October 1 through November 30. Fishing from any floating device prohibited November 1 through February 15. Trout: Minimum length fourteen inches. July 1 through July 31 and October 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 1 through December 31. Daily limit 6 fish of which not more than 3 may be adult salmon. Release chinook (~~salmon~~).

From the 277th Street Bridge to Auburn-Black Diamond Road Bridge: Open only June 1 through July 31 and October 16 through last day in February. Nonbuoyant lure restriction and night closure October 16 through November 30. Fishing from a floating device prohibited November 1 through last day in February. Trout, minimum length fourteen inches. July 1 through July 31 and October 16 through November 30, one wild steelhead per day may be retained. Salmon: Open only October 16 through December 31. Daily limit 6 fish of which no more than 3 may be adult salmon. Release chinook.

From the Auburn-Black Diamond Road Bridge to the Tacoma Headworks Dam: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Closed waters: Within 150 feet of the Palmer Pond outlet rack and within 150 feet of the mouth of Keta Creek. Trout: Minimum length 14 inches. July 1 through November 30, one wild steelhead per day may be retained. Salmon: Open only November 1 through December 31. Daily limit 2 chum (~~salmon~~).

Greenwater River (King County), from mouth to Greenwater Lakes: Selective gear rules. Trout: Minimum length twelve inches.

Grimes Lake (Douglas County): June 1 through August 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed. Trout: Daily limit one.

Grizzly Lake (Skamania County): Closed waters.

Halfmoon Lake (Adams County): April 1 through September 30 season.

Halfmoon Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Hamilton Creek (Skamania County): Trout: Release all fish except up to two hatchery steelhead may be retained per day.

All tributaries downstream from the Highway 14 Bridge: Closed waters.

Hamma Hamma River (Mason County):

From mouth to four hundred feet below falls: June 1 through August 31 and November 1 through last day in February season. Selective gear rules. All species: Release all fish.

Hammersley Inlet Freshwater Tributaries (Mason County), except Mill Creek: Closed waters.

Hampton Lakes, Lower and Upper (Grant County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Hancock Lake (King County): June 1 through October 31 season. All tributary streams and the upper third of the outlet are closed waters.

Harrison Pond (Skagit County): Closed waters.

Harvey Creek (tributary to Sullivan Lake) (Pend Oreille County):

From mouth to Bridge 4830 on county road (about one and one-half miles): Closed waters.

From Bridge 4830 upstream: Selective gear rules.

Harvey Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Hatch Lake (Stevens County): December 1 through March 31 season.

Hatchery Lake (Mason County): Last Saturday in April through October 31 season.

Haven Lake (Mason County): Last Saturday in April through October 31 season.

Hawk Creek and tributaries (Lincoln County): Year-round season.

Hays Creek and Ponds (Adams County): April 1 through September 30 season.

Headgate Pond (Asotin County): Last Saturday in April through October 31 season. Juveniles, seniors and holders of disability licenses only.

Heart Lake (near Anacortes) (Skagit County): Last Saturday in April through October 31 season.

Heins Lake (Kitsap County): Closed waters.

Hemlock Lake (Trout Creek Reservoir) (Skamania County): Closed waters.

Hen Lake (Grant County): April 1 through September 30 season.

Heritage Lake (Stevens County): Last Saturday in April through October 31 season.

Herman Lake (Adams County): April 1 through September 30 season.

Hicks Lake (Thurston County): Last Saturday in April through October 31 season.

Hog Canyon Creek (Spokane County): Hog Canyon Dam to Scroggie Road: Year-round season.

Hog Canyon Lake (Spokane County): December 1 through March 31 season. Trout: No more than two over fourteen inches in length may be retained.

Hoh River (Jefferson County), from mouth to Olympic National Park boundary below mouth of South Fork: (~~June 4~~) May 18 through April 15 season. May 18 through May 31, open Wednesday through Sunday only from mouth to Willoughby Creek only. Willoughby Creek to park boundary closed through May 31. Selective gear rules June 1 through October 15 from Willoughby Creek to Morgan's Crossing Boat Launch, June 1 through November 30 from Morgan's Crossing Boat Launch to the mouth of south fork, and December 1 through April 15 from DNR Oxbow Campground Boat Launch to mouth of south fork. Trout: Minimum length fourteen inches. Catch and release during May, except up to two hatchery steelhead may be retained on open days. December 1 through April 15, from mouth to DNR Oxbow Campground Boat Launch, one wild steelhead per day may be retained. Salmon: Open only May 16 through November 30 mouth to Willoughby Creek and October 16 through November 30 Willoughby Creek to Morgan's Crossing Boat Launch. Daily limit 6 fish of which no more than 2 may be adult salmon except May (~~16~~) 18 through August 31 from mouth to Willoughby Creek open Wednesday through Sunday only of each week and daily limit may contain no more than one adult salmon.

Hoh River South Fork (Jefferson County), outside Olympic National Park: June 1 through April 15 season. Selective gear rules. Trout: Minimum length fourteen inches.

Hoko River (Clallam County): From mouth to upper Hoko Bridge: Fly fishing only September 1 through October 31. Additional November 1 through March 15 season. Trout: Minimum length fourteen inches. December 1 through March 15, one wild steelhead per day may be retained.

From upper Hoko Bridge to Ellis Creek Bridge (river mile 18.5): June 1 through March 31 season. Fly fishing only. All species: Release all fish except that up to two hatchery steelhead per day may be retained.

Homestead Lake (Grant County): Selective gear rules. Trout: Daily limit one fish.

Hoquiam River, including all forks (Grays Harbor County): June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Selective gear rules and all species: Release all fish except up to two hatchery steelhead may be retained per day, from March 1 through March 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to bridge on Dekay Road on mainstem and East Fork mouth to mouth of Berryman Creek. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Horseshoe Lake (Clark/Cowlitz counties): Trout: No more than 2 trout 20 inches or greater in length may be retained. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Jefferson County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit 1.

Horseshoe Lake (Kitsap County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Horseshoe Lake (Pend Oreille County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit five.

Horsethief Lake (Klickitat County): Last Saturday in April through October 31 season.

Hourglass Lake (Grant County): April 1 through September 30 season.

Howard Lake (Snohomish County): Last Saturday in April through October 31 season.

Howell Lake (Mason County): Last Saturday in April through October 31 season.

Hozomeen Lake (Whatcom County): July 1 through October 31 season.

Huff Lake (Pend Oreille County): Closed waters.

Humtulpis River (Grays Harbor County), from mouth to forks: June 1 through March 31 season except closed March 1 through March 31 from Highway 101 Bridge to forks. Night closure and single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through January 31 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon. Release ((wild)) adult ((~~eehe~~)) chinook. October 16 through November 30 the daily limit may contain no more than 1 wild adult ((~~ehinook~~)) coho. December 1 through January 31 release wild adult ((~~ehinook~~)) coho.

Humtulpis River, East Fork (Grays Harbor County), from mouth to concrete bridge on Forest Service Road between Humtulpis Guard Station and Grisdale: Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Humtulpis River, West Fork (Grays Harbor County), from mouth to Donkey Creek: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. Trout: Minimum length fourteen inches.

Hutchinson Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

I-82 Ponds, 1 through 7 (Yakima County): Fishing from vessels equipped with internal combustion engines prohibited.

Icehouse Lake (Skamania County): Trout: No more than 2 trout 20 inches or greater in length may be retained.

Icicle River (Creek) (Chelan County):

From mouth to four hundred feet below Leavenworth National Fish Hatchery rack: Closed waters. From Leavenworth National Fish Hatchery rack upstream to Leland Creek: Selective gear rules.

Indian Creek (tributary to Elwha River) (Clallam County), from mouth upstream to first Highway 101 crossing: Selective gear rules. Trout: Minimum length twelve inches.

Indian Creek (Yakima County): From mouth to waterfall approximately 5 and three-quarters miles upstream: Closed waters. Upstream of waterfall: Eastern brook trout do not count as part of trout daily limit. Eastern brook trout: No minimum size and no daily limit.

Indian Heaven Wilderness Lakes (Skamania County): Trout: Daily limit three.

Ingall's Creek (Chelan County): Mouth to Wilderness boundary: Closed waters.

Issaquah Creek (King County): Closed waters.

Jackson Lake (Pierce County): Last Saturday in April through October 31 season.

Jameson Lake (Douglas County): Last Saturday in April through July 4 and October 1 through October 31 seasons.

Jasmine Creek (Okanogan County): Year-round season. Juveniles only.

Jefferson Park Pond (Walla Walla County): Juveniles only.

Jennings Park Pond (Snohomish County): Last Saturday in April through October 31 season. Juveniles only.

Jewitt Creek (Klickitat County): Juveniles only. Trout: Daily limit five, no minimum length.

Jimmy-Come-Lately Creek (Clallam County): June 1 through August 31 season. Trout: Minimum length fourteen inches.

Joe Creek (Grays Harbor County): Upstream from State Highway 109 Bridge to Ocean Beach Road Bridge: June 1 through November 30 season. Single point barbless hooks required August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Johns Creek (Mason County): Closed waters.

Johns River (Grays Harbor County): Mouth to Ballon Creek: June 1 through last day in February season. Single point barbless hooks required August 16 through November 30 ((~~from mouth to Ballon Creek~~)). Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

Ballon Creek upstream, including North and South Forks: June 1 through September 30 and December 1 through last day in February season. Trout: Minimum length 14 inches.

Johnson Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Johnson Creek (Whatcom County), from Northern Pacific Railroad tracks to the Lawson Street footbridge in Sumas: Juveniles only.

Jump-Off Joe Lake (Stevens County): Last Saturday in April through October 31 season.

Kachess Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen. Burbot: Set line gear allowed.

Kachess River (Kittitas County): Lawful to fish to base of Kachess Dam. Selective gear rules. From Kachess Lake (Reservoir) upstream to waterfall approximately one-half mile above Mineral Creek: Closed waters.

Kalaloch Creek (Jefferson County), outside Olympic National Park: Closed waters: Those waters within the section posted as the Olympic National Park water supply June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Kalama River (Cowlitz County): Release wild cutthroat.

From mouth upstream to one thousand feet below fishway at upper salmon hatchery: Year-round season except during the period the temporary fish rack is installed. Waters from Modrow Bridge downstream to one thousand five hundred feet below the rack are closed waters when the rack is installed. Nonbuoyant lure restriction, night closure, and stationary gear restriction September 1 through October 31 from mouth to ~~((one thousand five hundred feet below))~~ the rack. All species: When nonbuoyant lure restriction in effect only fish hooked inside the mouth may be retained. Fishing from a floating device equipped with a motor prohibited upstream of Modrow Bridge. September 1 through October 31: Fly fishing only from the pipeline crossing to the posted deadline at the intake to the lower salmon hatchery. Trout: Release all trout except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Release hatchery coho October 16 through December 31. October 1 through December 31 release chinook upstream from natural gas pipeline crossing.

From one thousand feet below to one thousand feet above the fishway at upper salmon hatchery: Closed waters.

From one thousand feet above the fishway at the upper salmon hatchery to Summers Creek: Year-round season. Fishing from a floating device equipped with a motor prohibited. Selective gear rules. Trout: Minimum length 14 inches. Release steelhead in mainstem and tributaries.

From Summers Creek upstream to the 6420 Road at about one mile above the gate at the end of the county road: June 1 through March 31 season. Fishing from a floating device equipped with a motor prohibited. Fly fishing only. Trout: Minimum length 14 inches. Release steelhead in mainstem and tributaries.

From 6420 Road to Kalama Falls: Closed waters.

Kalispell Creek and tributaries (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules.

Keechelus Lake (Reservoir) (Kittitas County): Chumming permitted. Trout except kokanee: Daily limit two, minimum length twelve inches, additionally up to sixteen kokanee may be retained. Burbot: Set line gear allowed.

Kelsey Creek (tributary of Lake Washington) (King County): Closed waters.

Kennedy Creek (Thurston County), from mouth to four hundred feet below falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure October 1 through December 31. Trout: Minimum length fourteen inches. Salmon: Open only October 1 through November 30 from mouth to northbound Highway 101 Bridge. Barbless hooks required. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

Kennedy Creek Pond (Thurston County): Last Saturday in April through October 31 season.

Kettle River (Stevens County):

June 1 through October 31 season. All species: Selective gear rules. Trout: Minimum length 12 inches. Sturgeon: Unlawful to fish for or retain sturgeon.

Additional season: November 1 through May 31. Whitefish gear rules apply.

Ki Lake (Snohomish County): Last Saturday in April through October 31 season.

Kidney Lake (Skamania County): Last Saturday in April through last day in February season.

Kimball Creek (near Snoqualmie) (King County): Last Saturday in April through October 31 season. Juveniles only. Trout: No minimum length.

Kings Lake and tributaries (Pend Oreille County): Closed waters.

Kings Lake Bog (King County): Closed waters.

Kiwanis Pond (Kittitas County): Juveniles and holders of disability licenses only.

Klaus Lake (King County): Last Saturday in April through October 31 season. Closed waters: The inlet and outlet to first Weyerhaeuser spur.

Klickitat River (Klickitat County):

From mouth to Fisher Hill Bridge: April 1 through January 31 season. Nonbuoyant lure restriction and night closure May 1 through May 31. Nonbuoyant lure restriction August 1 through January 31. Game fish: Closed December 1 through January 31. Release game fish other than steelhead April 1 through May 31. Trout: Minimum length twelve inches. Steelhead and salmon: April 1 through May 31 Mondays, Wednesdays and Saturdays only, daily limit 2 hatchery steelhead or 2 salmon or one of each. Salmon: June 1 through January 31 daily limit 6 fish of which no more than 2 may be adult salmon.

From Fisher Hill Bridge to four hundred feet above # 5 fishway: Closed waters.

From four hundred feet above # 5 fishway to the Yakama Indian Reservation boundary: June 1 through November 30 season, except waters from boundary markers above Klickitat salmon hatchery to boundary markers below hatchery are closed waters. Trout: Minimum length twelve inches. Salmon: Open only June 1 through November 30 from 400 feet above No. 5 Fishway to boundary markers below Klickitat Salmon Hatchery. June 1 through July 31: Daily limit 6 salmon. Release adult salmon. August 1 through November 30: Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook November 1 through November 30. Additional December 1 through March 31 season. Whitefish gear rules apply.

From the Yakama Indian Reservation boundary upstream to source, including all tributaries: Closed waters.

Klineline Ponds (Clark County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Koeneman Lake (Fern Lake) (Kitsap County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Kress Lake (Cowlitz County): Fishing from a floating device equipped with an internal combustion motor prohibited. Trout: No more than 2 trout 20 inches in length or greater may be retained. Salmon: Landlocked salmon rules apply.

Lacamas Creek (Clark County): Lawful to fish upstream to the base of Lacamas Lake Dam.

Lacamas Creek, tributary of Cowlitz River (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Lake Creek (Okanogan County): Mouth to Black Lake: Closed waters. Black Lake to Three Prong Creek: Selective gear rules.

Langlois Lake (King County): Last Saturday in April through October 31 season.

Latah (Hangman) Creek (Spokane County): Year-round season.

Leader Lake (Okanogan County): Last Saturday in April through September 30 season.

Ledbetter Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Ledking Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Leech Lake (White Pass area) (Yakima County): Fly fishing only. Fishing prohibited from floating devices equipped with motors. Trout: No more than one over 14 inches in length.

Lemna Lake (Grant County): April 1 through September 30 season.

Lenice Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Lena Lake, Lower (Jefferson County): Closed waters: Inlet stream from mouth upstream to footbridge (about one hundred feet).

Lenore Lake (Grant County): Closed waters: Area within two hundred yard radius of trash rack leading to the irrigation pumping station (south end of lake) and area approximately one hundred yards beyond the mouth of inlet stream to State Highway 17. March 1 through May 31 season: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. All species: Release all fish. Additional season June 1 through November 30: Selective gear rules, except fishing from a floating device equipped with an electric motor permitted. Trout: Daily limit one.

Leo Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Lewis River (Clark County), from mouth to forks: Year-round season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31. Sturgeon: Lawful to retain sturgeon on Thursdays, Fridays and Saturdays, February 1 through July 31 and October 1 through December 31. Release sturgeon on other days and during other time periods.

Lewis River, East Fork (Clark/Skamania counties): Closed waters: From the posted markers at the lower end of Big Eddy to one hundred feet above Lucia Falls; from four hundred feet below to four hundred feet above Molton Falls; from four hundred feet below Horseshoe Falls upstream including all tributaries above Horseshoe Falls.

Mouth to 400 feet below Horseshoe Falls: June 1 through March 15 season. Trout: Release all trout except up to two hatchery steelhead per day may be retained. Mouth to top boat ramp at Lewisville Park: Additional April 16 through May 31 season. Selective gear rules. Release all fish except up to two hatchery steelhead may be retained per day.

Lewis River, North Fork (Clark/Skamania counties):

From mouth to Colvin Creek: Year-round season except those waters shoreward of the cable buoy and corkline at the mouth of the Lewis River Salmon Hatchery fish ladder are closed waters. Nonbuoyant lure restriction and night closure April 1 through November 30 from Johnson Creek to Colvin Creek. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open year-round. Daily limit six fish of which not more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31.

From mouth of Colvin Creek to overhead powerlines at Merwin Dam: May 1 through September 30 and December 16 through April 30 season. Nonbuoyant lure restriction and night closure April 1 through September 30. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only January 1 through September 30. Daily limit 6 fish

of which no more than 2 may be adult salmon. Release chum and wild coho. Release wild chinook January 1 through July 31.

From overhead powerlines at Merwin Dam to Merwin Dam: Closed waters.

From the cable crossing 1,300 feet below Yale Dam to Yale Dam: Closed waters.

Within Lewis River Power Canal: Closed waters.

From Eagle Cliff Bridge to lower falls including all tributaries: Selective gear rules. All species: Release all fish.

Liberty Lake (Spokane County): Last Saturday in April through September 30 season.

Lilliwaup River (Mason County): Mouth to 200 feet below falls: June 1 through August 31 season. Selective gear rules. All species: Release all fish.

Lilly Lake (Chelan County): Last Saturday in April through October 31 season. July 5 through October 31, selective gear rules, and all species: Release all fish.

Limerick Lake (Mason County): Last Saturday in April through October 31 season.

Lincoln Pond (Clallam County): Juveniles only.

Lions Park Pond (Walla Walla County): Juveniles only.

Little Ash Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Little Bear Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

Little Hoko River (Clallam County): Selective gear rules. All species: Release all fish.

Little Klickitat River (Klickitat County), within Goldendale city limits: Last Saturday in April through October 31 season. Juveniles only. Trout: Daily limit five, no minimum length.

Little Lost Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Little Naches River (Yakima County): Selective gear rules.

Little Nisqually River (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Little Pend Oreille River (Stevens County) from the Little Pend Oreille wildlife refuge boundary about 1 mile downstream from the refuge headquarters office to Crystal Falls: Selective gear rules, and all species: Release all fish except up to five Eastern brook trout may be retained.

Little Quilcene River (Jefferson County), from mouth to the Little Quilcene River Bridge on Penny Creek Road, June 1 through last day in February season. Closed waters: Mouth to Highway 101 Bridge September 1 through October 31. Trout: Minimum length fourteen inches.

Little Spokane River (Spokane County):

From mouth to SR 291 Bridge: Year-round season.

From SR 291 Bridge upstream to the West Branch: Last Saturday in April through October 31 season. Additional

December 1 through March 31 season. Whitefish gear rules apply.

Upstream from bridge at Fridgeger Road: Closed waters: From the inlet to Chain Lake upstream one-quarter mile to the railroad crossing culvert. Trout: Release kokanee taken upstream from bridge.

Little Twin Lake (Okanogan County): April 1 through November 30: Selective gear rules and all species: Release all fish.

Little Twin Lake (Stevens County): Last Saturday in April through October 31.

Little Wenatchee River (Chelan County): From Lake Wenatchee to the falls below U.S. Forest Service Road 6700 Bridge at Riverside Campground: Closed waters.

Little White Salmon River (Skamania County): Closed waters: From the orange fishing boundary markers at Drano Lake upstream to the intake near the Little White Salmon National Fish Hatchery north boundary. Trout: Daily limit five. Drano Lake (waters downstream of markers on point of land downstream and across from Little White Salmon National Fish Hatchery): May 1 through March 31 season, except for hatchery steelhead and chinook season in April, and except closed Wednesdays beginning the second Wednesday in April through May 31 and October 1 through October 31. Night closure and nonbuoyant lure restriction May 1 through June 30. Nonbuoyant lure restriction August 1 through December 31. March 16 through June 30 daily limit of two fish, of which two fish one or both may be hatchery steelhead or one or both may be chinook salmon. Trout and salmon: May 1 through June 30 release all fish except hatchery steelhead and chinook salmon. Trout: July 1 through March 15 release all fish except up to two hatchery steelhead may be retained per day. Salmon: Open only August 1 through December 31. Daily limit six fish of which no more than two may be adult salmon.

Lone Lake (Island County): Selective gear rules, except electric motors allowed. Trout: Daily limit one, minimum length 18 inches.

Long Lake (Ferry County): Last Saturday in April through October 31 season. Fly fishing only. Unlawful to fish from floating devices equipped with motors.

Long Lake (Okanogan County): Last Saturday in April through September 30 season.

Long Lake (Spokane River Reservoir) (Spokane County): Bass: Release all bass May 1 through June 30.

Long Lake (Thurston County): Last Saturday in April through October 31 season.

Long's Pond (Thurston County): Juveniles only.

Loomis Lake (Pacific County): Last Saturday in April through October 31 season.

Loomis Pond (Grays Harbor County): Closed waters.

Loon Lake (Stevens County): Last Saturday in April through October 31 season. Trout except kokanee: Daily limit five,

except no more than two over twenty inches in length may be retained. Kokanee not counted in daily trout limit. Kokanee daily limit ten.

Lost Lake (Kittitas County): Trout: Not more than 1 fish over 14 inches in length.

Lost Lake (Okanogan County): Unlawful to fish from a floating device equipped with an internal combustion engine.

Lost River (Okanogan County):

From mouth to mouth of Monument Creek: Closed waters.

From mouth of Monument Creek to outlet of Cougar Lake: Selective gear rules. Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit. Dolly Varden/Bull Trout daily limit two, minimum length fourteen inches.

Love Lake (Clark County): Closed waters.

Lucas Slough (Skagit County): Closed waters.

Lucky Duck Pond (Stevens County): Juveniles only.

Ludlow Lake (Jefferson County): Last Saturday in April through October 31 season.

Lyle Lake (Adams County): April 1 through September 30 season.

Lyre River (Clallam County):

From mouth to falls near river mile 3: June 1 through last day in February season. Trout: Minimum length fourteen inches.

From falls to source: Selective gear rules. All species: Release all fish.

Mad River (Chelan County), from mouth upstream to Jimmy Creek: Closed waters.

Maggie Lake (Mason County): Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Margaret Lake (King County): Last Saturday in April through October 31 season.

Marshal Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Martha Lake (Grant County): March 1 through July 31 season.

Martha Lake (Snohomish County): Last Saturday in April through October 31 season.

Mattoon Lake (Kittitas County): Fishing from a floating device equipped with an internal combustion engine prohibited.

May Creek (tributary of Lake Washington) (King County): Closed waters.

Mayfield Lake (Reservoir) (Lewis County): Mayfield Dam to 400 feet below Mossyrock Dam: Closed waters: Tacoma Power safety signs at Onion Rock Bridge to Mossyrock Dam. Trout and salmon: Minimum length eight inches. Trout:

Release cutthroat. Salmon: Open only September 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release wild coho.

McAllister Creek (Thurston County): Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through November 30 from mouth to Olympia - Steilacoom Road Bridge. Daily limit 6 fish of which no more than 4 may be adult salmon.

McCabe Pond (Kittitas County): Fishing from any floating device prohibited. All species: Five fish daily limit for all species combined.

McDonald Creek (Clallam County): Trout: Minimum length fourteen inches.

McDowell Lake (Stevens County): Last Saturday in April through October 31 season. Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

McIntosh Lake (Thurston County): Last Saturday in April through October 31 season.

McLane Creek (Thurston County), from a line 50 feet north of and parallel to the Mud Bay Road Bridge to a line 100 feet upstream and parallel to the south bridge on Highway 101: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Release game fish November 1 through November 30. Trout: Minimum length fourteen inches upstream from the south bridge. Salmon: Open only July 1 through November 30. Closed to salmon fishing: Waters within 400 feet of Allison Springs Pond outfall. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho.

From a line 100 feet upstream and parallel to the south bridge on Highway 101 upstream: Nonbuoyant lure restrictions and night closure August 1 through October 31. Trout: Minimum length fourteen inches.

McLane Creek Ponds (Thurston County): Last Saturday in April through October 31 season.

McManaman Lake (Adams County): April 1 through September 30 season.

McMurray Lake (Skagit County): Last Saturday in April through October 31. Salmon: Landlocked salmon rules apply.

Medical Lake (Spokane County): Last Saturday in April through September 30 season. Selective gear rules. Trout: Daily limit two, minimum length fourteen inches.

Medical Lake, West (Spokane County): Last Saturday in April through September 30 season.

Melaney Creek (Mason County): Closed waters.

Melbourne Lake (Mason County): Last Saturday in April through October 31 season.

Mercer Creek (Kittitas County), that portion within Ellensburg city limits: Juveniles only. Trout: Daily limit five, no minimum length.

Mercer Slough (tributary of Lake Washington) (King County): Closed waters.

Merrill Lake (Cowlitz County): Fly fishing only. Unlawful to fish from a floating device equipped with an internal combustion engine. Trout: Daily limit two, maximum length twelve inches.

Merritt Lake (Chelan County): Trout: Daily limit sixteen.

Merry Lake (Grant County): March 1 through November 30 season. Selective gear rules. Trout: Daily limit one.

Merwin Lake (Reservoir) (Clark/Cowlitz County): Salmon: Landlocked salmon rules apply.

Methow River (Okanogan County):

Mouth to Gold Creek: Closed waters June 1 through October 31. Gold Creek to Weeman Bridge: June 1 through September 30 season: Selective gear rules. All species: Release all fish. Upstream from Weeman Bridge to the falls above Brush Creek: Closed waters June 1 through October 31: From mouth upstream to the falls above Brush Creek. Additional season: December 1 through March 31. Whitefish gear rules apply.

Methow River tributaries not otherwise provided for: Selective gear rules. Trout: Maximum length twenty inches.

Middle Nemah Pond (Pacific County): June 1 through October 31 season.

Mill Creek (Chelan County): Closed waters.

Mill Creek (Cowlitz County): June 1 through August 31 and November 1 through March 15 seasons. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Mill Creek (Lewis County): Additional season December 1 through December 31, mouth to hatchery road crossing culvert. Nonbuoyant lure restriction and night closure. All species: Release all fish except that up to two hatchery steelhead with intact ventral fins may be retained per day.

Mill Creek (Mason County): Trout: Minimum length fourteen inches.

Mill Creek (Walla Walla County):

From mouth to Gose St. Bridge: June 1 through April 15 season. All species: Barbless hooks required and release all fish except hatchery steelhead September 1 through April 15. Trout: Daily limit three hatchery steelhead.

From Gose St. Bridge to Roosevelt St. Bridge, within city limits of Walla Walla: Closed waters.

From Roosevelt St. Bridge upstream, including all tributaries: All tributaries: Closed waters. Selective gear rules. Trout: Maximum length twenty inches.

Mill Creek Pond (Grays Harbor County): Juveniles only.

Mill Pond (Auburn) (King County): Last Saturday in April through October 31 season. Juveniles only.

Mill Pond (Pend Oreille County): Last Saturday in April through October 31 season.

Mineral Creek (tributary to upper Kachess River) (Kittitas County), from mouth to Wilderness Boundary: Closed waters.

Mineral Creek (tributary to Nisqually River), and Mineral Creek, North Fork (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Mineral Lake (Lewis County): Last Saturday in April through September 30 season.

Minter Creek (Pierce/Kitsap counties): Closed waters: Area from department intake dam downstream to mouth June 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only November 1 through December 31 from mouth to 50 feet downstream of the hatchery rack. Daily limit 4 chum.

Mirror Lake (Grant County): Last Saturday in April through September 30 season.

Mission Lake (Kitsap County): Last Saturday in April through October 31 season.

Moclips River (Grays Harbor County), from mouth to the Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Molson Lake (Okanogan County): Fishing from a floating device equipped with an internal combustion engine prohibited.

Monte Christo Lake (Snohomish County): June 1 through October 31 season. Selective gear rules.

Moose Pond (Pacific County): June 1 through October 31 season.

Moran Slough (including inlet and outlet streams) (Grant County): Closed waters.

Morgan Lake (Adams County): April 1 through September 30 season.

Morse Creek (Clallam County), from mouth to Port Angeles Dam: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Moses Lake (Grant County): Crappie: Daily limit five, only crappie more than ten inches in length may be retained. Bluegill: Daily limit five, only bluegill more than eight inches in length may be retained. Bass: Fish twelve to seventeen inches in length may be retained as part of the daily limit. No more than 3 bass over fifteen inches in length may be retained. Walleye: Minimum length eighteen inches. Up to five fish eighteen to twenty-four inches in length may be retained in the daily limit. No more than one walleye over 24 inches in length may be retained.

Mosquito Creek (Jefferson County), outside Olympic National Park: June 1 through last day in February season. Selective gear rules. Trout: Minimum length fourteen inches.

Muck Creek and tributaries (within Ft. Lewis Military Reservation) (Pierce County): Selective gear rules. Trout: Release all trout.

Mud Lake (Mason County): Last Saturday in April through October 31 season.

Mud Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mudget Lake (Stevens County): Last Saturday in April through October 31 season.

Munn Lake (Thurston County): Last Saturday in April through October 31 season.

Muskegon Lake (Pend Oreille County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two.

Myron Lake (Yakima County): Selective gear rules. Trout: Daily limit one.

Mystic Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Naches River (Yakima/Kittitas counties):

From the mouth to Little Naches River: Selective gear rules. Trout: Minimum length twelve inches, maximum length twenty inches. Release trout June 1 through October 31 from confluence with Tieton River to mouth of Rattle Snake Creek. Additional December 1 through March 31 season. Whitefish gear rules apply.

Naneum Creek (Kittitas County): Selective gear rules.

Naneum Pond (Kittitas County): Juveniles only.

Napeequa River (Chelan County): Mouth to Twin Lakes Creek: Closed waters.

Naselle River (Pacific/Wahkiakum counties), from Highway 101 Bridge upstream including all forks: Closed waters: Area from four hundred feet below falls in Sec. 6, T10N, R8W (Wahkiakum County) to falls ~~(-and)~~. Waters from two hundred feet upstream of the Naselle Salmon Hatchery water supply intake barrier to four hundred feet downstream of the entrance to the Naselle Salmon Hatchery attraction channel closed July 16 through October 15.

Mainstem: June 1 through April 15 season, except sturgeon. Single point barbless hooks required August 16 through November 30 upstream from Highway 4 Bridge to Crown Main Line (Salme) Bridge. Nonbuoyant lure restriction and night closure August 16 through November 30 downstream from North Fork. Stationary gear restrictions downstream from the Crown Main Line Bridge August 16 through November 30. Selective gear rules March 1 through April 15 from mouth to North Fork. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through January 31 from Highway 101 Bridge to Highway 4 Bridge and October 16 through January 31 from the Highway 4 Bridge to the Crown Main Line Bridge. Daily limit 6 fish of which no more than 3 may be adult salmon and of these 3 adult fish no more than 1 may be a wild adult coho and not more than 2 may be adult chinook. No more than 2 chum may be retained.

Sturgeon: Open year-round from mouth to Highway 4 Bridge.

From mouth of North Fork to source: Selective gear rules. All species: Release all fish.

South Fork, from mouth to Bean Creek: June 1 through last day in February season, except sturgeon. Game fish: Selective gear rules except nonbuoyant lure restriction and night closure August 16 through November 30. Release game fish. Sturgeon: Open year-round.

Nason Creek (Chelan County): From the mouth upstream to Smith Brook: Closed waters.

From Smith Brook to Stevens Creek: Selective gear rules.

Negro Creek (Lincoln County): Year-round season from mouth at Sprague Lake to the fish barrier dam at Fishtrap Lake.

Negro Creek (Whitman County): Last Saturday in April through July 15 season.

Nemah River, North, Middle, and South: June 1 through March 31 season. Single point barbless hooks required on North Nemah upstream to the lower bridge on dead end lower Nemah Road October 1 through November 30, on Middle Nemah upstream to the Department of Natural Resources Bridge on Middle Nemah A-line Road August 16 through November 30, and on South Nemah upstream to confluence with Middle Nemah August 16 through November 30. Selective gear rules on Middle Nemah above DNR Bridge. Night closure August 16 through November 30 on South and Middle Nemah and October 1 through November 30 on North Nemah. Nonbuoyant lure restriction on North Nemah upstream from bridge on dead end lower Nemah Road August 16 through November 30. On the North Nemah from the mouth to the lower bridge on dead end lower Nemah Road, ~~((fishers may not allow their line, lures or bait to remain))~~ stationary ~~((in the water))~~ gear restriction during the period August 16 through November 30. All game fish: Release all fish except up to two hatchery steelhead per day may be retained in the North Nemah. Salmon: Open only August 1 through January 31 on Middle Nemah from mouth to DNR Bridge and South Nemah from mouth to confluence with Middle Nemah and October 1 through January 31 on North Nemah from mouth to the lower bridge on dead end Lower Nemah Road. Middle and South Nemah: Daily limit 6 fish of which no more than 2 may be adult salmon and of the two adult fish no more than one may be a wild adult coho. North Nemah: Daily limit 6 salmon of which not more than 3 may be adult salmon and of the adult fish no more than one may be a wild adult coho and no more than two may be adult chinook. No more than two chum may be retained.

Newhalem Ponds (Whatcom County): Closed waters.

Newaukum River, main river and South Fork upstream to Highway 508 Bridge near Kearny Creek (Lewis County): June 1 through March 31 season. Night closure and single point barbless hooks required August 16 through November 30 from mouth to Leonard Road. Trout: Minimum length fourteen inches mouth to Highway 508 Bridge near Kearny Creek. Salmon: Open only October 16 through last day in February from mouth to Leonard Road. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult

chinook. Release wild adult coho December 1 through last day in February.

Newaukum River, Middle Fork, mouth to Taucher Road Bridge (Lewis County): June 1 to March 31 season. Trout: Minimum length fourteen inches.

Newaukum River, North Fork (Lewis County):

From mouth to four hundred feet below Chehalis city water intake: June 1 through March 31 season. Trout: Minimum length fourteen inches.

From 400 feet below Chehalis city water intake upstream: Closed waters.

Niawiakum River (Pacific County): From Highway 101 Bridge to the South Bend/Palix Road Bridge: Night closure and single point barbless hooks required August 16 through November 30. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from Highway 101 Bridge to South Bend/Palix Road Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook.

Nile Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Nisqually River (Pierce County), from mouth to four hundred feet below LaGrande Powerhouse: June 1 through January 31 season. Nonbuoyant lure restriction and night closure August 1 through November 30. Game fish: Closed December 1 through January 31. Trout: Minimum length fourteen inches. Salmon: Open only July 1 through January 31 from mouth to Military Tank Crossing Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon.

Nooksack River (Whatcom County), from mouth to forks, Middle Fork to Dam and North Fork to Nooksack Falls: June 1 through last day in February season except closed June 1 through September 30 in mainstem from yellow marker at the FFA High School barn at Deming to confluence of the North and South Forks. Fishing from floating devices equipped with motors prohibited on the North and Middle Forks November 1 through last day in February. Nonbuoyant lure restriction and night closure August 1 through November 30 on mainstem and North Fork to Maple Creek. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31 in mainstem from Lummi Indian Reservation boundary to yellow marker at the FFA High School barn in Deming. Open only October 16 through December 31 in mainstem from the FFA barn to the confluence of the North and South Forks, and October 1 through October 31 on the North Fork from confluence to Maple Creek. Daily limit 2 salmon, except release pink and wild coho, release wild chinook from mouth to FFA barn, and release chinook from FFA barn to forks and in North Fork.

Nooksack River, South Fork (Skagit/Whatcom counties): From mouth to Skookum Creek: June 1 through last day in February season. Selective gear rules. Night closure August 1 through October 31. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through December 31. Daily limit 2 salmon, except release pink, chinook and wild coho.

From Skookum Creek upstream: Closed waters.

No Name Lake (Pend Oreille County): Last Saturday in April through October 31 season.

North Creek (Okanogan County): From mouth to falls at river mile 0.8: Selective gear rules.

North Creek (tributary of Sammamish River) (Snohomish/King counties): Closed waters.

North Elton Ponds (Yakima County): December 1 through March 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Trout: Daily limit two.

North Lake (King County): Last Saturday in April through October 31 season.

North Potholes Reserve Ponds (Grant County): February 1 through the day before opening of waterfowl season. Fishing from any floating device prohibited, except float tubes permitted.

North River (Grays Harbor/Pacific counties), from Highway 105 Bridge upstream to Falls River: June 1 through last day in February season, except sturgeon. Night closure August 16 through November 30. Single point barbless hooks required August 16 through November 30 upstream to Salmon Creek. Nonbuoyant lure restriction from Salmon Creek to Falls River August 16 through November 30. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from Highway 105 Bridge to Salmon Creek. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult fish not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from Highway 105 Bridge to Salmon Creek.

Upstream from Falls River: Selective gear rules. All species: Release all fish.

Northern State Hospital Pond (Skagit County): Last Saturday in April through October 31 season. Juveniles only.

Northwestern Reservoir (Klickitat/Skamania counties): Last Saturday in April through last day in February season.

Nunnally Lake (Grant County): March 1 through November 30 season. Closed waters: Outlet stream of Nunnally Lake. Selective gear rules. Trout: Daily limit one.

Oakland Bay freshwater tributaries (Mason County), except Goldsborough Creek (including Shelton Creek, Canyon Creek, Uncle John Creek, Campbell Creek, Melaney Creek, Deer Creek, John's Creek, and Cranberry Creek to Lake Limerrick): Closed waters.

Oasis Park Pond (Grant County): Third Saturday in April through Labor Day season. Juveniles and holders of reduced fee disability licenses only. Game fish: Daily limit of five fish in the aggregate. No minimum or maximum size for any species.

Ohanapecosh Creek (tributary to Cowlitz River) (Lewis/Pierce counties): Selective gear rules. Trout: Minimum length twelve inches.

Ohop Lake (Pierce County): Last Saturday in April through October 31 season.

Okanogan River (Okanogan County):

From the mouth to the highway bridge at Malott: Year-round season. Trout: Release all trout. Upstream from the highway bridge at Malott: June 1 through August 31 season. Trout: Release all trout. Salmon: Open only July 16 through October 15 from mouth to Highway 97 Bridge immediately upstream of mouth. Daily limit 6 fish of which no more than 2 may be adult salmon. Release coho and sockeye.

Closed waters: From Zosel Dam downstream to one-quarter mile below the railroad trestle.

Old Fishing Hole Pond (Kent) (King County): Last Saturday in April through October 31 season. Juveniles only.

Olequa Creek (Lewis County): June 1 through last day in February season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Osborne Lake (Mason County): Last Saturday in April through October 31 season.

Outlet Creek (Klickitat County): Trout: Daily limit five.

Owens Pond (Pacific County): June 1 through October 31 season.

Packwood Lake (Lewis County): Closed waters: All inlet streams and outlet from log boom to dam. Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit five, minimum length ten inches.

Padden Lake (Whatcom County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Palix River, including all forks (Pacific County): June 1 through March 31 season, except sturgeon. Single point barbless hooks and night closure August 16 through November 30 upstream to the confluence of the South and Middle Forks. Above the confluence of the South and Middle Forks: Selective gear rules. Nonbuoyant lure restriction and night closure August 16 through November 30. All game fish: Release all fish. Salmon: Open only September 1 through November 30 from the Highway 101 Bridge to the confluence of the South and Middle Forks. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be a wild adult coho. Release adult chinook. Sturgeon: Open year-round from the Highway 101 Bridge to the confluence of the South and Middle Forks.

Palouse River and tributaries, except Rock Creek (Whitman County): Year around season.

Palmer Lake (Okanogan County): Burbot: Set line gear allowed.

Pampa Pond (Whitman County): March 1 through September 30 season. Fishing from any floating device prohibited.

Panhandle Lake (Mason County): Last Saturday in April through October 31 season.

Panther Creek (Chelan County): Closed waters.

Panther Creek (tributary to Wind River) (Skamania County): Closed waters.

Panther Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Para-Juvenile Lake (Adams/Grant counties): April 1 through September 30 season. Juveniles only.

Park Lake (Grant County): Last Saturday in April through September 30 season.

Parker Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Pass Lake (Skagit County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. All species: Release all fish.

Pataha Creek (Garfield County):

Within the city limits of Pomeroy: Juveniles only.

From city limits of Pomeroy upstream: Selective gear rules.

Patterson Lake (Okanogan County): Last Saturday in April through October 31 season.

Pattison Lake (Thurston County): Last Saturday in April through October 31 season.

Peabody Creek (Clallam County): Juveniles only.

Pearygin Lake (Okanogan County): Last Saturday in April through September 30 season.

Pend Oreille River (Pend Oreille County): Year-round season. All sloughs within the boundaries of the Kalispell Reservation except Calispell Slough: Closed waters.

Perch Lake (Grant County): Last Saturday in April through September 30 season.

Percival Creek (Thurston County): Trout: Minimum length fourteen inches.

Peshastin Creek (Chelan County): Mouth to Ruby Creek: Closed waters.

Petit Lake (Pend Oreille County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Phalon Lake (Stevens County): Closed waters.

Pheasant Lake (Jefferson County): Last Saturday in April to October 31 season.

Phelps Creek (Chelan County): From mouth to falls at river mile 1: Selective gear rules.

Philippa Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Phillips Lake (Mason County): Last Saturday in April through October 31 season.

Phillips Lake (Stevens County): Last Saturday in April through October 31 season.

Pilchuck Creek (Snohomish County), mouth to Highway 9 Bridge: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Additional December 1 through last day in February season. Trout: Minimum length fourteen inches.

Pilchuck River (Snohomish County)

From its mouth to five hundred feet downstream from the Snohomish City diversion dam: December 1 through last day in February season. Fishing from any floating device prohibited. Trout: Minimum length fourteen inches.

From 500 feet below diversion dam upstream: Closed waters.

Pillar Lake (Grant County): April 1 through September 30 season.

Pine Lake (King County): Last Saturday in April through October 31 season.

Pine Lake (Mason County): Last Saturday in April through October 31 season.

Pioneer Ponds (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Pipers (Carkeek) Creek (King County), from its mouth to its source, including tributaries: Closed waters.

Pit Lake (Douglas County): Juveniles only.

Pleasant Lake (Clallam County): Trout: Kokanee minimum length eight inches, maximum length twenty inches.

Plummer Lake (Lewis County): Last Saturday in April through last day in February season.

Poacher Lake (Grant County): April 1 through September 30 season.

Portage Creek (tributary to Stillaguamish River) (Snohomish County): Closed waters.

Potholes Reservoir (Grant County): Crappie: Minimum length nine inches. Crappie and bluegill: Combined daily limit twenty-five fish. Perch: Daily limit twenty-five fish.

Potter's Pond (Stevens County): Last Saturday in April through October 31 season.

Pratt River (tributary to Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Prices Lake (Mason County): Last Saturday in April through October 31 season. Selective gear rules. All species: Release all fish.

Promised Land Pond (Grays Harbor County): June 1 through October 31 season.

Purdy Creek (Mason County): June 1 through August 15 season. Selective gear rules. All species: Release all fish.

Puyallup River (Pierce County):

From mouth to the Electron power plant outlet: June 1 through January 31 season. Single point barbless hooks, non-

buoyant lure restriction and night closure August 1 through November 30 from the mouth to the Carbon River. Trout: Minimum length fourteen inches. Salmon: Open only ((September)) August 1 through December 31 from mouth to Carbon River. Daily limit 6 fish of which no more than ((2)) 4 may be adult salmon and of the adult salmon no more than two may be chinook, coho or chum or a combination of chinook, coho and chum. Release wild adult chinook.

From mouth to the Soldier's Home Bridge in Orting: Additional February 1 through last day in February season. Trout: Minimum length fourteen inches.

Pysht River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches. December 1 through last day in February, one wild steelhead per day may be retained.

Pysht River South Fork (Clallam County): Trout: Minimum length fourteen inches.

Quail Lake (Adams County): Fly fishing only. Fishing from any floating device equipped with a motor prohibited. All species: Release all fish.

Quarry Pond (Walla Walla County): Fishing from any floating device prohibited.

Quigg Lake (Grays Harbor County): June 1 through April 15 season. Trout: Daily limit 2. Minimum length fourteen inches. Salmon: Open only October 1 through January 31. Daily limit 6 hatchery coho salmon of which no more than 4 may be adult hatchery coho.

Quillayute River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches. December 1 through April 30, one wild steelhead per day may be retained. Salmon: Open only March 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon March 1 through August 31 and 3 may be adult salmon September 1 through November 30. September 1 through November 30 the 3 adult salmon may contain no more than 2 adult chinook or 2 adult wild coho or 1 adult chinook and 1 adult wild coho. March 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins.

Quinault River, Upper (Jefferson County), from mouth at upper end of Quinault Lake to the National Park boundary: June 1 through April 15 season. Trout: Minimum length fourteen inches. December 1 through April 15, one wild steelhead per day may be retained. Salmon: Open only July 1 through October 31. Daily limit 6 fish except release adult salmon.

Quincy Lake (Grant County): March 1 through July 31 season.

Radar Ponds (Pacific County): Salmon: Landlocked salmon rules apply.

Raging River (King County), from its mouth to the Highway 18 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Railroad Pond (Franklin County): Selective gear rules. Trout: Daily limit two.

Rainbow Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Rapjohn Lake (Pierce County): Last Saturday in April through October 31 season.

Rat Lake (Okanogan County): April 1 through November 30: Selective gear rules except electric motors allowed, and all species: Release all fish.

Rattlesnake Creek (Yakima County): Selective gear rules. All species: Release all fish.

Rattlesnake Lake (King County): Last Saturday in April through October 31 season. Selective gear rules, except fishing from a floating device equipped with an electric motor allowed.

Ravensdale Lake (King County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Reflection Pond (Okanogan County): Last Saturday in April through October 31 season.

Renner Lake (Ferry County): Last Saturday in April through October 31 season.

Riffe Lake (Reservoir) (Lewis County): Mossyrock Dam to 400 feet below Cowlitz Falls Dam. Closed waters: Lewis County PUD safety signs approximately 800 feet below Cowlitz Falls Dam to Dam. Lawful to fish up to the base of Swofford Pond Dam. Salmon: Landlocked salmon rules apply.

Rigley Lake (Stevens County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length twelve inches.

Riley Lake (Snohomish County): Last Saturday in April through October 31 season.

Rimrock Lake (Reservoir) (Yakima County): Chumming permitted. Trout except kokanee: Daily limit five. Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Ringold Springs Creek (Hatchery Creek) (Franklin County): Closed waters.

Robbins Lake (Mason County): Last Saturday in April through October 31 season.

Rock Creek (Adams/Whitman counties): Mouth to Endicott Road year-round season.

Endicott Road to bridge on George Knott Road at Revere: Selective gear rules. All species: Release all fish.

Upstream from bridge on George Knott Road: Year-round season.

Rock Creek (Chelan County): Selective gear rules.

Rock Creek (Cedar River tributary below Landsburg Dam) (King County): Closed waters.

Rock Creek (Skamania County): Mouth to falls: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day. Above falls, additional November 1 through March 15 season.

Rocky Ford Creek and Ponds (Grant County): Fly fishing only. Fishing from bank only (no wading). All species: Release all fish.

Rocky Lake (Stevens County): Last Saturday in April through October 31 season. June 1 through October 31 selective gear rules and all species: Release all fish.

Roesiger Lake (Snohomish County): Crappie: Daily limit ten, minimum length nine inches.

Roosevelt Lake (Ferry/Lincoln/Stevens counties): Chumming allowed. All species: Closed January 1 through May 31 in San Poil arm upstream from outlet of French Johns Lake, and April 1 through May 31 in Kettle arm upstream to Barstow Bridge. Trout except kokanee: Daily limit five. No more than two over twenty inches in length. Kokanee daily limit two. Walleye: No minimum size. Daily limit 5 fish not more than one of which may be longer than 18 inches. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon from Roosevelt Lake and tributaries.

Rose Lake (Mason County): Last Saturday in April through October 31 season.

Ross Lake (Reservoir) (Whatcom County): July 1 through October 31 season. Selective gear rules, except fishing from a floating device equipped with a motor allowed. Trout: Daily limit three, possession limit six, minimum length thirteen inches.

Ross Lake tributary streams (Whatcom County), except Big Beaver Creek and Ruby Creek: Closed waters: From closed water markers near mouth upstream for one mile. Above closed water marker in tributaries not listed as closed: July 1 through October 31 season.

Round Lake (Okanogan County): Last Saturday in April through September 30 season.

Rowland Lakes (Klickitat County): Last Saturday in April through last day in February season.

Royal Lake (Adams County): Closed waters.

Royal Slough (including Marsh Unit IV impoundments) (Adams County): Closed waters.

Ruby Creek (tributary to Ross Lake) (Whatcom County): Closed waters.

Rufus Woods Lake (Douglas County): Chumming allowed. Trout: Daily limit two. Sturgeon: Unlawful to fish for or retain sturgeon from Rufus Woods Lake and tributaries.

Sacheen Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Saddle Mountain Lake (Grant County): Closed waters.

Sago Lake (Grant County): April 1 through September 30 season.

Salmon Creek (Clark County), from mouth to 72nd Avenue N.E.: June 1 through March 15 season. Trout: Release all fish except up to two hatchery steelhead may be retained per day.

Salmon Creek, including all forks (Jefferson County): Closed waters.

Salmon Creek, mainstem (Okanogan County): Closed waters.

Salmon Creek, North Fork and West Fork from mouth to South Fork (Okanogan County): Selective gear rules.

Salmon Creek (tributary of Naselle River) (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish.

Salmon River (Jefferson County) outside of Olympic National Park and Quinault Indian Reservation: June 1 through last day in February season. Trout: Minimum length fourteen inches. Hatchery steelhead in this river are steelhead with a dorsal fin height of less than 2-1/8 inches or with an adipose or ventral fin clip. Salmon: Open only September 1 through November 30. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than 2 may be adult chinook salmon.

Salt Creek (Clallam County): Trout: Minimum length fourteen inches.

From mouth to bridge on Highway 112: Additional November 1 through last day in February season. Trout: Minimum length fourteen inches.

Samish Lake (Whatcom County): Trout: Cutthroat trout daily limit two, minimum length fourteen inches.

Samish River (Whatcom County):

From its mouth to the Hickson Bridge: June 1 through March 15 season. From Highway 99 Bridge to department salmon rack: Closed waters. Nonbuoyant lure restriction and night closure August 1 through December 31.

Trout: Minimum length fourteen inches. Salmon: Open only July 1 through December 31 from mouth to Thomas Road Bridge and October 1 through December 31 from Thomas Road Bridge to I-5 Bridge. Daily limit two salmon.

Sammamish Lake (King County): Trout: Release all kokanee. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. December 1 through June 30: Release all steelhead and rainbow trout over twenty inches in length. Salmon: Closed to salmon fishing within 100 yards of the mouth of Issaquah Creek. Open only August 16 through November 30. Daily limit two salmon. Release sockeye.

Sammamish River (Slough) (King County), from the 68th Avenue N.E. Bridge to Lake Sammamish: Closed waters: All tributaries. January 1 through August 31 season. Selective gear rules. Trout: Release all trout.

Sandyside Lake (Jefferson County): Last Saturday in April to October 31 season.

San Poil River (Ferry County): Unlawful to fish for or retain sturgeon.

Sarge Hubbard Park Pond (Yakima County): Juveniles and holders of disability licenses only.

Satsop Lakes (Grays Harbor County): Last Saturday in April through October 31 season.

Satsop River, (Grays Harbor County): Trout: Minimum length 14 inches in mainstem and all forks. Mainstem and East Fork, single point barbless hooks and night closure August 16 through November 30 except only August 16 through October 31 on East Fork upstream from bridge at Schafer State Park. Middle and West forks downstream from Cougar Smith Road nonbuoyant lure restriction and night closure August 16 through November 30. Middle and West Forks upstream from Cougar Smith Road night closure and nonbuoyant lure restriction August 16 through October 31.

From mouth to bridge at Schafer Park: Additional November 1 through March 31 season. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except release adult chinook.

Middle Fork (Turnow Branch), from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

West Fork, from mouth to Cougar Smith Road: Additional November 1 through last day in February season.

Sauk River (Skagit/Snohomish counties):

From mouth to the mouth of the White Chuck River: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

From the mouth of the White Chuck River to headwaters, including North Fork and South Fork upstream to Elliot Creek: Selective gear rules. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

South Fork upstream from Elliot Creek: June 1 through August 31 season. Selective gear rules.

From mouth to the Darrington Bridge: Additional March 1 through April 30 season. Selective gear rules. All species: Release all fish.

Sawyer, Lake (King County): Chumming permitted. Crappie: Daily limit ten, minimum length nine inches.

Schaefer Lake (Chelan County): Trout: Daily limit sixteen.

Sekiu River (Clallam County): All open periods: Trout: Minimum length fourteen inches.

From mouth to forks: Additional November 1 through last day in February season.

Serene Lake (Snohomish County): Last Saturday in April through October 31 season.

Shady Lake (King County): June 1 through October 31 season. Trout: No more than one over fourteen inches in length.

Shannon, Lake (Skagit County): Last Saturday in April through October 31 season. Chumming permitted. Trout: Minimum length six inches and maximum length eighteen inches.

Shellneck Creek (Yakima County): Closed waters.

Shelton Creek (Mason County): Closed waters.

Sherman Creek (Ferry County):

From the mouth at Lake Roosevelt upstream to four hundred feet above the water diversion dam for the hatchery: Closed waters, except December 1 through August 31 season from the mouth upstream to the hatchery boat dock.

Sherry Lake (Stevens County): Last Saturday in April through October 31 season.

Sherwood Creek (Mason County): Trout: Minimum length fourteen inches.

Sherwood Creek Mill Pond (Mason County): June 1 through October 31 season. Trout: Minimum length 14 inches, daily limit 2 fish.

Shiner Lake (Adams County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Shoe Lake (Mason County): Last Saturday in April through October 31 season.

Shoveler Lake (Grant County): April 1 through September 30 season.

Shye Lake (Grays Harbor County): June 1 through October 31 season.

Sidley Lake (Okanogan County): Trout: Daily limit two.

Siebert Creek (Clallam County): Trout: Minimum length fourteen inches.

Silent Lake (Jefferson County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Silvas Creek (Klickitat County): Trout: Release all trout.

Silver Creek (tributary to Cowlitz River) (Lewis County), mouth to USFS Road 4778: Selective gear rules. Trout: Minimum length twelve inches.

Silver Lake (Pierce County): Last Saturday in April through October 31 season.

Silver Lake (Spokane County): Crappie: Daily limit ten, minimum length nine inches.

Silver Lake, North (Spokane County): March 1 through September 30 and November 1 through December 31 season. Selective gear rules. March 1 through September 30: Trout: Daily limit 2 fish, minimum length 14 inches, except release fish with clipped adipose fin. November 1 through December 31: All species: Release all fish.

Silver Lake (Whatcom County): Last Saturday in April through October 31 season.

Silvernail Lake (Okanogan County): Juveniles only.

Similkameen River (Okanogan County):

From mouth to Enloe Dam: December 1 through March 31 season. Whitefish gear rules apply.

From Enloe Dam to Canadian border: Additional December 1 through March 31 season. Whitefish gear rules apply.

Sinlahekin Creek (Okanogan County), from Palmer Lake to Cecile Creek bridge: June 1 through August 31 season. Selective gear rules. Additional December 1 through March 31 season. Whitefish gear rules apply.

Sixteen Lake (Skagit County): Last Saturday in April through October 31 season.

Skagit River (Skagit/Whatcom counties):

From mouth to the Memorial Highway Bridge (Highway 536 at Mt. Vernon): Year-round season. Selective gear rules March 1 through May 31 except lawful to fish from a floating device equipped with a motor. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only (~~September 4~~) August 16 through December 31. Daily limit (~~three~~) two salmon except (~~release chum and~~) release chinook.

From Memorial Highway Bridge (Highway 536 at Mt. Vernon) upstream to Gilligan Creek: June 1 through March 31 season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only (~~September 4~~) August 16 through December 31. Daily limit (~~three~~) two salmon except (~~release chum and~~) release chinook.

From Gilligan Creek to Bacon Creek: June 1 through March 15 season except closed June 1 through June 30 and August 1 through August 31 between a line 200 feet above the east bank of the Baker River to a line 200 feet below the west bank of the Baker River. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches. Salmon: Open only September 16 through December 31 Gilligan Creek to the Dalles Bridge at Concrete. Daily limit (~~three~~) two salmon except (~~release chum and~~) release chinook.

From the Dalles Bridge at Concrete to the (~~Cascade River~~) Highway 530 Bridge at Rockport - Salmon open July 1 through July 31 except closed 12:01 a.m. July 5 until 2:00 p.m. July 6 and 12:01 a.m. July 11 until 2:00 p.m. July 12, and, except closed from 200 feet above the mouth of the Baker River to the Cascade River. Daily limit two sockeye salmon. Release all salmon except sockeye salmon. Salmon open September 16 through December 31. Daily limit (~~three~~) two salmon except release (~~chum and release~~) chinook.

From the Highway 530 Bridge at Rockport to the Cascade River - Salmon open June 1 through July 8. Daily limit two salmon. Release all salmon except hatchery chinook. Salmon open September 16 through December 31. Daily limit two salmon. Release chinook.

From Bacon Creek to Gorge Powerhouse: June 1 through last day in February season. Nonbuoyant lure restriction and night closure July 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of the trout daily limit, minimum length twenty inches.

From the Gorge Powerhouse to Gorge Dam: Closed waters.

From the Dalles Bridge at Concrete to the mouth of Bacon Creek: Additional March 16 through April 30 season. Selective gear rules, except lawful to fish from a floating device equipped with a motor but not while under power. All species: Release all fish.

Skamokawa Creek (Wahkiakum County), mouth to forks just below Oatfield and Middle Valley Road: November 1 through March 15 season. All species: Release all fish other than steelhead. Trout: Minimum length twenty inches.

Skate Creek (tributary to Cowlitz River) (Lewis County): Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat.

Skokomish River (Mason County), mouth to forks: Night closure, nonbuoyant lure restriction and single point barbless hooks required ((~~September~~) August 1 through November 30 mouth to Highway 101. June 1 through ((~~July 31 and September 1 through~~)) last day in February season. All game fish: Release all fish except that up to two hatchery steelhead per day may be retained. Salmon: Open only ((~~September~~) August 1 through December 15 mouth to Highway 101 Bridge. Daily limit 1 salmon ((~~September~~) August 1 through September 30. Release chum salmon. Daily limit 6 salmon October 1 through December 15, except daily limit may contain no more than 4 adult fish and of these adults not more than one may be an adult chinook. October 1 through October 15 release chum salmon.

Skokomish River, North Fork (Mason County):

From mouth to lower dam: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

Above Lake Cushman, mouth to Olympic National Park boundary: June 1 through August 31 season. Selective gear rules. Trout: Release all fish.

Skokomish River, South Fork (Mason County):

From mouth to mouth of Church Creek: June 1 through last day in February season. All species: Release all fish except up to two hatchery steelhead per day may be retained.

From mouth of Church Creek to mouth of Rule Creek: Closed waters.

From mouth of Rule Creek to headwaters: Selective gear rules. Trout: Minimum length twelve inches.

Skookum Creek (Mason County): Trout: Minimum length fourteen inches.

Skookum Lakes, North and South (Pend Oreille County): Last Saturday in April through October 31 season.

Skookumchuck Creek (Klickitat County): Trout: Release all trout.

Skookumchuck Reservoir (Thurston County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches.

Skookumchuck River (Thurston County):

From mouth to four hundred feet below the outlet of the PP&L/WDFW steelhead rearing pond located at the base of the Skookumchuck Dam: June 1 through April 30 season. Single point barbless hooks and night closure August 16 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only October 16 through last day in February. Daily limit 6 fish of which no more than 2 may be adult salmon, except December 1 through the last day in February release adult wild coho. Release adult chinook.

From Skookumchuck Reservoir upstream and all tributaries: Selective gear rules. Trout: Minimum length twelve inches.

Skykomish River (Snohomish County):

From mouth to mouth of Wallace River: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30 mouth to Lewis Street Bridge in Monroe and June 1 through November 30 from Lewis Street Bridge in Monroe to Wallace River: Fishing from any floating device prohibited November 1 through last day in February from the boat ramp below Lewis Street Bridge at Monroe downstream two thousand five hundred feet. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Additional season March 1 through April 30 mouth to Sultan River: Selective gear rules and all species - Release all fish. Salmon: Open ((~~September 1~~) August 16 through December 31 mouth to Lewis Street Bridge in Monroe. Daily limit ((2)) 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook ((~~and pink salmon~~)). Open June ((~~16~~) 1 through July 31 Lewis Street Bridge in Monroe to Wallace River. Daily limit 2 hatchery chinook. Open September 1 through December 31 Lewis Street Bridge to Wallace River. Daily limit ((2)) 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook ((~~and pink salmon~~)).

From the mouth of the Wallace River to the forks: June 1 through last day in February season, except closed June 1 to 8:00 a.m. August 1 in those waters one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds. Nonbuoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited in the area one thousand five hundred feet upstream and one thousand feet downstream of the outlet at Skykomish Rearing Ponds August 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through December 31. Daily limit ((2)) 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. Release chinook ((~~and pink salmon~~)).

Skykomish River, North Fork (Snohomish County):

From mouth to one thousand feet downstream from Bear Creek Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From one thousand feet below Bear Creek Falls to Deer Falls: Closed waters.

Skykomish River, South Fork (King/Snohomish counties):

From mouth to six hundred feet downstream from the Sunset Falls Fishway: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From a point six hundred feet downstream of the Sunset Falls Fishway to the Sunset Falls Fishway: Closed waters.

From Sunset Falls to source: June 1 through November 30 season. Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional December 1 through last day in February season. Release all fish other than whitefish.

Smith Creek (near North River) (Pacific County): June 1 through last day in February season, except sturgeon. Single point barbless hooks, and night closure August 16 through November 30 upstream to the Highway 101 Bridge. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only September 1 through November 30 from mouth to Highway 101 Bridge. Daily limit 6 fish of which no more than 2 may be adult salmon and of the adult salmon not more than one may be an adult wild coho. Release adult chinook. Sturgeon: Open year-round from mouth to Highway 101 Bridge.

Snake River: Year-round season. Closed to the taking of all trout April 1 through June 15. Trout: Daily limit six, minimum length ten inches, no more than three over twenty inches. Release all steelhead June 16 through August 31. Barbless hooks required when fishing for steelhead. Sturgeon: Unlawful to retain sturgeon in mainstem and tributaries upstream from Lower Granite Dam. Bass: Fish twelve to seventeen inches in length may be retained. Up to but not more than 3 bass over fifteen inches in length may be retained. Walleye: Daily limit 10 fish. No minimum size. No more than 5 fish over 18 inches in length. No more than 1 fish over 24 inches in length. Channel catfish: No daily limit.

Closed waters: Within four hundred feet of the base of any dam and within a four hundred foot radius around the fish ladder entrance at Lyons Ferry Hatchery, within a two hundred foot radius upstream of the fish ladder exit above Lower Granite Dam, and within an area one thousand two hundred feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and one hundred feet out into the river from said river bank.

Snipe Lake (Grant County): April 1 through September 30 season.

Snohomish River (Snohomish County), including all channels, sloughs, and interconnected waterways, but excluding all tributaries: June 1 through last day in February season, except sturgeon. (~~Selective gear rules August 1 through~~

~~August 31~~)) Nonbuoyant lure restriction and night closure August 1 through November 30. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only August ~~((1))~~ 16 through December 31. Daily limit ~~((2))~~ 4 salmon of which no more than 2 may be coho or chum or a combination of coho and chum. (~~August 1 through August 31 release all salmon except pink salmon. September 1 through December 31~~) Release chinook (and pink salmon). Sturgeon: Open year-round from mouth to Highway 2 Bridge.

Snoqualmie River (King County):

From mouth to the falls: June 1 through last day in February season, except waters within the Puget Power tunnel at the falls and within fifty feet of any point on Puget Power's lower Plant # 2 building (north bank) are closed waters. June 1 through November 30 selective gear rules, except fishing from a floating device equipped with a motor allowed. Fishing from any floating device prohibited November 1 through last day in February from the mouth of Tokul Creek downstream to the boat ramp at Plumb access, about one-quarter mile. Night closure September 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 fish. Release chinook and pink.

From Snoqualmie Falls upstream, including the North and South Forks: Selective gear rules. Trout: Minimum length ten inches. Additional November 1 through May 31 season. Selective gear rules. All species: Release all fish.

Snoqualmie Middle Fork from mouth to source including all tributaries except Pratt and Taylor rivers: Year-round season. Selective gear rules. All species: Release all fish.

Snow Creek (Jefferson County), including all tributaries: Closed waters.

Snyder Creek (Klickitat County): Trout: Release all trout.

Sol Duc River (Clallam County): Open year-round. May 1 through May 31 release all fish except up to two hatchery steelhead per day may be retained. Selective gear rules from the concrete pump station at the Sol Duc Hatchery to the Highway 101 Bridge downstream of Snyder Creek November 1 through April 30, and from the Highway 101 Bridge to Olympic National Park June 1 through October 31. Trout: Minimum length fourteen inches. December 1 through April 30, from mouth to the concrete pump station at the Sol Duc Hatchery, one wild steelhead per day may be retained. Salmon: Open only March 1 through November 30 from mouth to concrete pump station. Daily limit 6 fish of which no more than 2 may be adult salmon March 1 through August 31 and of which no more than 3 may be adult salmon September 1 through November 30. March 1 through August 31 release wild adult coho and unmarked adult chinook. Unmarked chinook are chinook with unclipped adipose and ventral fins. September 1 through November 30 the daily limit may contain no more than 2 adult chinook or 2 adult wild coho or 1 adult chinook and 1 adult wild coho.

Sooes River (Suez River) (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Soos Creek (King County), from mouth to bridge near hatchery residence: June 1 through August 31 season except salmon. Trout: Minimum length fourteen inches. Salmon: Open only October ((9)) 8 through October ((31)) 30 to fishing by juveniles only. Night closure October ((9)) 8 through October ((31)) 30. Terminal gear restricted to one single point hook. Daily limit two coho salmon.

Bridge near hatchery residence to Salmon hatchery rack: June 1 through August 31 season. Trout: Minimum length fourteen inches.

South Bend Mill Pond (Pacific County): Juveniles only.

South Prairie Creek (Pierce County), mouth to Page Creek: Closed waters.

Spada Lake (Reservoir) (Snohomish County): Last Saturday in April through October 31 season. Selective gear rules except fishing from a floating device equipped with an electric motor permitted. Trout: Maximum length twelve inches.

Spada Lake (Reservoir) tributaries (Snohomish County): Closed waters.

Spanaway Lake and Spanaway Lake outlet downstream to the dam (approximately 800 feet) (Pierce County): Year-round season. Bass: Release fish 12 to 17 inches in length. Only one fish over 17 inches in length may be retained.

Spearfish Lake (Klickitat County): Last Saturday in April through last day in February season.

Spectacle Lake (Okanogan County): March 1 through July 31 season.

Spirit Lake (Skamania County): Closed waters.

Spokane River (Spokane County):

From SR 25 Bridge upstream to the Seven Mile Bridge, except Long Lake, formed by Long Lake Dam (see also Long Lake): Year-round season except walleye. Trout: Daily limit five, no more than two over twenty inches in length. Walleye: Daily limit five, no minimum length, no more than one over eighteen inches in length. April 1 through May 31 release all walleye. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Seven Mile Bridge upstream to the Monroe Street Dam: Year-round season. Selective gear rules. Trout: Daily limit one. Release wild trout. Salmon: Landlocked salmon rules apply. Sturgeon: Unlawful to fish for or retain sturgeon.

From Monroe Street Dam upstream to Upriver Dam: Year-round season. Salmon: Landlocked salmon rules apply.

From Upriver Dam upstream to the Idaho/Washington state line: Selective gear rules, except fishing from a floating device equipped with a motor permitted. All species: Release all fish.

Sprague Lake (Adams/Lincoln counties):

Waters south of the lakeside edge of the reeds and waters of Cow Creek south to Danekas Road: July 1 through Sep-

tember 15 season. Crappie: Daily limit ten, minimum length nine inches.

Spring Creek (Klickitat County): Trout: Daily limit five.

Spring Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Spring Lakes (Grant County): March 1 through July 31 season.

Squalicum Lake (Whatcom County): Fly fishing only. Fishing from a floating device equipped with a motor prohibited. Trout: Daily limit two.

Stan Coffin Lake (Grant County): Bass: Release all bass.

Starvation Lake (Stevens County): Last Saturday in April through May 31 season. Additional June 1 through October 31 season. Selective gear rules. All species: Release all fish.

Steel Lake (King County): Last Saturday in April through October 31 season.

Stehekin River (Chelan County), from the mouth to Agnes Creek: July 1 through October 31 season. Selective gear rules. Trout: Minimum length fifteen inches. Release cutthroat. Additional March 1 through June 30 season. Selective gear rules. All species: Release all fish.

Stetattle Creek (Whatcom County), from its mouth to mouth of Bucket Creek (one and one-half miles upstream): Closed waters.

Stevens Creek (Grays Harbor County), mouth to Highway 101 Bridge: June 1 through last day in February season. Trout: Minimum length fourteen inches.

Stevens, Lake (Snohomish County): Chumming permitted. Kokanee: Kokanee not included in trout daily limit. Kokanee daily limit ten fish.

Steves Lake (Mason County): Last Saturday in April through October 31 season.

Stickney Lake (Snohomish County): Last Saturday in April through October 31 season.

Stillaguamish River (Snohomish County):

From mouth to Marine Drive, including all sloughs: Year-round season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

From Marine Drive to the forks, except from the barrier dam (downstream of I-5) downstream two hundred feet which is closed waters: June 1 through last day in February season. Night closure August 1 through November 30. Selective gear rules June 1 through November 30 except fishing from a floating device equipped with a motor allowed. Game fish: June 1 through November 30 release all fish except up to two hatchery steelhead per day may be retained. Trout: Minimum length fourteen inches December 1 through last day in February. Salmon: Open only September 1 through December 31. Daily limit 2 salmon. Release chinook and pink salmon.

Stillaguamish River, North Fork (Snohomish County), from mouth to Swede Heaven Bridge: Year-round season. Non-buoyant lure restriction and night closure August 1 through November 30. Fishing from any floating device prohibited upstream of the Highway 530 Bridge at mile post 28.8 (Cicero Bridge). Fishing from any floating device equipped with a motor prohibited downstream from the Highway 530 Bridge. March 1 through November 30: All species: Release all fish except hatchery steelhead. April 16 through November 30 fly fishing only. December 1 through last day in February: Trout: Minimum length fourteen inches.

Stillaguamish River, South Fork (Snohomish County):

From mouth to four hundred feet downstream of the outlet to fishway at Granite Falls: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through November 30. Trout: Minimum length fourteen inches.

From four hundred feet below the outlet of the end of the fishway to Mt. Loop Highway bridge above Granite Falls: Closed waters.

From Mt. Loop Highway Bridge above Granite Falls to source: June 1 through November 30 season. Nonbuoyant lure restriction and night closure August 1 through November 30.

Storm Lake (Snohomish County): Last Saturday in April through October 31 season.

Stratford/Brook Lake (Grant County): February 1 through September 30 season.

Stump Lake (Mason County): Last Saturday in April through October 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited.

Suiattle River (Skagit County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sullivan Creek (Pend Oreille County), from Mill Pond upstream: Selective gear rules.

Sultan River (Snohomish County), from its mouth to a point four hundred feet downstream from the diversion dam at river mile 9.7: June 1 through last day in February season. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Sultan River, North and South Forks (Snohomish County): Closed waters.

Summit Lake (Stevens County): Last Saturday in April through October 31 season.

Summit Lake (Thurston County): Last Saturday in April through October 31 season.

Sunday Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Sutherland Lake (Clallam County): Chumming permitted.

Swale Creek (Klickitat County): Trout: Release all trout.

Swamp Creek (tributary to Sammamish River) (Snohomish/King counties): Closed waters.

Swan Lake (Ferry County): Last Saturday in April through October 31 season.

Swan's Mill Pond (Stossel Creek) (King County): June 1 through October 31 season.

Swauk Creek (Kittitas County): Selective gear rules.

Swift Reservoir (Skamania County): Last Saturday in April through October 31 season. From posted markers below Eagle Cliff Bridge to Bridge: Selective gear rules except fishing from a floating device equipped with a motor is allowed. Salmon: Landlocked salmon rules apply.

Swofford Pond (Lewis County): Fishing from a floating device equipped with an internal combustion motor prohibited.

Tahuya River (Mason County): Selective gear rules and release all fish except salmon. Salmon: Open only September 16 through October 31 mouth to marker one mile above North Shore Road Bridge. Daily limit 2 coho salmon.

Taneum Creek (Kittitas County): Selective gear rules.

Tanwax Lake (Pierce County): Last Saturday in April through October 31 season. Crappie: Daily limit ten, minimum length nine inches.

Tapps Lake (Reservoir) and Tapps Lake (Reservoir) intake canal (Pierce County), to within four hundred feet of the screen at Dingle Basin: Year-round season.

Tarboo Lake (Jefferson County): Last Saturday in April through November 30 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Salmon: Landlocked salmon rules apply.

Tate Creek (tributary to N.F. Snoqualmie River) (King County): Closed waters.

Taylor River (tributary to the Middle Fork Snoqualmie) (King County): Selective gear rules. All species: Release all fish.

Teal Lakes (North and South) (Grant County): April 1 through September 30 season.

Teal Lake (Jefferson County): Last Saturday in April to August 31 season. Fishing from a floating device equipped with an internal combustion engine prohibited. Additional September 1 through March 30 season. Selective gear rules. All species: Release all fish.

Teanaway River, including North Fork (Kittitas County): Selective gear rules.

Tenas Lake (Mason County): Last Saturday in April through October 31 season.

Tennant Lake (Whatcom County): Fishing from any floating device prohibited from first Friday in October through January 15.

Terrell, Lake (Whatcom County): Fishing from any floating device prohibited the first Saturday after Labor Day through the following Friday and from October 1 through January 31 except fishing from floating dock permitted.

Thomas Lake (Stevens County): Last Saturday in April through October 31 season.

Thornton Creek (tributary to Lake Washington) (King County): Closed waters.

Thread Lake (Adams County): April 1 through September 30 season.

Tibbetts Creek (tributary to Lake Sammamish) (King County): Closed waters.

Tieton River (Yakima County): Lawful to fish to base of Tieton (Rimrock) Dam. Additional December 1 through March 31 season: Whitefish gear rules apply.

Tieton River, North Fork (Yakima County), upstream from Rimrock Lake: Closed waters: Spillway channel. June 1 through August 15 season.

Tieton River, South Fork (Yakima County): From mouth to bridge on USFS Rd. 1070 (approximately 12.5 miles): Closed waters.

Tiger Lake (Kitsap/Mason counties): Last Saturday in April through October 31 season.

Tilton River (Lewis County), from mouth to West Fork: June 1 through March 31 season. Trout: Daily limit five, no more than one over twelve inches in length. Release cutthroat. Salmon: Open only June 1 through December 31. Daily limit 6 fish of which no more than 2 may be adult fish. Release wild coho.

Tilton River, East, North, South and West Forks (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Toad Lake (Whatcom County): Last Saturday in April through October 31 season.

Tokul Creek (King County):

From mouth to the posted cable boundary marker located approximately seven hundred feet upstream of the mouth: December 1 through last day in February season, closed 5:00 p.m. to 7:00 a.m. daily. Nonbuoyant lure restriction. Trout: Minimum length fourteen inches.

From the posted cable boundary marker located approximately seven hundred feet upstream of the mouth to the railroad trestle: Closed waters.

Tolt River (King County):

From mouth to the USGS trolley cable near the confluence of the North and South Forks: June 1 through last day in February season. June 1 through November 30, selective gear rules. Trout: Minimum length fourteen inches.

From the USGS trolley cable to the falls in Sec. 21, Twp 26N., R 8 E. on the North Fork, and to the dam on the South Fork: Closed waters.

From falls upstream on North Fork: Selective gear rules. All species: Release all fish.

From dam upstream on South Fork: Selective gear rules. Trout: Minimum length ten inches.

Touchet River (Columbia/Walla Walla counties):

Bass: Bass 12 to 17 inches in length may be retained. Up to but not more than 3 greater than 15 inches may be retained as part of the daily limit.

From confluence of north and south forks upstream, including Robinson and Wolf Forks: Selective gear rules. Trout: Release all steelhead. Tributaries other than North Fork, South Fork, Robinson Fork, and Wolf Fork: Closed waters.

North Fork: Upstream of Spangler Creek June 1 through August 31 season.

South Fork: Upstream from Griffin Creek June 1 through August 31 season.

Wolf Fork: Upstream from Coates Creek June 1 through August 31 season.

From mouth to confluence of north and south forks: Additional season: November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and brown trout. Trout: Daily limit three fish.

Toutle River (Cowlitz County):

From mouth to forks, and North Fork from the mouth to the posted deadline below the fish collection facility: June 1 through November 30 season. Nonbuoyant lure restriction and night closure September 1 through October 15 on North Fork from confluence with South Fork to mouth of Green River. All game fish: Release all fish except up to two hatchery steelhead per day may be retained. Salmon: Open only August 1 through November 30. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release all chinook October 1 through November 30 in North Fork upstream from Kidd Valley Bridge.

From the posted deadline below the fish collection facility upstream to the headwaters, including all tributaries, but excepting Castle and Coldwater Lakes: Closed waters.

Toutle River, South Fork (Cowlitz County), mouth to source: Closed waters: All tributaries. June 1 through November 30 season. All species: Release all fish except hatchery steelhead. Trout: Minimum length twenty inches. Mouth to 4100 Road Bridge: Additional December 1 through March 31 season. Selective gear rules. All species: Release all fish except hatchery steelhead.

Trapper Lake (Chelan County): Trout: Daily limit two.

Trout Creek (tributary to Wind River) (Skamania County): Closed waters.

Trout Lake (Ferry County): Last Saturday in April through October 31 season.

Trout Lake (tributary to Big White Salmon River) (Klickitat County): June 1 through October 31 season.

Tucannon River (Columbia/Walla Walla counties): Closed waters: All tributaries.

From the mouth upstream to Turner Road Bridge: Additional November 1 through April 15 season. Barbless hooks required. All species: Release all fish except hatchery steel-

head and whitefish. Trout: Daily limit three hatchery steelhead.

From the Turner Road Bridge upstream to the Tucannon Hatchery Bridge: Selective gear rules June 1 through October 31. Additional season November 1 through April 15. Barbless hooks required. All species: Release all fish except hatchery steelhead and whitefish. Trout: Daily limit three hatchery steelhead.

From the Tucannon Hatchery Bridge upstream to 500 feet above the Rainbow Lake intake: Closed waters.

From 500 feet above the Rainbow Lake intake to the Cow Camp Bridge: Selective gear rules. Release steelhead.

From Cow Camp Bridge upstream: Closed waters.

Tucuala Lake (Kittitas County): June 1 through October 31 season.

Tunnel Lake (Skamania County): Trout: No more than 2 trout 20 inches in length or greater may be retained.

Twin Lake (Jefferson County): Last Saturday in April through October 31 season.

Twin Lakes (Chelan County) and tributaries and outlet stream to junction with the Napeequa River: Closed waters.

Twisp River (Okanogan County), from mouth to War Creek: June 1 through September 30 season. Selective gear rules. All species: Release all fish. War Creek to South Fork Twisp River: Closed waters.

Tye River (King County): Foss River to Alpine Falls June 1 through October 31 season: Selective gear rules. Trout: Minimum length fourteen inches. Whitefish: Additional November 1 through last day in February season. Release all fish other than whitefish. From Alpine falls upstream: Trout: Minimum size ten inches.

U Lake (Mason County): Last Saturday in April through October 31 season.

Umtanum Creek (Kittitas County): Selective gear rules.

Uncle John Creek (Mason County): Closed waters.

Union Creek (Yakima County): From mouth upstream to falls (approximately 1/4 mile): Closed waters.

Union River (Mason County): Mouth to North Shore Road Bridge. All species: Release all fish except sturgeon.

From North Shore Road Bridge to lower bridge on Old Belfair Highway: June 1 through August 15 season. Selective gear rules. All species: Release all fish except sturgeon.

From lower bridge on Old Belfair Highway upstream to watershed boundary: Selective gear rules. All species: Release all fish except sturgeon.

From watershed boundary to source, including all tributaries: Closed waters.

Upper Wheeler Reservoir (Chelan County): Closed waters.

Valley Creek (Clallam County): Juveniles only.

Vance Creek (Mason County): Trout: Minimum length fourteen inches.

Vance Creek/Elma Ponds (Grays Harbor County): Pond One: Last Saturday in April through November 30 season. Juveniles, holders of a senior license and holders of a department disability license only. Salmon: Landlocked salmon rules apply. Pond Two: Last Saturday in April through November 30 season. Salmon: Landlocked salmon rules apply.

Vancouver Lake and all other waters west of Burlington-Northern Railroad from Columbia River drawbridge near Vancouver downstream to Lewis River (Clark County): Closed waters: April 1 through May 30 the Vancouver Lake flushing channel is closed and it is closed to fishing from the lake shoreline within 400 feet east and west of the channel exit. Chumming permitted. Trout: Daily limit two, minimum length twelve inches.

Vanes Lake (Pend Oreille County): Last Saturday in April through October 31 season.

Van Winkle Creek (Grays Harbor County): Mouth to 400 feet below outlet of Lake Aberdeen Hatchery: Game fish: Minimum length 14 inches. Salmon: Open only September 1 through January 31. Daily limit 6 fish of which not more than 2 may be adult fish. Release chum, adult chinook and wild adult coho.

Vic Meyers (Rainbow) Lake (Grant County): Last Saturday in April through September 30 season.

Vogler Lake (Skagit County): Last Saturday in April through October 31 season. Fly fishing only. All species: Release all fish.

Voight Creek (Pierce County): From mouth to Highway 162 Bridge: Closed waters.

Wagners Lake (Snohomish County): Last Saturday in April through October 31 season.

Wahkiacus Creek (Klickitat County): Trout: Release all trout.

Waitts Lake (Stevens County): Last Saturday in April through last day in February season.

Walker Lake (King County): Last Saturday in April through October 31 season.

Wallace River (Snohomish County):

From its mouth to 200 feet upstream of the water intake of the salmon hatchery: June 1 through last day in February season. Closed waters: From the first Burlington-Northern Railroad bridge (below Highway 2) to a point two hundred feet upstream of the water intake of the salmon hatchery during the period June 1 through August 31. Fishing from any floating device prohibited November 1 through last day in February. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches. Salmon: Open only September 1 through November 30. Daily limit 2 coho.

From 200 feet upstream of the water intake of the salmon hatchery to mouth of Olney Creek: November 1 through last day in February season. Fishing from any floating device pro-

hibited. Trout except Dolly Varden/Bull Trout: Minimum length fourteen inches. Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

Walla Walla River (Walla Walla County):

From mouth to the Touchet River: Year-round season. Trout: Barbless hooks required when fishing for steelhead. Trout: Release trout April 1 through May 31. Daily limit three hatchery steelhead. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained.

From the Touchet River upstream to state line: Trout: All tributaries except Mill Creek, maximum length twenty inches. Bass: No minimum or maximum size. No more than three fish over fifteen inches in length may be retained. Additional season November 1 through April 15. All species: Barbless hooks required and release all fish except hatchery steelhead. Trout: Daily limit three hatchery steelhead.

Walupt Lake (Lewis County): Closed waters: All inlet streams. Last Saturday in April through October 31 season. Selective gear rules except fishing from devices equipped with motors permitted. Trout: Minimum length ten inches.

Wannacut Lake (Okanogan County): Last Saturday in April through October 31 season.

Wapato Lake (Chelan County): Last Saturday in April through October 31 season. Trout: Release all trout. From August 1 through October 31: Selective gear rules except fishing from a device equipped with an internal combustion engine permitted.

Wapato Lake (Pierce County): Juveniles only.

Ward Lake (Ferry County): Last Saturday in April through October 31 season.

Ward Lake (Thurston County): Last Saturday in April through October 31 season.

Warden Lake and Warden Lake, South (Grant County): Last Saturday in April through September 30 season.

Washburn Island Pond (Okanogan County): April 1 through September 30 season. Fishing from a floating device equipped with an internal combustion motor prohibited.

Washburn Lake (Okanogan County): Last Saturday in April through October 31 season. Trout: Daily limit two.

Washington, Lake, including that portion of the Sammamish River from the 68th Avenue N.E. Bridge downstream (King County): Fishing from floating device prohibited one hundred yards either side of the floating bridges. Chumming permitted. Trout: December 1 through last day in February, daily limit 5, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit 5, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. Kokanee/sockeye under fifteen inches are kokanee while those fifteen inches and over are sockeye salmon. Salmon: Open only September 16 through October 31 north of High-

way 520 Bridge and east of Montlake Bridge. Daily limit two coho salmon.

Washington, Lake, Ship Canal (King County) (waters east of a north-south line 400 feet west of the fish ladder at the Chittenden Locks and west of a north-south line at the eastern ends of the concrete abutments east of the Montlake Bridge): West of Fremont Bridge: Fishing from floating device prohibited. East of Fremont Bridge: Chumming permitted.

From west boundary to a north-south line 400 feet east of the eastern end of the northern wing wall of Chittenden Locks: Closed waters.

From 400 feet east of the eastern end of the northern wing wall of Chittenden Locks to the east boundary: Open year-round. Trout: December 1 through last day in February daily limit five, no minimum length. Release steelhead and rainbow trout over twenty inches in length. March 1 through June 30, daily limit five, minimum length twelve inches. Release steelhead and rainbow trout over twenty inches in length. July 1 through November 30, daily limit five, no minimum length. Kokanee/sockeye less than fifteen inches in length are kokanee and fifteen inches and over in length are sockeye salmon.

Washougal River (Clark County):

From mouth to bridge at Salmon Falls: June 1 through March 15 season. Nonbuoyant lure restriction, night closure and stationary gear restriction September 1 through October 31. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained. Salmon: Open only August 1 through March 15. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chum and wild coho. Release hatchery coho October 16 through December 31. Upstream of Little Washougal River, release chinook October 1 through November 30.

From mouth to Mt. Norway Bridge: Additional April 16 through May 31 season. Selective gear rules. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

From bridge at Salmon Falls to its source, including tributaries: Closed waters.

Washougal River, West (North) Fork (Clark/Skamania counties):

From mouth to the water intake at the department hatchery: Closed waters.

From intake at department hatchery to source: June 1 through March 15 season. Trout: Release all trout except up to 2 hatchery steelhead per day may be retained.

Watson Lake (Columbia County): March 1 through October 31 season. Fishing from any floating device prohibited.

Waughop Lake (Pierce County): Salmon: Landlocked salmon rules apply.

Wenas Lake (Yakima County): Trout: Daily limit five, of which not more than two may be brown trout.

Wenaha River tributaries within Washington: June 1 through August 31 season.

Wenatchee Lake (Chelan County): Selective gear rules except fishing from a floating device equipped with a motor allowed. Trout except kokanee: Daily limit two, minimum length twelve inches. Release kokanee. Kokanee/sockeye under sixteen inches will be considered kokanee while those sixteen inches and over will be considered sockeye salmon.

Wenatchee River, including Lake Jolanda (Chelan County):

December 1 through March 31 season, from mouth to Highway 2 Bridge at Leavenworth only. Whitefish gear rules apply.

West Twin River (Clallam County): June 1 through last day in February season. Trout: Minimum length fourteen inches.

Whatcom Creek (Whatcom County):

From mouth to stone bridge at Whatcom Falls Park: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 1 through December 31. Closed waters: Woburn Street Bridge upstream to the stone bridge. Trout: Minimum length fourteen inches. Salmon: Open only August 1 through December 31 from mouth to markers below Dupont Street. Daily limit 6 fish of which not more than 2 may be adult salmon.

From stone bridge at Whatcom Falls Park upstream to Lake Whatcom: Last Saturday in April through October 31 season. Juveniles only. Nonbuoyant lure restriction and night closure August 1 through October 31. Trout: No minimum length.

Whatcom, Lake (Whatcom County): Last Saturday in April through October 31 season, except those waters between the Electric Avenue Bridge and the outlet dam are closed waters: Trout: Release cutthroat trout.

Whatcom, Lake, tributaries (Whatcom County): Closed waters.

Wheeler Creek (Klickitat County): Trout: Release all trout.

White River (Chelan County), from mouth upstream to White River Falls: Closed waters.

White (Stuck) River (Pierce County):

From mouth to R Street Bridge in Auburn: October 1 through last day in February season: Nonbuoyant lure restriction and night closure October 1 through November 30. Trout: Minimum length fourteen inches.

From R Street Bridge to Highway 410 Bridge at Buckley: October 1 through October 31 season. Closed waters: Puget Power canal, including the screen bypass channel, above the screen at Dingle Basin. Nonbuoyant lure restriction and night closure. Trout: 14 inch minimum size.

From the Weyerhaeuser 6000 Road Bridge (Bridge Camp) to its source: Nonbuoyant lure restriction and night closure October 1 through November 30. Whitefish: Additional November 1 through January 31 season. Release all fish except whitefish.

Whitechuck River (Snohomish County): Trout: Legal to retain Dolly Varden/Bull Trout as part of trout daily limit, minimum length twenty inches.

White Salmon River (Klickitat/Skamania counties):

From mouth to powerhouse: Open year-round. Bank fishing only downstream from the Highway 14 Bridge. August 1 through December 31: Nonbuoyant lure restriction. Trout: Minimum length fourteen inches. Salmon and steelhead: Open April 1 through June 30, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead. Salmon: Open July 1 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. October 1 through December 31 release chinook upstream from posted markers upstream of Highway 14 Bridge.

From powerhouse to within four hundred feet of Northwestern Dam: November 16 to April 30 season except salmon and steelhead. Trout: Minimum length fourteen inches. Release trout April 1 through April 30. Salmon: Open November 16 through March 31. Daily limit 6 fish of which no more than 2 may be adult salmon. November 16 through December 31 release chinook. Salmon and steelhead: Open April 1 through June 15, daily limit two fish, one or both of which may be salmon or hatchery steelhead. Release all fish except salmon or hatchery steelhead.

From gas pipeline crossing above Northwestern Lake to Gilmer Creek: Selective gear rules. Trout: Minimum length twelve inches.

Wide Hollow Creek (Yakima County): Trout: Daily limit five, no minimum length.

Widgeon Lake (Grant County): April 1 through September 30 season.

Wildberry Lake (Mason County): Last Saturday in April through October 31 season.

Wildcat Lake (Kitsap County): Last Saturday in April through October 31 season.

Wilderness Lake (King County): Last Saturday in April through October 31 season. Salmon: Landlocked salmon rules apply.

Willame Lake (Lewis County): Last Saturday in April through October 31 season. Selective gear rules. Trout: Daily limit two, minimum length fifteen inches.

Willapa River (Pacific County): Mouth to Fork Creek: June 1 through March 31 season, except sturgeon. Night closure, single point barbless hooks, and stationary gear restriction August 16 through November 30 mouth to Fork Creek. November 1 through March 31 fishing from any floating device prohibited from the bridge on Willapa Road to Fork Creek.

All game fish: Release all fish except that up to two hatchery steelhead may be retained. Salmon: Open only August 1 through January 31 from mouth to Highway 6 Bridge approximately 2 miles below mouth of Trap Creek and open October 16 through January 31 from Highway 6 Bridge to Fork Creek. Daily limit 6 fish of which no more than 3 may be adult salmon and of the adult salmon not more than one may be a wild adult coho and not more than two may be adult chinook and not more than two may be chum.

Sturgeon: Open year-round from mouth to Highway 6 Bridge.

Upstream from Fork Creek: Selective gear rules. August 16 through October 31, nonbuoyant lure restriction and night closure. All species: Release all fish.

South Fork: June 1 through last day in February season. Nonbuoyant lure restriction and night closure August 16 through November 30. All species: Release all fish except up to two hatchery steelhead may be retained.

Williams Creek (Pacific County): June 1 through last day in February season. Selective gear rules. All species: Release all fish.

Williams Lake (Spokane County): Last Saturday in April through September 30 season.

Williams Lake (Stevens County): December 1 through March 31 season.

Wilson Creek (two branches within Ellensburg city limits) (Kittitas County): Open year-round. Juveniles only. Trout: Daily limit five, no minimum length.

Winchester Wasteway (Grant County): Within Winchester Game Reserve: February 1 through September 30 season.

Wind River (Skamania County):

Mouth to four hundred feet below Shipherd Falls: July 1 through March 15 season, except salmon and steelhead. May 1 through June 30: Nonbuoyant lure restriction and night closure. August 1 through October 31: Nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Open March 16 through June 30 daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead. Trout: Minimum length fourteen inches. Salmon: Open August 1 through October 31. Daily limit 6 fish of which no more than 2 may be adult salmon. Release chinook from Burlington-Northern Railroad Bridge upstream.

From four hundred feet below to one hundred feet above Shipherd Falls fish ladder: Closed waters.

From one hundred feet above Shipherd Falls to source, including all tributaries: May 1 through June 30 season. Closed waters: From 400 feet below to 100 feet above the Coffey Dam and from a boundary marker approximately 800 yards downstream from Carson National Fish Hatchery upstream, including all tributaries. Night closure and nonbuoyant lure restriction. When nonbuoyant lure restriction is in effect, only fish hooked inside the mouth may be retained. Salmon and steelhead: Daily limit 2 fish, one or both of which may be a salmon or hatchery steelhead. Release all fish except salmon and hatchery steelhead.

Winston Creek (tributary to Cowlitz River) (Lewis County): Selective gear rules. Trout: Minimum length ten inches.

Wishkah River (Grays Harbor County), including all forks: Closed waters: Mainstem from four hundred feet below outlet of dam at Wishkah Rearing Ponds (formerly Mayr Bros.) to dam. Trout: Minimum length fourteen inches. Release wild cutthroat. Mouth to West Fork: June 1 through March 31 season. Single point barbless hooks required August 16

through November 30. Selective gear and all species: Release all fish except up to two hatchery steelhead may be retained per day, March 1 through March 31. Salmon: Open only October 1 through November 30 from mouth to West Fork. Daily limit 6 fish of which no more than 2 may be adult salmon. Release adult chinook.

From the West Fork to four hundred feet below outlet: June 1 through March 31 season. Trout: Minimum length fourteen inches.

Wolf Creek, mouth to mouth of south fork (Okanogan County): Closed waters.

Wood Lake (Mason County): Last Saturday in April through October 31 season.

Woodland Creek (Thurston County): Trout: Minimum length fourteen inches.

Wooten Lake (Mason County): Last Saturday in April through October 31 season.

Wye Lake (Kitsap County): Last Saturday in April through October 31 season.

Wynoochee River (Grays Harbor County): Trout: Minimum length fourteen inches. Mouth to 7400 line bridge above mouth of Schafer Creek: June 1 through March 31 season. Single point barbless hooks required August 16 through November 30. Salmon: Open only October 1 through January 31. Daily limit 6 fish of which no more than 2 may be adult salmon, except daily limit may contain no more than 1 wild adult coho December 1 through January 31. Release adult chinook.

7400 line bridge upstream: Selective gear rules. Additional December 1 through March 31 season. Fishing from a floating device prohibited. All species: Release all fish except up to two hatchery steelhead may be retained.

Wynoochee Reservoir (Grays Harbor County): June 1 through October 31 season. Trout: Daily limit two, minimum length twelve inches. Salmon: Landlocked salmon rules apply.

Yakima River (Yakima County): Release all steelhead in mainstem and tributaries. Channel catfish: No daily limit.

From mouth to Prosser Dam: Chumming permitted. Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to Highway 223 Bridge: Bass: No daily limit of bass under 12 inches in length. Release bass 12 to 17 inches in length. Unlawful to retain more than one bass per day greater than 17 inches in length.

From Highway 223 Bridge to 400 feet below Sunnyside Dam: Salmon: Open only September 1 through October 22. Daily limit 6 fish of which not more than 2 may be adult salmon. Nonbuoyant lure restriction and night closure.

From mouth to thirty-five hundred feet below Roza Dam: Year-round season. Closed waters: From Yakima Avenue-Terrace Heights Bridge upstream 400 feet. March 1 through November 30, closed from thirty-five hundred feet below Roza Dam to Roza Dam. Trout: Minimum length twelve inches and maximum length twenty inches. Release

all trout April 1 through May 31. Thirty-five hundred feet below Roza Dam to four hundred feet below Roza Dam: December 1 through last day in February season. Whitefish gear rules apply.

From Roza Dam to four hundred feet below Easton Dam and from Lake Easton to the base of Keechelus Dam: Year-round season. Fishing from floating devices equipped with motors allowed only from the U.S. Bureau of Reclamation restricted area signs at Roza Dam upstream to the boat launch ramp on the Roza Access Area (approximately one-half mile). Selective gear rules except bait and one single point barbed hook three-sixteenths or smaller point to shank may be used December 1 through last day in February. Trout: From Roza Dam to 400 feet below Easton Dam: Release all trout. Lake Easton to the base of Keechelus Dam. Release all trout except eastern brook trout. Eastern brook trout: No daily limit and no minimum size.

Yakima Sportsmen's Park Ponds (Yakima County): Juveniles only.

Yale Reservoir (Cowlitz County): Trout: Kokanee not counted in daily trout limit. Kokanee daily limit sixteen.

Yellowjacket Creek (tributary to Cispus River) (Lewis County): Selective gear rules. Trout: Minimum length twelve inches.

Yellowjacket Ponds (Lewis County): Last Saturday in April through last day in February season. Trout: No more than one over twelve inches in length.

Yokum Lake (Pend Oreille County): Last Saturday in April through October 31 season.

AMENDATORY SECTION (Amending Order 04-182, filed 7/22/04, effective 8/22/04)

WAC 232-28-620 Coastal salmon—Saltwater seasons and daily limits. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, for the sizes provided in WAC 220-56-180, and for the species designated in this section. Open when a daily limit is provided:

(1) Catch Record Card Area 1:

(a) May 1 through ~~((June 26))~~ July 2 - Closed.

(b) ~~((June 27))~~ July 3 through September 30 - Open Sundays through Thursdays only - Daily limit of 2 salmon, of which not more than one may be a chinook salmon. Release wild coho.

(c) October 1 through April 30 - Closed.

(d) Closed in the Columbia River Mouth Control Zone 1 during all open periods, see WAC 220-56-195.

(2) Catch Record Card Area 2 and Catch Record Card Area 2-2 west of the Buoy 13 line:

(a) May 1 through June ~~((26))~~ 25 - Closed.

(b) Area 2 June ~~((27))~~ 26 through September ~~((19))~~ 18 except closed to salmon fishing August 1 through September 18 in the Grays Harbor Control Zone described in WAC 220-56-195(11) and Area 2-2 west of Buoy 13 June 26 through July 31 - Open Sundays through Thursdays only. Daily limit

2 salmon, of which not more than one may be a chinook salmon. Release wild coho.

(c) Area 2 September ~~((20))~~ 19 through April 30 and Area 2-2 west of Buoy 13 August 1 through April 30 - Closed.

(3) Grays Harbor (Catch Record Card Area 2-2 east of the Buoy 13 line):

(a) May 1 through September 15 - Closed.

(b) September 16 through November 30 - Daily limit of ~~((six))~~ 2 salmon ~~((, not more than two of which may be adult salmon))~~. ~~((Of the adult salmon, not more than one may be an adult))~~ Release chinook salmon.

(c) December 1 through April 30 - Closed.

(d) Notwithstanding the provisions of this subsection, Westport Boat Basin and Ocean Shores Boat Basin: Open only August 16 through January 31 - Daily limit of six salmon not more than four of which may be adult salmon.

(4) Willapa Bay (Catch Record Card Area 2-1):

(a) May 1 through June ~~((26))~~ 25 - Closed.

(b) June ~~((27))~~ 26 through August 15 - Open concurrent with Area 2 when Area 2 is open for salmon angling. Area 2 rules apply.

(c) August 16 through January 31 - Daily limit of six salmon, not more than two of which may be adult salmon.

(d) February 1 through April 30 - Closed.

(5) Catch Record Card Area 3:

(a) May 1 through June ~~((26))~~ 30 - Closed.

(b) ~~((June 27))~~ July 1 through September ~~((19))~~ 18 - Open Tuesday through Saturday only. Daily limit of 2 salmon, of which not more than one may be a chinook salmon. Release wild coho.

(c) September ~~((20))~~ 19 through April 30 - Closed.

(d) Notwithstanding the provisions of this subsection, waters ~~((inside three miles from shore))~~ north of 47°50'00"N latitude and south of ~~((47°58'00"))~~ 48°00'00"N latitude open September ~~((25))~~ 24 through October ~~((10))~~ 9 - Daily limit two salmon, of which not more than one may be a chinook salmon. Release wild coho.

(6) Catch Record Card Area 4:

(a) May 1 through June ~~((26))~~ 30 - Closed.

(b) ~~((June 27))~~ July 1 through September ~~((19))~~ 18 - Open Tuesdays through Saturdays only. Daily limit of 2 salmon, of which not more than one may be a chinook salmon. Release wild coho salmon. Waters east of a true north-south line through Sail Rock closed July 1 through July 31. Release chinook salmon caught east of the Bonilla-Tatoosh line August 1 through September ~~((19))~~ 18. Release chum salmon August 1 through September ~~((19))~~ 18.

(c) September ~~((20))~~ 19 through April 30 - Closed.

AMENDATORY SECTION (Amending Order 04-182, filed 7/22/04, effective 8/22/04)

WAC 232-28-621 Puget Sound salmon—Saltwater seasons and daily limits. It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, and for the species designated in this section and sizes as defined in WAC 220-56-180. Open when a daily limit is provided. Puget Sound waters west of the mouth of the Sekiu

River are managed concurrent with ocean waters as provided for in WAC 232-28-620.

(1) Catch Record Card Area 5:

(a) May 1 through June 30 - Closed.

(b) July 1 through August 10 - Daily limit ((2)) 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chum, wild chinook and wild coho.

(c) August 11 through September 30 - Daily limit of ((2)) 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chum, chinook and wild coho.

(d) October 1 through October 31 - Closed.

(e) November 1 through November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(f) December 1 through February 15 - Closed.

(g) February 16 through April 10 - Daily limit 1 salmon.

(h) April 11 through April 30 - Closed.

(2) Catch Record Card Area 6:

(a) May 1 through June 30 - Closed.

(b) July 1 through August 10 - Daily limit ((2)) 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chum, wild chinook and wild coho. Release all chinook east of a true north-south line through the Number 2 Buoy immediately east of Ediz Hook.

(c) August 11 through September 30 - Daily limit of ((2)) 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chum, chinook and wild coho.

(d) Waters of Port Angeles Harbor west of a line from the tip of Ediz Hook to the ITT Rayonier Dock are closed July 1 through August 31.

(e) October 1 through October 31 - Closed, except waters of Dungeness Bay inside a line from Dungeness Spit Lighthouse to the Number 2 Red Buoy then to the Port Williams Boat Ramp are open with a daily limit of 2 coho salmon. Release all other salmon. Waters inside the line described in this subsection are closed at all times except during October.

(f) November 1 through November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(g) December 1 through February 15 - Closed.

(h) February 16 through April 10 - Daily limit 1 salmon.

(i) April 11 through April 30 - Closed.

(3) Catch Record Card Area 7:

(a) May 1 through June 30 - Closed.

(b) July 1 through July 31 - Daily limit of ((2)) 4 salmon, not more than one of which may be a chinook salmon and not more than two of which may be salmon other than pink salmon. Closed to salmon fishing in the Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-56-195 (7)((a)).

(c) August 1 through September 30 - Daily limit of ((2)) 4 salmon, ((of which)) not more than one of which may be a chinook salmon and not more than two of which may be salmon other than pink salmon. Release chum and wild coho. Closed to salmon fishing in the ((Southeastern)) Southern Rosario Strait and Eastern Strait of Juan de Fuca closure area described in WAC 220-56-195 (7)((b)).

(d) Waters of Bellingham Bay described in WAC 220-56-195(1) closed July 1 through August 15. August 16 through October 31 - Daily limit 4 salmon, not more than 2 of

which may be chinook salmon. November 1 through June 30 - Same rules as Area 7.

(e) October 1 through October 31 - Daily limit of 2 salmon(~~(-Release))~~, not more than one of which may be a chinook salmon.

(f) Waters of Samish Bay described in WAC 220-56-195(4) closed July 1 through October 15.

(g) November 1 through November 30 - Daily limit 2 salmon(~~(-not more than one of which may be a))~~. Release chinook salmon.

(h) December 1 through January 31 - Closed.

(i) February 1 through March 31 - Daily limit of 1 salmon.

(j) April 1 through April 30 - Closed.

(4) Catch Record Card Area 8-1:

(a) May 1 through July 31 - Closed.

(b) August 1 through ((~~October 31~~)) September 30 - Daily limit of ((2)) 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chinook.

(c) ((~~November~~)) October 1 through ((November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

~~(d) December 1 through January 31 - Closed.~~

~~(e) February 1 through March 31 - Daily limit of 1 salmon.~~

~~(f) April 1 through~~ April 30 - ((~~Closed~~)) Daily limit 2 salmon. Release wild chinook.

(5) Catch Record Card Area 8-2:

(a) May 1 through July 31 - Closed, except waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point - June 3 through June ((48)) 17 and June 19 through July 31, open only Friday through 11:59 a.m. Monday of each week - Daily limit of 2 salmon.

(b) August 1 through ((~~October 31~~)) September 30 - Daily limit ((2)) 4 salmon of which not more than 2 may be salmon other than pink salmon, and release chinook, except waters west of Tulalip Bay and within 2,000 feet of shore from the pilings at Old Bower's Resort to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point - August 1 through September 27, open only Friday through 11:59 a.m. Monday of each week - Daily limit of 2 salmon and except waters of Port Susan described in WAC 220-56-195(10) closed August 1 through August 31 and release pink salmon September 1 through September 30.

(c) ((~~November~~)) October 1 through ((November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

~~(d) December 1 through February 15 - Closed.~~

~~(e) February 16 through April 10 - Daily limit of 1 salmon.~~

~~(f) April 11 through~~ April 30 - ((~~Closed~~)) Daily limit 2 salmon. Release wild chinook.

(6) Catch Record Card Area 9:

(a) May 1 through July ((45)) 31 - Closed.

(b) ((~~July 16 through July 31 - Daily limit of 2 salmon. Release chinook.~~

(~~e~~)) August 1 through September 30 - Daily limit of ~~(2)~~ 4 salmon of which not more than 2 may be salmon other than pink salmon. Release chum and chinook.

(~~(d)~~) (~~c~~) October 1 through October 31 - Daily limit of 2 salmon. Release chinook.

(~~(e)~~) (~~d~~) November 1 through November 30 - Daily limit 2 salmon, of which not more than one may be a chinook.

(~~(f)~~) (~~e~~) December 1 through January 31 - Closed.

(~~(g)~~) (~~f~~) February 1 through April 15 - Daily limit 1 salmon.

(~~(h)~~) (~~g~~) April 16 through April 30 - Closed.

(~~(i)~~) ~~Hood Canal Bridge Fishing Pontoon - Closed.~~

(~~j~~) (~~h~~) Edmonds Fishing Pier: Open (~~only June 16 through April 30~~) year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon. Release chum August 1 through September 30.

(7) Catch Record Card Area 10:

(a) May 1 through June 15 - Closed.

(b) June 16 through June 30 - Open only north of a line from Point Monroe to Meadow Point. Catch and release.

(c) July 1 through (~~October 31~~) September 30 - Daily limit ~~(2)~~ 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chum August 1 through September 15. Release chinook. Waters of Shilshole Bay southeast of a line from Meadow Point to West Point closed July 1 through August 31. Waters of Elliott Bay east of a line from West Point to Alki Point closed July 1 through August ~~(31)~~ 23, except waters east of a line from Pier 91 to Duwamish Head open July ~~(16)~~ 8 through 11:59 a.m. August 22, and open only on Friday through (Sunday) Monday of each week - Daily limit ~~(2)~~ 4 salmon not more than 2 of which may be salmon other than pink salmon. Release chum August 1 through August 22.

(d) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge in Bremerton, south of a line true west from Battle Point, and west of a line drawn true south from Point White - (~~Lawful to retain chinook as part of the~~) Daily limit 2 salmon July 1 through September 30. Release chum August 1 through September 15.

(~~e~~) (~~November~~) October 1 through (November 30) October 15 - Daily limit of 2 salmon (~~, not more than one of which may be a~~). Release chinook salmon.

(~~f~~) (~~December 1 through December 15 - Closed~~) October 16 through November 30 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(g) December ~~(16)~~ 1 through (~~last day in February~~) January 31 - Daily limit 1. Waters of Agate Pass west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point closed January 1 through (~~last day in February~~) January 31.

(~~h~~) (~~March~~) February 1 through April 30 - Closed.

(i) Elliott Bay Fishing Pier at Terminal 86, Seacrest Pier, Waterman Pier, Bremerton Boardwalk, and Illahee State Park Pier: Open (~~only June 16 through April 30~~) year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon. Release chum August 1 through September 15.

(j) East Duwamish waterway - Waters between a line projected east along the path of SW Hanford Street and a line projected east from the south tip of Harbor Island - July 1

through October 31 terminal gear restricted to bait suspended above the bottom by a float.

(8) Catch Record Card Area 11:

(a) May 1 through (~~June 15~~) May 31 - Closed.

(b) June ~~(16)~~ 1 through June 30 - Daily limit of 2 salmon. Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock closed.

(~~c~~) July 1 through (~~October 31~~) September 30 - Daily limit of ~~(2)~~ 4 salmon not more than 2 of which may be salmon other than pink salmon. Waters of Commencement Bay east of a line from the Cliff House Restaurant to the Sperry Ocean Dock closed (~~June 16~~) July 1 through (~~July 31~~) August 12.

(~~(e)~~) (~~d~~) October 1 through October 31 - Daily limit of 2 salmon.

(~~e~~) November 1 through December 31 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(~~(d)~~) (~~f~~) January 1 through February 15 - Closed.

(~~(e)~~) (~~g~~) February 16 through April 10 - Daily limit of 1 salmon.

(~~(f)~~) (~~h~~) April 11 through April 30 - Closed.

(~~(g)~~) (~~i~~) Dash Point Dock, Les Davis Pier, Des Moines Pier, Redondo Pier and Point Defiance Boathouse Dock: Open (~~only June 16 through April 30~~) year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon.

(9) Catch Record Card Area 12:

(a) May 1 through June 30 - Closed.

(b) July 1 through October 15 in waters south of Ayock Point - Daily limit 4 salmon, of which no more than two may be chinook salmon. Release chum.

(c) July 1 through August 31 in waters north of Ayock Point except waters of Quilcene Bay north of a true east line from Whitney Point to the Toandos Peninsula - Closed.

(d) September 1 through October 15 in waters north of Ayock Point and August 16 through October 15 in waters of Quilcene Bay north of a true east line from Whitney Point to the Toandos Peninsula - Daily limit 4 coho salmon. Release all salmon except coho.

(e) October 16 through December 31 - Daily limit 4 salmon, of which no more than one may be a chinook salmon.

(f) January 1 through February 15 - Closed.

(g) February 16 through April 10 - Daily limit 1 salmon.

(h) April 11 through April 30 - Closed.

(i) July 1 through December 31 the Hoodspout Hatchery Zone is managed separately from the remainder of Area 12. See WAC 220-56-124.

(10) Catch Record Card Area 13:

(a) May 1 through (~~June 15~~) May 31 - Daily limit 2 salmon. Carr Inlet north of a line from Penrose Point to Green Point - Closed.

(b) June ~~(16)~~ 1 through June 30 - (~~Daily limit 2 salmon. Waters of Carr Inlet north of a line from Penrose Point to Green Point~~) Closed.

(c) July 1 through October 31 - Daily limit 2 salmon. Release wild coho. Waters of Carr Inlet north of a line from Penrose Point to Green Point closed July 1 through July 31, except open to fly fishing only for hatchery coho.

(d) Waters at the mouth of Minter Creek within 1,000 feet of the outer oyster stakes are closed July 1 through September 30.

(e) Waters of Budd Inlet south of the Fourth Avenue Bridge are closed. Contiguous waters north of the Fourth Avenue Bridge and south of a line from the northwest corner of the Thriftway Market building and a point 100 yards north of the railroad bridge on the western shore are closed July 16 through October 31.

(f) November 1 through December 31 - Daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(g) January 1 through April 30 - Daily limit 1 salmon. Waters of Carr Inlet north of a line from Penrose Point to Green Point closed April 16 through April 30.

(h) Fox Island Public Fishing Pier: Open (~~only June 16 through April 30~~) year-round - Daily limit 2 salmon, not more than one of which may be a chinook salmon. Release wild coho July 1 through October 31.

WSR 05-17-012

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed August 4, 2005, 9:03 a.m., effective September 4, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend chapter 132H-120 WAC, updating the student code of Community College District VIII.

Citation of Existing Rules Affected by this Order: Amending WAC 132H-120-200.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 05-13-084 on June 14, 2005.

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.

Date Adopted: August 3, 2005.

Sigrid Olsen
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-14-013 [03-14-015], filed 6/19/03, effective 7/20/03)

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for

in this chapter, who either as a principal actor, aide, abettor or accomplice as defined in RCW 9A.08.020:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Engages in unlawful conduct;

(3) Violates any provisions of this chapter; or

(4) Commits any prohibited act, including but not limited to the following:

(a) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee.

(b) Controlled substances. Using, possessing, delivering, selling or being under the influence of (~~any narcotic drug~~) legend drugs, including anabolic steroids, androgens, or human growth hormones, as defined in RCW 69.50.101 or any other controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except ((when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist)) upon valid prescription or order of a practitioner is subject to additional sanctions, including disqualification from participation in college-sponsored athletic events. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.

(c) Illegal entry. Unauthorized entry into or onto any locked or otherwise closed college property or facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(d) Forgery or alteration of records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal assembly. Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to follow instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

(h) Physical abuse. Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(i) Assault. Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050 or RCW 28B.10.570 through 28B.10.572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of

others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student services or any other person designated by the president.

(l) Lewd conduct. Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(m) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(n) Cheating and plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or from another as defined in RCW 9A.56.010 through 9A.56.050 and RCW 9A.56.100 as now law or hereafter amended.

(q) Unauthorized use of property. Converting or using college equipment, supplies or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any college facility or on campus grounds except where specifically posted as permitted, or any other smoking not complying with chapter 70.160 RCW.

(t) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(u) Improper use of computer, telephone or other electronic devices. Conduct that violates WAC 132H-120-210. Trespassing or gaining access, without authorization, to a computer, system, network, or electronic data owned, used by, or affiliated with the college.

(v) Ethics violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking courses or is pursuing as an educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics may subject the student to disciplinary action by the college.

(w) Criminal law violation, illegal behavior, other unlawful violations. Students can be reported to proper authorities for acts which constitute violations to applicable local, state and federal laws. When the student's behavior is determined to threaten the health, safety and/or property of the college and its members, the college may immediately and summarily suspend the student and refer any such violation to the proper authorities for disposition.

(x) Stalking. Stalking behavior or conduct in which a student willfully and repeatedly follows or contacts someone with the intent and/or reasonable effect of creating fear or emotional distress and where the College determines that such behavior or conduct serves no legitimate purpose.

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

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

WSR 05-17-013

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed August 4, 2005, 9:04 a.m., effective September 4, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend chapter 132H-136 WAC, updating the Library Media Center policy of Community College District VIII.

Citation of Existing Rules Affected by this Order: Repealing WAC 132H-136-035 and 132H-136-040; and amending chapter 132H-136 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 05-09-064 on April 19, 2005.

Changes Other than Editing from Proposed to Adopted Version: Language was added in WAC 132H-136-020(2) to include emeritus faculty, retired employees, members of the board of trustees and emeritus trustees.

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 3, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 3, 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 2, Amended 3, Repealed 2.

Date Adopted: August 3, 2005.

Sigrid Olsen
Rules Coordinator

AMENDATORY SECTION (Amending Order 13, filed 2/13/73 [3/9/73])

WAC 132H-136-010 Title. WAC 132H-136-010 through 132H-136-040 will be known as the library-media center ~~((eode))~~ policy of Community College District VIII.

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

NEW SECTION

WAC 132H-136-015 Purpose. The Library Media Center (LMC) provides the information resources needed by students, faculty, staff and the community to encourage learning, innovation, intellectual integrity and civic responsibility. The LMC resources and services support the college's mission to provide accessible services and meet the changing educational needs of our diverse community. This policy applies to all BCC employees, students and library users who use any of the Library Media Center resources and facilities.

AMENDATORY SECTION (Amending Order 35, filed 9/3/75 [10/10/75])

WAC 132H-136-020 Loans. Materials from the Bellevue Community College library~~((-))~~media center are available to be checked out ~~((to))~~ by members of the following groups.

(1) All currently registered students of Bellevue Community College.

(2) All currently employed faculty, emeritus faculty, ~~((and))~~ administrative and classified staff, ~~((members))~~ retired employees, members of the board of trustees and emeritus trustees.

~~((3) All persons currently employed in classified staff positions:))~~

(3) ~~((4) All holders of currently valid courtesy cards. This latter group includes members of the board of trustees, community educators whose work might necessitate usage of library media materials, and other i))~~ Individuals who show a particular need for specialized items in the library-media collections which are not available elsewhere.

~~((5))~~ (4) Students and faculty from other institutions with which the Bellevue Community College library~~((-))~~media center has a "Reciprocal Borrowing Agreement". ~~((reciprocal lending agreement through the "shared use plan."))~~ This group may use materials on a loan basis at the discretion of the circulation/media services manager, ~~((supervisor))~~ who shall determine lending priorities based upon the current usage of individual items by Bellevue Community College students.

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.

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 132H-136-025 Services. The Library Media Center maintains a web site and publishes a brochure summarizing information about the LMC, including hours of service, circulation of collections (including print and non-print materials), and services and resources available (including media, equipment, and facilities).

AMENDATORY SECTION (Amending WSR 92-19-052, filed 9/10/92)

WAC 132H-136-030 Fines. Charges are levied for overdue, lost, damaged materials and equipment. (1) Replacement charges will include cost of replacement plus a processing fee. Replacement costs for items that are no longer in print or not available for purchase will be based upon the cost of a similar item plus a processing fee.

(2) Charges for overdue materials will be according to a fee schedule that is posted in the circulation desk area and the LMC web site and brochure. Students may appeal charges by following the Library Fines Appeal Procedure as detailed in the LMC Manual of Policies and Procedures, a copy of which is available in the Reserve Collection.

~~((1) In cases where damage or loss of library material is evident, the offending patron is assessed the replacement cost.~~

~~((2) Where library media materials are retained by the borrower beyond the designated due date, fines are levied as a sanction to effect the prompt return of items which might be in demand by others.))~~

(3) When materials are not returned, or ~~((fines))~~ charges not paid, holds are placed on the transcript records of those involved—only as a sanction to cause the ultimate return of library ~~((-))~~media material in order to protect the integrity of the library ~~((-media))~~ collection.

(4) In extreme cases, when expensive or valuable items are involved, the provisions of RCW 27.12.340 may be invoked.

REPEALER

The following sections of the Washington Administrative Code are repealed.

WAC 132H-136-035 Schedule of fines.

WAC 132H-136-040 Student handbook.

WSR 05-17-017

PERMANENT RULES

UTILITIES AND TRANSPORTATION
COMMISSION

[Docket No. P-041344, General Order No. R-523—Filed August 4, 2005, 1:07 p.m., effective July 1, 2006]

In the matter of amending WAC 480-93-240 Natural gas pipeline safety fee and 480-75-240 Hazardous liquid pipeline safety fee, to change the current pipeline safety fee methodology.

1 STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 05-13-103, filed with the code reviser on June 16, 2005. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, 81.04.160, 80.24.060, and 81.24.090.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date that this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the commission's reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules as adopted (other than editing changes), a summary of the comments received regarding the proposed rule, and the commission's responses to the comments, reflecting the commission's consideration of them.

5 The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.

6 In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin a rule making and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

7 REFERENCE TO AFFECTED RULES: This order amends the following sections of the Washington Administrative Code: Amend WAC 480-75-240 Annual pipeline safety fee methodology and 480-93-240 Annual pipeline safety fee methodology.

Amendments change the method by which pipeline safety fees are allocated to regulated pipeline companies from a methodology that allocated costs to companies based on each company's percentage of the total pipeline miles located within Washington to a methodology based on effort expended on each company, using the pipeline safety program's timekeeping system.

Other revisions include clarification that the commission can set the total fee amount at less than the appropriation amount, conversion to a calendar year instead of a fiscal year for determining the effort data, and removal of incident investigations that result in a penalty issued under RCW 19.122.055 from consideration in the fee allocation.

8 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a prepro-

posal statement of inquiry (CR-101) on August 11, 2004, at WSR 04-17-056.

9 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement at WSR 04-17-056 advised interested persons that the commission was considering entering a rule making to review the fee methodology established in WAC 480-75-240 and 480-93-240, and evaluate alternative methods for allocating pipeline safety program costs to pipeline operators regulated by the commission.

10 The commission also informed persons of the inquiry into these matters by providing notice of the subject and the CR-101 to all regulated gas pipeline companies and hazardous liquid pipeline companies and persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3). The commission posted the relevant rule-making information on its Internet web site at <http://www.wutc.wa.gov>.

11 As part of the review of its fee methodology, the commission retained a consultant with Miller & Miller, P.S. to review the pipeline safety program's fee rules, its cost and time accounting systems, and to devise recommendations for alternative fee methodologies.

12 WORKSHOP; ORAL COMMENTS; WRITTEN COMMENTS: Pursuant to the notice, the commission held two stakeholder workshops to consider a variety of alternative fee methodologies. While no single method received universal support, most participants supported basing the program's fee on the relative program staff effort expended on each company.

13 Representatives from BP Olympic Pipe Line, Cascade Natural Gas, Chevron Texaco Pipeline, McChord Pipeline, Northwest Industrial Gas Users, Northwest Natural Gas, Puget Sound Energy, Tidewater Barge Lines, and Williams Northwest attended at least one of the workshops. Puget Sound Energy, Northwest Natural Gas, Williams Northwest, BP Olympic Pipeline, Cascade Natural Gas, McChord Pipeline and Northwest Industrial Gas users filed written comments on the draft proposed rules.

14 NOTICE OF PROPOSED RULE MAKING: The commission filed with the code reviser a notice of proposed rule making (CR-102) on April 20, 2005, at WSR 05-09-122, inviting written comments, and scheduling the matter for oral comment and adoption on June 15, 2005. Tidewater Barge Lines, Puget Sound Energy, Williams Northwest, BP Olympic Pipe Line and Northwest Industrial Gas users filed written comments on the proposed rules.

15 On June 13, 2005, the commission filed a continuance with the code reviser at WSR 05-13-070 to change the date of the hearing to receive public comment regarding adoption of the rule proposal from June 15, 2005, to July 29, 2005.

16 The commission filed a supplemental notice to WSR 05-09-122, notifying interested persons of changes to the rules proposed at WSR 05-13-103, inviting written comments on those changes, and scheduling the matter for oral comment and adoption on Friday, July 29, 2005, at 9:30 a.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive S.W., Olympia, WA.

17 COMMENTERS (WRITTEN COMMENTS): The commission received no written comments from interested persons in response to the supplemental notice of rules proposed at WSR 05-13-103.

18 RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on July 29, 2005, before Chairman Mark H. Sidran, and Commissioners Patrick J. Oshie and Philip B. Jones. The commission heard oral comments from Tim Sweeney representing commission staff. No interested persons commented.

19 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rules in the supplemental CR-102 notice at WSR 05-13-103.

20 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-75-240 and 480-93-240 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on July 1, 2006. Thus, the current fee methodology will remain in effect for one more fee year and provide companies with a year to adjust to the change in the fee methodology. The new methodology would apply for the first time to the 2007 fiscal year fees, for the period commencing July 1, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

ORDER

THE COMMISSION ORDERS:

21 (1) The commission amends and adopts the following sections to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on July 1, 2006, pursuant to RCW 34.05.380(2): WAC 480-75-240, and 480-93-240.

22 (2) This order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 3rd day of August, 2005.

Washington Utilities and Transportation Commission
Mark H. Sidran
Chairman
Patrick J. Oshie
Commissioner
Philip B. Jones
Commissioner

AMENDATORY SECTION (Amending Docket No. UG-010522, General Order No. R-497, filed 1/4/02, effective 2/4/02)

WAC 480-75-240 Annual pipeline safety fee methodology. (1) Every hazardous liquid pipeline company subject to inspection or enforcement by the commission will pay an annual pipeline safety fee as established in the methodology set forth in section (2) below.

(2) The fee will be set by general order of the commission entered before July 1 of each year and will be collected in four equal installments payable on the first day of each calendar quarter ~~((beginning July 1, 2001))~~.

(a) The total of pipeline safety fees will be calculated to recover no more than the costs of the legislatively authorized workload represented by current appropriations, less the amount received in ~~((federal funds))~~ total base grants through the Federal Department of Transportation ~~((s Hazardous Liquids Pipeline Safety Program base grant))~~ and less any amount received from penalties collected under RCW 19.122.050. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by such grants be considered a cost for purposes of calculating such fees. To the extent that the actual base grant proceeds are different than the amount credited, the difference will be applied in the following year.

(b) Total pipeline safety fees as determined in (a) of this subsection will be ~~((divided between intrastate hazardous liquid pipeline companies and interstate hazardous liquid pipeline companies based on two components))~~ calculated in two parts:

(i) ~~((The first component is direct assignment of average costs associated with a company's standard inspections, including the average number of inspection days per year which will be determined annually. Standard inspections are conducted to comply with the state's participation requirement under the "Guidelines for States Participating in the Pipeline Safety Program" of the Federal Department of Transportation, Office of Pipeline Safety.~~

~~((ii) The second component is an allocation of the remaining program costs that are not directly assigned in (i). Distribution of these costs between interstate and intrastate hazardous liquid pipeline companies will be based on miles of pipeline operated within Washington state.~~

~~((b))~~ The commission's annual overhead charge to the pipeline safety program will be allocated among companies according to each company's share of the total of all pipeline

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miles within Washington as reported by the companies in their annual reports to the commission.

(ii) After deducting the commission's annual overhead charge, the remainder of the total pipeline safety fees will be allocated among companies in proportion to each company's share of the program staff hours that are directly attributable to particular companies. The commission will determine each company's share by dividing the total hours directly attributable to the company during the two preceding calendar years (as reflected in the program's timekeeping system) by the total of directly attributable hours for all companies over the same period.

(iii) Any program hours related to a staff investigation of an incident attributed to third-party damage resulting in penalties collected under RCW 19.122.055 will not be directly attributed to the operator of the damaged pipeline for fee-setting purposes.

(c) The commission general order setting fees pursuant to this rule will detail the specific calculation of each company's pipeline safety fee including the allocations ((of program costs between interstate and intrastate hazardous liquid companies and the specific calculation of each company's pipeline fee)) set forth in (b) of this subsection.

(3) ~~((By April 1 of each year every hazardous liquids pipeline company subject to this section must file an annual report as prescribed by the commission that is necessary to establish the annual pipeline safety fee.))~~ By June 1 of each year the commission staff will mail to each company ~~((subject to this section))~~ an ~~((annual))~~ invoice ~~((showing an estimate of the quarterly amounts)).~~

(4) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For those companies subject to RCW 81.24.010 the portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

(5) Any company wishing to contest the amount of the fee imposed under this section must pay the fee and, within 6 months of the due date of the fee, file a petition in writing with the commission requesting a refund. The petition shall state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; and any reasons why the commission may not impose the fee. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

AMENDATORY SECTION (Amending Docket No. UG-010522, General Order No. R-497, filed 1/4/02, effective 2/4/02)

WAC 480-93-240 Annual pipeline safety fee methodology. (1) Every gas company and every interstate gas pipeline company subject to inspection or enforcement by the commission will pay an annual pipeline safety fee as established in the methodology set forth in section (2) below.

(2) The fee will be set by general order of the commission entered before July 1 of each year and will be collected in four equal installments payable on the first day of each calendar quarter ~~((, beginning July 1, 2001)).~~

(a) The total of pipeline safety fees will be calculated to recover no more than the costs of the legislatively authorized workload represented by current appropriations, less the amount received in ~~((federal funds))~~ total base grants through the Federal Department of Transportation ~~((s Natural Gas Pipeline Safety Program base grant))~~ and less any amount received from penalties collected under RCW 19.122.050. Federal grants, other than the federal base grant, received by the commission for additional activities not included or anticipated in the legislatively directed workload will not be credited against company pipeline safety fees, nor will the work supported by such grants be considered a cost for purposes of calculating such fees. To the extent that the actual base grant proceeds are different than the amount credited, the difference will be applied in the following year.

(b) Total pipeline safety fees as determined in ~~((subsection))~~ (a) of this subsection will be ~~((divided between gas companies and interstate gas pipeline companies based on two components))~~ calculated in two parts:

(i) ~~((The first component is direct assignment of average costs associated with a company's standard inspections, including the average number of inspection days per year, which will be determined annually. Standard inspections are conducted to comply with the state's participation requirement under the "Guidelines for States Participating in the Pipeline Safety Program" of the Federal Department of Transportation, Office of Pipeline Safety.~~

~~((ii) The second component is an allocation of the remaining program costs that are not directly assigned in (i). Distribution of these costs between gas companies and interstate gas pipeline companies will be based on miles of transmission lines as defined in WAC 480-93-005(18) and miles of main as defined in WAC 480-93-005(12) operated within Washington state.))~~ The commission's annual overhead charge to the pipeline safety program will be allocated among companies according to each company's share of the total of all pipeline miles within Washington as reported by the companies in their annual reports to the commission.

(ii) After deducting the commission's annual overhead charge, the remainder of the total pipeline safety fee commission's annual pipeline safety program allotment will be allocated among companies in proportion to each company's share of the program staff hours that are directly attributable to particular companies. The commission will determine each company's share by dividing the total hours directly attributable to the company during the two preceding calendar years (as reflected in the program's timekeeping system) by the total of directly attributable hours for all companies over the same period.

(iii) Any program hours related to a staff investigation of an incident attributed to third-party damage resulting in penalties collected under RCW 19.122.055 will not be directly attributed to the operator of the damaged pipeline for fee-setting purposes.

(c) The commission general order setting fees pursuant to this rule will detail the specific calculation of each company's pipeline safety fee including the allocations ((of program costs between gas companies and interstate gas pipeline companies, and the specific calculation of each company's pipeline safety fee)) set forth in (b) of this subsection.

(3) ~~((By April 1 of each year every gas company and every interstate gas pipeline company subject to this section must file an annual report as prescribed by the commission that is necessary to establish the annual pipeline safety fee.))~~ By June 1 of each year the commission staff will mail to each company ~~((subject to this section))~~ an ~~((annual))~~ invoice ~~((showing an estimate of the quarterly amounts)).~~

(4) All funds received by the commission for the pipeline safety program will be deposited to the pipeline safety account. For those companies subject to RCW 80.24.010, the portion of the company's total regulatory fee applicable to pipeline safety will be transferred from the public service revolving fund to the pipeline safety account.

(5) Any company wishing to contest the amount of the fee imposed under this section must pay the fee and, within 6 months of the due date of the fee, file a petition in writing with the commission requesting a refund. The petition must state the name of the petitioner; the date and the amount paid, including a copy of any receipt, if available; the amount of the fee that is contested; and any reasons why the commission may not impose the fee. The commission may grant the petition administratively or may set the petition for adjudication or for brief adjudication.

WSR 05-17-019
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2004-08—Filed August 4, 2005,
1:50 p.m., effective September 4, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These new regulations are necessary to assure compliance with the standards prescribed by the Medicare Modernization Act (MMA) and are consistent with the amendments to the NAIC Medicare Supplement Insurance Minimum Standards Model Act that were adopted as a result of the MMA. The Centers for Medicare and Medicaid Services (CMS) requires states to implement the updated NAIC model amendments by September 8, 2005.

Citation of Existing Rules Affected by this Order: Repealing WAC 284-66-077; and amending WAC 284-66-010 through 284-66-400.

Statutory Authority for Adoption: RCW 48.02.060 and 48.66.165.

Adopted under notice filed as WSR 05-13-182 on June 22, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 13, 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 21, 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.

Date Adopted: August 4, 2005.

Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-010 Purpose. The purpose of this chapter is to ~~((effectuate the provisions of RCW 48.20.450, 48.20.460 and 48.20.470, 48.30.010, 48.44.020, 48.44.050, 48.44.070, 48.46.030, 48.46.130, 48.46.200, and to))~~ supplement the requirements of chapter 48.66 RCW, the Medicare Supplemental Health Insurance Act; to assure the orderly implementation and conversion of Medicare supplement insurance benefits and premiums due to changes in the federal Medicare program; to provide for the reasonable simplification and standardization of the coverage, terms, and benefits of Medicare supplement insurance policies and certificates, and to eliminate policy provisions ~~((which))~~ that may duplicate Medicare benefits as the federal Medicare program changes; to facilitate public understanding and comparison of ~~((such))~~ policies and to eliminate provisions contained in ~~((such))~~ policies ~~((which))~~ that may be misleading or confusing; to establish minimum standards for Medicare supplement insurance; an "outline of coverage" and other disclosure requirements; to prohibit the use of certain provisions in Medicare supplemental insurance policies; to define and prohibit certain acts and practices as unfair methods of competition or unfair or deceptive acts or practices; and to establish loss ratio requirements, policy reserves, filing and reporting procedures.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-020 Applicability and scope. (1) Subject to subsection (2) of this section, except as provided by federal law, chapter 48.66 RCW, or as otherwise specifically provided by this chapter, this chapter ~~((shall apply))~~ applies to every group and individual policy of disability insurance and to every subscriber contract of an issuer (other than a policy issued ~~((pursuant to))~~ under a contract ~~((under))~~ provided for in section 1876 of the Social Security Act [42 U.S.C. section 1395 et seq.] or an issued policy under a demonstration project specified in 42 U.S.C. section 1395ss (g)(1), ~~((which))~~ that relates its benefits to Medicare, or ~~((which))~~ is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare. All such policies or contracts are referred to in this chapter as "Medicare supplemental insurance" or "Medicare supplement insurance policy" or "Medicare supplement coverage."

(2)(a) Medicare supplement insurance policies delivered ~~((prior to))~~ before January 1, 1989, ~~((which))~~ that are renewable solely at the option of the insured by the timely payment of premium ~~((shall be))~~ are subject to the provisions of this

chapter except with respect to WAC 284-66-060, 284-66-200, 284-66-210, 284-66-310, and 284-66-350. To the extent that the provisions of this chapter do not apply to ~~((such))~~ these policies, chapter 284-55 WAC ~~((shall apply))~~ applies.

(b) Medicare supplement insurance policies delivered between January 1, 1989, and December 31, 1989, ~~((and which))~~ that are renewable solely at the option of the insured by the timely payment of premium ~~((shall be))~~ are governed by this chapter except with respect to the requirements of WAC 284-66-210 and 284-66-350.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-030 Definitions. For purposes of this chapter:

(1) "Applicant" means:

(a) In the case of an individual Medicare supplement insurance policy, the person who seeks to contract for insurance benefits; and

(b) In the case of a group Medicare supplement insurance policy, the proposed certificate holder.

(2) "Certificate" means any certificate delivered or issued for delivery in this state under a group Medicare supplement insurance policy regardless of the situs of the group master policy.

(3) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(4) "Issuer" includes insurance companies, fraternal benefit societies, health care service contractors, health maintenance organizations, and any other entity delivering or issuing for delivery Medicare supplement policies or certificates.

(5) "Direct response issuer" means an issuer who, as to a particular transaction, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance agent.

(6) "Disability insurance" is insurance against bodily injury, disablement or death by accident, against disablement resulting from sickness, and every insurance ~~((appertaining thereto))~~ relating to disability insurance. For purposes of this chapter, disability insurance ~~((shall))~~ includes policies or contracts offered by any issuer.

(7) "Health care expense costs," for purposes of WAC 284-66-200(4), means expenses of a health maintenance organization or health care service contractor associated with the delivery of health care services ~~((which expenses))~~ that are analogous to incurred losses of insurers. ~~((Such expenses shall not include home office and overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, and "claims" processing costs.))~~

(8) "Policy" includes agreements or contracts issued by any issuer.

(9) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(10) "Premium" means all sums charged, received, or deposited as consideration for a Medicare supplement insurance policy or the continuance thereof. An assessment or a membership, contract, survey, inspection, service, or other

similar fee or charge made by the issuer in consideration for ~~((such))~~ the policy is deemed part of the premium. "Earned premium" ~~((shall))~~ means the "premium" applicable to an accounting period whether received before, during or after ~~((such))~~ that period.

(11) "Replacement" means any transaction ~~((in which))~~ where new Medicare supplement coverage is to be purchased, and it is known or should be known to the proposing agent or other representative of the issuer, or to the proposing issuer if there is no agent, that by reason of ~~((such))~~ the transaction, existing Medicare supplement coverage has been or is to be lapsed, surrendered or otherwise terminated.

(12) "Secretary" means the Secretary of the United States Department of Health and Human Services.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-040 Policy definitions and terms. No policy or certificate may be advertised, solicited, issued for delivery in this state ~~((after July 1, 1992,))~~ as a Medicare supplement insurance policy or certificate unless ~~((such))~~ the policy or certificate contains definitions or terms ~~((which))~~ that conform to the requirements of this section.

(1) "Accident," "accidental injury," or "accidental means" ~~((shall))~~ must be defined to employ "result" language and ~~((shall))~~ may not include words ~~((which))~~ that establish an accidental means test or use words such as "external, violent, visible wounds" or similar words or description or characterization.

(a) The definition ~~((shall))~~ may not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person ~~((which))~~ that is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force."

(b) ~~((Such))~~ The definition may provide that injuries ~~((shall))~~ do not include those injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless prohibited by law.

(2) "Benefit period" or "Medicare benefit period" may not be defined more restrictively than as defined in the Medicare program.

(3) "Convalescent nursing home," "extended care facility," or "skilled nursing facility" ~~((shall))~~ may not be defined more restrictively than as defined in the Medicare program.

~~((3))~~ (4) "Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Health Care Organizations, but not more restrictively than as defined in the Medicare program.

~~((4))~~ (5) "Medicare" ~~((shall))~~ must be defined in the policy and certificate ~~((-Medicare may be defined))~~ as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended," ~~((or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-ninth Congress of the United States of America and popularly known as the Health Insurance for the~~

~~Aged Act, as then constituted and any later amendments or substitutes thereof," or words of similar import.~~

~~(5))~~ (6) "Medicare eligible expenses" means expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare.

(7) "Physician" ~~((shall))~~ may not be defined more restrictively than as defined in the Medicare program.

~~((6))~~ (8) "Sickness" ~~((shall))~~ may not be defined to be more restrictive than the following: "Sickness means illness or disease of an insured person ~~((which))~~ that first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-050 Policy provisions. (1) No policy may be advertised, solicited, or issued for delivery in this state as a Medicare supplement insurance policy unless ~~((such policy))~~ it meets or exceeds the requirements ~~((for such policies))~~ imposed by chapter 48.66 RCW.

(2) ~~((No))~~ A Medicare supplement policy or certificate in force in this state ~~((shall))~~ may not contain benefits ~~((which))~~ that duplicate benefits provided by Medicare.

(3) Except for permitted preexisting condition clauses as described in WAC 284-66-063 (1)(a) no policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if ~~((such))~~ the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare.

(4) The terms "Medicare supplement," "Medicare wrap-around," "Medigap," or words of similar import ~~((shall))~~ may not be used to describe an insurance policy unless ~~((such))~~ the policy is issued in compliance with chapter 48.66 RCW and this chapter.

(5) Subject to WAC 284-66-063 (1)(c), a Medicare supplement policy with benefits for outpatient prescription drugs in existence before January 1, 2006, must be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

(6) A Medicare supplement policy with benefits for outpatient prescription drugs may not be issued after December 31, 2005.

(7) After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs may not be renewed after the policyholder enrolls in Medicare Part D unless:

(a) The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan; and

(b) Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-060 Minimum benefit standards. The requirements of this section apply to Medicare supplement policies and certificates issued or issued for delivery in this state during the period beginning January 1, 1990, and ending June 30, 1992, as well as all guaranteed renewable Medicare supplement policies delivered to residents of this state during 1989 ~~((and which))~~ that were ~~((conformed))~~ modified to meet the minimum benefit standards of this section ~~((pursuant to))~~ under the Medicare Catastrophic Coverage Act. Minimum standards for "standardized" policies and certificates are provided ~~((at))~~ in WAC 284-66-063. ~~((Effective July 1, 1992, only policies meeting the standards of WAC 284-66-063 may be advertised, solicited, or issued for delivery in this state. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.))~~

(1) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the 61st day through the 90th day in any Medicare benefit period;

(2) Coverage for either all or none of the Medicare Part A inpatient hospital deductible amount;

(3) Coverage of Part A Medicare eligible expenses incurred as daily hospital charges during use of Medicare's lifetime hospital inpatient reserve days;

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, coverage of ninety percent of all Medicare Part A eligible expenses for hospitalization not covered by Medicare subject to a lifetime maximum benefit of an additional three hundred sixty-five days;

(5) Coverage under Medicare Part A for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations or already paid for under Part B;

(6) Coverage for the coinsurance amount of Medicare eligible expenses under Part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket amount equal to the Medicare Part B deductible;

(7) Coverage under Medicare Part B for the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations), unless replaced in accordance with federal regulations or already paid for under Part A, subject to the Medicare deductible amount.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-063 Benefit standards for policies or certificates issued or delivered ~~((on or))~~ after ~~((July 1))~~ June 30, 1992. ~~((Only Medicare supplement policies or certificates meeting the requirements of this chapter may be delivered or issued for delivery in this state on or after July 1, 1992. After that date,))~~ No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state

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as a Medicare supplement policy or certificate unless it complies with these benefit standards.

(1) General standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation.

(a) A Medicare supplement policy or certificate ~~((shall))~~ may not exclude or limit benefits for losses incurred more than three months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within three months before the effective date of coverage.

(b) ~~((No))~~ A Medicare supplement policy or certificate ~~((shall))~~ may not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(c) Each Medicare supplement policy ~~((shall))~~ must be guaranteed renewable and:

(i) The issuer ~~((shall))~~ may not cancel or nonrenew the policy solely on the ground of health status of the individual; and

(ii) The issuer ~~((shall))~~ may not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

(iii) If the Medicare supplement policy is terminated by the group policy holder and is not replaced as provided under (c)(v) of this subsection, the issuer ~~((shall))~~ must offer certificateholders an individual Medicare supplement policy ~~((which))~~ that (at the option of the certificateholder) provides for continuation of the benefits contained in the group policy, or provides for ~~((such))~~ benefits ~~((as))~~ that otherwise meet~~((s))~~ the requirements of this subsection.

(iv) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer ~~((shall))~~ must offer the certificateholder the conversion opportunity described in (c)(iii) of this subsection, or at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

(v) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy ~~((shall))~~ must offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy ~~((shall))~~ may not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.

(d) Termination of a Medicare supplement policy or certificate ~~((shall))~~ must be without prejudice to any continuous loss ~~((which commenced))~~ that began while the policy was in force, but the extension of benefits beyond the period ~~((during which))~~ that the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss.

(e) If a Medicare supplement policy or certificate eliminates an outpatient prescription drug benefit as a result of requirements imposed by the Medicare Prescription Drug Improvement and Modernization Act of 2003, the modified policy or certificate is deemed to satisfy the guaranteed renewal requirements of this section.

(f)(i) A Medicare supplement policy or certificate ((shall)) must provide that benefits and premiums under the policy or certificate ((shall)) be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four months) ((in which)) that the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of ((such)) the policy or certificate within ninety days after the date the individual becomes entitled to ((such)) the assistance.

(ii) If ((such)) the suspension occurs and if the policyholder or certificateholder loses entitlement to ((such)) medical assistance, ((such)) the policy or certificate ((shall)) must be automatically reinstated ((effective as of the date of termination of ((such)) the entitlement)) if the policyholder or certificateholder provides notice of loss of ((such)) the entitlement within ninety days after the date of ((such)) the loss and pays the premium attributable to the period ((effective as of the date of termination of such entitlement)).

(iii) Each Medicare supplement policy must provide that benefits and premiums under the policy will be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226(b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy must be automatically reinstated (effective as of the date of loss of coverage within ninety days after the date of the loss).

(g) Reinstatement of ((such)) the coverages;

~~((A))~~ (i) May not provide for any waiting period with respect to treatment of preexisting conditions;

~~((B))~~ (ii) Must provide for resumption of coverage ((which)) that is substantially equivalent to coverage in effect before the date of ((such)) the suspension ((and)). If the suspended Medicare Supplement policy or certificate provided coverage for outpatient prescription drugs, reinstatement of the policy for Medicare Part D enrollees must be without coverage for outpatient prescription drugs and must otherwise provide substantially equivalent coverage to the coverage in effect before the date of suspension; and

~~((C))~~ (iii) Must provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.

(2) Standards for basic ("core") benefits common to ~~((all))~~ benefit plans A-J. Every issuer ~~((shall))~~ must make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of

the other Medicare supplement insurance benefit plans in addition to the basic "core" package, but not in ~~((the~~ ~~thereof))~~ place of the basic "core" package.

(a) Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period;

(b) Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used;

(c) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent of the Medicare Part A eligible expenses for hospitalization paid at the ~~((diagnostic-related-group (DRG) day-outlier-per diem))~~ applicable prospective payment system (PPS) rate or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five days. The provider must accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Coverage under Medicare Parts A and B for the reasonable cost of the first three pints of blood (or equivalent quantities of packaged red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;

(e) Coverage for the coinsurance amount, or in the case of hospital; outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;

(3) Standards for additional benefits. The following additional benefits ~~((shall))~~ must be included in Medicare supplement benefit plans "B" through "J" only as provided by WAC 284-66-066.

(a) Medicare Part A deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.

(b) Skilled nursing facility care: Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A;

(c) Medicare Part B deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty percent of the Medicare Part B excess charges: Coverage for eighty percent of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(e) One hundred percent of the Medicare Part B excess charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge.

(f) Basic outpatient prescription drug benefit: Coverage for fifty percent of outpatient prescription drug charges, after a two hundred fifty dollar calendar year deductible, to a maximum of one thousand two hundred fifty dollars in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may not be included for sale or issuance in a Medicare supplement policy after December 31, 2005.

(g) Extended outpatient prescription drug benefit: Coverage for fifty percent of outpatient prescription drug charges, after a two hundred fifty dollar calendar year deductible to a maximum of three thousand dollars in benefits received by the insured per calendar year, to the extent not covered by Medicare. The outpatient prescription drug benefit may not be included for sale or issuance in a Medicare supplement policy after December 31, 2005.

(h) Medically necessary emergency care in a foreign country: Coverage to the extent not covered by Medicare for eighty percent of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, ~~((which care))~~ that would have been covered by Medicare if provided in the United States and ~~((which care))~~ that began during the first sixty consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars, and a lifetime maximum benefit of fifty thousand dollars. For purposes of this benefit, "emergency care" ~~((shall))~~ means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: Coverage for the following preventive health services not covered by Medicare:

(i) An annual clinical preventive medical history and physical examination that may include tests and services from ~~((i))~~(ii) of this subsection and patient education to address preventive health care measures.

(ii) ~~((Any one or a combination of the following))~~ Preventive screening tests or preventive services, the selection and frequency ~~((of which))~~ that is ~~((considered))~~ determined to be medically appropriate:(

~~((A) Fecal occult blood test and/or digital rectal examination;~~

~~((B) Mammogram;~~

~~((C) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria;~~

~~((D) Pure tone (air only) hearing screening test, administered or ordered by a physician;~~

~~((E) Serum cholesterol screening (every five years);~~

~~((F) Thyroid function test;~~

~~((G) Diabetes screening.~~

~~((iii) Influenza vaccine administered at any appropriate time during the year and Tetanus and Diphtheria booster (every ten years).~~

~~((iv) Any other tests or preventive measures determined appropriate))~~ by the attending physician.

Reimbursement ~~((shall))~~ must be for the actual charges up to one hundred percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in *American Medical Association Current Procedural Terminology (AMA CPT)* codes, to a maximum of one hundred twenty dollars annually under this benefit. This benefit ~~((shall))~~ may not include payment for any procedure covered by Medicare.

(j) At-home recovery benefit: Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery.

(i) For purposes of this benefit, the following definitions (~~shall~~) apply:

(A) "Activities of daily living" include, but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(B) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(C) "Home" (~~shall~~) means any place used by the insured as a place of residence, provided that (~~such~~) the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility (~~shall~~) is not (~~be~~) considered the insured's place of residence.

(D) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive four hours in a twenty-four hour period of services provided by a care provider is one visit.

(ii) Coverage requirements and limitations.

(A) At-home recovery services provided must be primarily services (~~which~~) that assist in activities of daily living.

(B) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

(C) Coverage is limited to:

(I) No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits (~~shall~~) may not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment.

(II) The actual charges for each visit up to a maximum reimbursement of forty dollars per visit.

(III) One thousand six hundred dollars per calendar year.

(IV) Seven visits in any one week.

(V) Care furnished on a visiting basis in the insured's home.

(VI) Services provided by a care provider as defined in this section.

(VII) At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

(VIII) At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight weeks after the service date of the last Medicare approved home health care visit.

(iii) Coverage is excluded for: Home care visits paid for by Medicare or other government programs; and care provided by family members, unpaid volunteers, or providers who are not care providers.

~~((k) New or innovative benefits: An issuer may, with the prior approval of the commissioner, offer policies or cer-~~

~~tificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. Such new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.)~~ (3) Standardized Medicare supplement benefit plan "K" must consist of the following:

(a) Coverage of one hundred percent of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period;

(b) Coverage of one hundred percent of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period;

(c) Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five days. The provider must accept the issuer's payment as payment in full and may not bill the insured for any balance;

(d) Medicare Part A deductible: Coverage for fifty percent of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in (j) of this subsection;

(e) Skilled nursing facility care: Coverage for fifty percent of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in (j) of this subsection;

(f) Hospice care: Coverage for fifty percent of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in (j) of this subsection;

(g) Coverage for fifty percent, under Medicare Part A or B, of the reasonable cost of the first three pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulation) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in (j) of this subsection;

(h) Except for coverage provided in (i) of this subsection, coverage for fifty percent of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in (j) of this subsection;

(i) Coverage of one hundred percent of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and

(j) Coverage of one hundred percent of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary of the U.S. Department of Health and Human Services.

(4) Standardized Medicare supplement benefit plan "L" must consist of the following:

(a) The benefits described in subsection (3)(a),(b),(c) and (i) of this section;

(b) The benefit described in subsection (3)(d),(e),(f) and (h) of this section but substituting seventy-five percent for fifty percent; and

(c) The benefit described in subsection (3)(j) of this section but substituting two thousand dollars for four thousand dollars.

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

AMENDATORY SECTION (Amending Order R 92-7, filed 8/19/92, effective 9/19/92)

WAC 284-66-066 Standard Medicare supplement benefit plans. (1) An issuer ~~((shall))~~ must make available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic "core" benefits, as defined in WAC 284-66-063(2) of this regulation.

(2) No groups, packages, or combinations of Medicare supplement benefits other than those listed in this section ~~((shall))~~ may be offered for sale in this state, except as ~~((may be))~~ permitted in WAC ~~((284-66-063(3)(k)))~~ 284-66-066(7) and in WAC 284-66-073.

(3) Benefit plans ~~((shall))~~ must be uniform in structure, language, designation, and format to the standard benefit plans "A" through ~~((J))~~ "L" listed in this subsection and conform to the definitions in WAC 284-66-030 and 284-66-040. Each benefit ~~((shall))~~ must be structured ~~((in accordance with))~~ according to the format provided in WAC 284-66-063(2) ~~((and 284-66-063(3)))~~, (3) or (4) and list the benefits in the order shown in this subsection. For purposes of this section, "structure, language, and format" means style, arrangement, and overall content of benefit.

(4) An issuer may use, in addition to the benefit plan designations required in subsection (3) of this section, other designations to the extent permitted by law.

(5) Make-up of benefit plans:

(a) Standardized Medicare supplement benefit plan "A" ~~((shall))~~ must be limited to only the basic ("core") benefits common to all benefit plans, as defined ~~((at))~~ in WAC 284-66-063(2).

(b) Standardized Medicare supplement benefit plan "B" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible as defined ~~((at))~~ in WAC 284-66-063 (3)(a).

(c) Standardized Medicare supplement benefit plan "C" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible and medically necessary emergency care in a foreign country as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (c), and (h), respectively.

(d) Standardized Medicare supplement plan "D" ~~((shall include))~~ consists of only the following: The core benefit, as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, medically neces-

sary emergency care in a foreign country and the at-home recovery benefit as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (h), and (j), respectively.

(e) Standardized Medicare supplement benefit plan "E" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country and preventive medical care as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (h), and (i), respectively.

(f) Standardized Medicare supplement benefit plan "F" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, the skilled nursing facility care, the Part B deductible, one hundred percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (c), (e), and (h), respectively.

(g) Standardized Medicare supplement benefit high deductible plan "F" consists of only the following: One hundred percent of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, one hundred percent of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in WAC 284-66-063 (3)(a), (b), (c), (e) and (h) respectively. The annual high deductible plan "F" deductible must consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and must be in addition to any other specific benefit deductibles. The annual high deductible plan "F" deductible is one thousand seven hundred thirty dollars for 2005, and is based on the calendar year. The deductible will be adjusted annually by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars.

(h) Standardized Medicare supplement benefit plan "G" ~~((shall include))~~ consists of only the following: The core benefit as defined at WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, eighty percent of the Medicare Part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (d), (h), and (j), respectively.

~~((h))~~ (i) Standardized Medicare supplement benefit plan "H" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, basic prescription drug benefit, and medically necessary emergency care in a foreign country as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (f), and (h), respectively. The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

~~((h))~~ (j) Standardized Medicare supplement benefit plan "I" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, one

hundred percent of the Medicare Part B excess charges, basic prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (e), (f), (h), and (j), respectively. The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

~~((k))~~ (k) Standardized Medicare supplement benefit plan "J" ~~((shall include))~~ consists of only the following: The core benefit as defined ~~((at))~~ in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent of the Medicare Part B excess charges, extended prescription drug benefit, medically necessary emergency care in a foreign country, preventative medical care, and at-home recovery benefit as defined ~~((at))~~ in WAC 284-66-063 (3)(a), (b), (c), (e), (g), (h), (i), and (j), respectively. The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

(l) Standardized Medicare supplement benefit high deductible plan "J" consists of only the following: One hundred percent of covered expenses following the payment of the annual high deductible plan "J" deductible. The covered expenses include the core benefit as defined in WAC 284-66-063(2), plus the Medicare Part A deductible, skilled nursing facility care, Medicare Part B deductible, one hundred percent of the Medicare Part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventative medical care benefit and at-home recovery benefit as defined in WAC 284-66-063 (3)(a), (b), (c), (e), (g), (h), (i) and (j) respectively. The annual high deductible plan "J" deductible must consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "J" policy, and must be in addition to any other specific benefit deductibles. The annual deductible is one thousand seven hundred thirty dollars for 2005, and is based on the calendar year. The deductible will be adjusted annually by the secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars. The outpatient prescription drug benefit may not be included in a Medicare supplement policy sold after December 31, 2005.

(6) Make-up of two Medicare supplement plans mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA):

(a) Standardized Medicare supplement benefit plan "K" consists of only those benefits described in WAC 284-66-063(3).

(b) Standardized Medicare supplement benefit plan "L" consists of only those benefits described in WAC 284-66-063(4).

(7) New or innovative benefits: An issuer may, with the prior approval of the commissioner, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. The new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise

available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies. After December 31, 2005, the innovative benefits may not include an outpatient prescription drug benefit.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-073 Medicare SELECT policies and certificates. (1)(a) This section ~~((shall apply))~~ applies to Medicare SELECT policies and certificates, as defined in this section.

(b) No policy or certificate may be advertised as a Medicare SELECT policy or certificate unless it meets the requirements of this section.

(2) For the purposes of this section:

(a) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare SELECT issuer or its network providers.

(b) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare SELECT policy or certificate with the administration, claims practices, or provision of services concerning a Medicare SELECT issuer or its network providers.

(c) "Medicare SELECT issuer" means an issuer offering, or seeking to offer, a Medicare SELECT policy or certificate.

(d) "Medicare SELECT policy" or "Medicare SELECT certificate" means respectively a Medicare supplement policy or certificate that contains restricted network provisions.

(e) "Network provider" means a provider of health care, or a group of providers of health care, ~~((which))~~ that has entered into a written agreement with the issuer to provide benefits insured under a Medicare SELECT policy.

(f) "Restricted network provision" means any provision ~~((which))~~ that conditions the payment of benefits, in whole or in part, on the use of network providers.

(g) "Service area" means the geographic area approved by the commissioner ~~((within which))~~ where an issuer is authorized to offer a Medicare SELECT policy.

(3) The commissioner may authorize an issuer to offer a Medicare SELECT policy or certificate, ~~((pursuant to))~~ under this section and section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 if the commissioner finds that the issuer has satisfied all of the requirements of this regulation.

(4) A Medicare SELECT issuer ~~((shall))~~ may not issue a Medicare SELECT policy or certificate in this state until its plan of operation has been approved by the commissioner.

(5) A Medicare SELECT issuer ~~((shall))~~ must file a proposed plan of operation with the commissioner in a format prescribed by the commissioner. The plan of operation ~~((shall))~~ must contain at least the following information:

(a) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:

(i) ~~((Such))~~ The services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation and after-hour care. The hours of operation and availability of after-hour care ~~((shall))~~ must reflect usual practice in the local area. Geographic

availability ((shall)) must reflect the usual travel times within the community.

(ii) The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either:

(A) To deliver adequately all services that are subject to a restricted network provision; or

(B) To make appropriate referrals.

(iii) There are written agreements with network providers describing specific responsibilities.

(iv) Emergency care is available twenty-four hours per day and seven days per week.

(v) In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting ((such)) the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare SELECT policy or certificate. This paragraph ((shall)) does not apply to supplemental charges or coinsurance amounts as stated in the Medicare SELECT policy or certificate.

(b) A statement or map providing a clear description of the service area.

(c) A description of the grievance procedure to be ((utilized)) used.

(d) A description of the quality assurance program, including:

(i) The formal organizational structure;

(ii) The written criteria for selection, retention, and removal of network providers; and

(iii) The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted.

(e) A list and description, by specialty, of the network providers.

(f) Copies of the written information proposed to be used by the issuer to comply with subsection (9) of this section.

(g) Any other information requested by the commissioner.

(6)(a) A Medicare SELECT issuer ((shall)) must file any proposed changes to the plan of operation, except for changes to the list of network providers, with the commissioner ((prior to)) before implementing ((such)) the changes. ((Such)) The changes ((shall)) will be considered approved by the commissioner after thirty days unless specifically disapproved.

(b) An updated list of network providers ((shall)) must be filed with the commissioner at least quarterly.

(7) A Medicare SELECT policy or certificate ((shall)) may not restrict payment for covered services provided by nonnetwork providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or a condition; and

(b) It is not reasonable to obtain ((such)) the services through a network provider.

(8) A Medicare SELECT policy or certificate ((shall)) must provide payment for full coverage under the policy for covered services that are not available through network providers.

(9) A Medicare SELECT issuer ((shall)) must make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare SELECT policy or certificate to each applicant. This disclosure ((shall)) must include at least the following:

(a) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare SELECT policy or certificate with:

(i) Other Medicare supplement policies or certificates offered by the issuer; and

(ii) Other Medicare SELECT policies or certificates.

(b) A description (including address, phone number, and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in plans K and L.

(c) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are ((utilized)) used.

(d) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(e) A description of limitations on referrals to restricted network providers and to other providers.

(f) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer.

(g) A description of the Medicare SELECT issuer's quality assurance program and grievance procedure.

(10) ((Prior to)) Before the sale of a Medicare SELECT policy or certificate, a Medicare SELECT issuer ((shall)) must obtain from the applicant a signed and dated form stating that the applicant has received the information provided ((pursuant to)) under subsection (9) of this section and that the applicant understands the restrictions of the Medicare SELECT policy or certificate.

(11) A Medicare SELECT issuer ((shall)) must have and use procedures for hearing complaints and resolving written grievances from the subscribers. ((Such)) The procedures ((shall)) must be aimed at mutual agreement for settlement and may include arbitration procedures.

(a) The grievance procedure ((shall)) must be described in the policy and certificates and in the outline of coverage.

(b) At the time the policy or certificate is issued, the issuer ((shall)) must provide detailed information to the policyholder describing how a grievance may be registered with the issuer.

(c) Grievances ((shall)) must be considered in a timely manner and ((shall)) must be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.

(d) If a grievance is found to be valid, corrective action ((shall)) must be taken promptly.

(e) All concerned parties ((shall)) must be notified about the results of a grievance.

(f) The issuer ((shall)) must report no later than each March 31st to the commissioner regarding its grievance procedure. The report ((shall)) must be in a format prescribed by the commissioner and ((shall)) must contain the number of

grievances filed in the past year and a summary of the subject, nature, and resolution of ~~((sueh))~~ the grievances.

(12) At the time of initial purchase, a Medicare SELECT issuer ~~((shah))~~ must make available to each applicant for a Medicare SELECT policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

(13)(a) At the request of an individual insured under a Medicare SELECT policy or certificate, a Medicare SELECT issuer ~~((shah))~~ must make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer ~~((whieh))~~ that has comparable or lesser benefits and ~~((whieh))~~ does not contain a restricted network provision. The issuer ~~((shah))~~ must make ~~((sueh))~~ the policies or certificates available without requiring evidence of insurability after the Medicare supplement policy or certificate has been in force for ~~((six))~~ three months.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare SELECT policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, ~~((coverage for prescription drugs,))~~ coverage for at-home recovery services, or coverage for Part B excess charges.

(14) Medicare SELECT policies and certificates ~~((shah))~~ must provide for continuation of coverage in the event the Secretary of Health and Human Services determines that Medicare SELECT policies and certificates issued ~~((pursuant to))~~ under this section should be discontinued due to either the failure of the Medicare SELECT program to be reauthorized under law or its substantial amendment.

(a) Each Medicare SELECT issuer ~~((shah))~~ must make available to each individual insured under a Medicare SELECT policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer ~~((whieh))~~ that has comparable or lesser benefits and ~~((whieh))~~ does not contain a restricted network provision. The issuer ~~((shah))~~ must make ~~((sueh))~~ the policies and certificates available without requiring evidence of insurability.

(b) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare SELECT policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, ~~((coverage for prescription drugs,))~~ coverage for at-home recovery services, or coverage for Part B excess charges.

(15) A Medicare SELECT issuer ~~((shah))~~ must comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare SELECT program.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-080 Outline of coverage required. (1) Issuers ~~((shah))~~ must provide an outline of coverage to all applicants at the time an application is presented to the prospective applicant and, except for direct response policies and certificates, ~~((shah))~~ must obtain an acknowledgement of receipt of ~~((sueh))~~ the outline from the applicant.

(2) The "outline of coverage," ~~((shah))~~ must be completed in substantially the form set forth in WAC 284-66-092. The form of outline of coverage ~~((shah))~~ must be filed with the commissioner ~~((prior to use))~~ before being used in this state.

(3) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis ~~((whieh))~~ that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany ~~((sueh))~~ the policy or certificate when it is delivered and contain the following statement, in no less than twelve point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

(4) The outline of coverage provided to applicants ~~((pursuant to))~~ set forth in this section consists of four parts: A cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage ~~((shah))~~ must be in the language and format prescribed in WAC 284-66-092 in no less than twelve point type. All plans ~~((A-J shah))~~ A-L must be shown on the cover page, and the plan(s) that are offered by the issuer ~~((shah))~~ must be prominently identified. Premium information for plans that are offered ~~((shah))~~ must be shown on the cover page or immediately following the cover page and ~~((shah))~~ must be prominently displayed. The premium and mode ~~((shah))~~ must be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant ~~((shah))~~ must be illustrated.

(5) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or health maintenance organization ~~((shah))~~ must substitute appropriate terminology.

AMENDATORY SECTION (Amending Order R 92-7, filed 8/19/92, effective 9/19/92)

WAC 284-66-092 Form of "outline of coverage." (1) Cover page.

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page:

Benefit Plan(s) _____ [insert letter(s) of plan(s) being offered]

See Outlines of Coverage sections for details about ALL plans

~~((Medicare supplement insurance can be sold in only ten standard plans. This))~~ These charts show((s)) the benefits included in each of the standard Medicare supplement plans. Every company must make available Plan "A". Some plans may not be available in your state.

((BASIC BENEFITS: Included in All Plans:)) Basic Benefits for Plans A-J
 Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
 Medical Expenses: Part B coinsurance (generally 20% of Medicare-approved expenses) or copayments for hospital outpatient services.
 Blood: First three pints of blood each year.

A	B	C	D	E	F/F*	G	H	I	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
		Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance	Skilled Nursing Facility Co-Insurance
	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
		Part B Deductible			Part B Deductible				Part B Deductible
					Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)
		Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery			At-Home Recovery		At-Home Recovery	At-Home Recovery
							((Basic Drugs (\$1,250 Limit))	Basic Drugs (\$1,250 Limit)	Extended-Drugs (3,000 Limit))
				Preventive Care <u>NOT covered by Medicare</u>					Preventive Care <u>NOT covered by Medicare</u>

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*Plans F and J also have an option called a high deductible plan F and a high deductible plan J. These high deductible plans pay the same benefits as plans F and J after one has paid a calendar year [\$] deductible. Benefits from high deductible plans F and J will not begin until out-of-pocket expenses exceed [\$]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but do not include the plan's separate foreign travel emergency deductible.
 [Company Name] does not offer the [high deductible plan F] [high deductible plan J] [high deductible plan F or J].

[COMPANY NAME]

Outline of Medicare Supplement Coverage-Cover Page 2

Basic Benefits for plans K and L include similar services as plans A-J, but cost-sharing for the basic benefits is at different levels.

J	K**	L**
Basic Benefits	<u>100% of Part A Hospitalization Coinsurance plus coverage for 365 Days after Medicare Benefits End</u> <u>50% Hospice cost-sharing</u> <u>50% of Medicare-eligible expenses for the first three pints of blood</u> <u>50% Part B Coinsurance, except 100% Coinsurance for Part B Preventative Services</u>	<u>100% of Part A Hospitalization Coinsurance plus coverage for 365 Days after Medicare Benefits End</u> <u>75% Hospice cost-sharing</u> <u>75% of Medicare-eligible expenses for the first three pints of blood</u> <u>75% Part B Coinsurance, except 100% Coinsurance for Part B Preventative Services</u>
Skilled Nursing Coinsurance	50% Skilled Nursing Facility Coinsurance	75% Skilled Nursing Facility Coinsurance
Part A Deductible	50% Part A Deductible	75% Part A Deductible
Part B Deductible		
Part B Excess (100%)		
Foreign Travel Emergency		
At-Home Recovery		
Preventative Care NOT covered by Medicare		
	\$[] Out-of-Pocket Annual Limit***	\$[] Out-of-Pocket Annual Limit***

**Plan K and L provide for different cost-sharing for items and services A-J.

Once you reach the annual limit, the plan pays 100% of the Medicare copayments, coinsurance, and deductibles for the rest of calendar year. The out-of-pocket annual limit does NOT include charges from your provider that exceed Medicare-approved amounts, called "Excess Charges." You will be responsible for paying excess charges.

***The out-of-pocket annual limit will increase each year for inflation.

See Outlines of Coverage for details and exceptions.

(2) Disclosure page(s):

PREMIUM INFORMATION [Boldface Type]

We [insert issuer's name] can only raise your premium if we raise the premium for all policies like yours in this state.

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY [Boldface Type]

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the pol-

icy back to us within thirty days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

[for agents:]

Neither [insert company's name] nor its agents are connected with Medicare.

[for direct response:]

[insert company's name] is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or

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consult (~~"The Medicare Handbook"~~) Medicare and You for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified in the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in the charts below. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this regulation. An issuer may use additional benefit plan designations on these charts (~~pursuant to~~) as noted in WAC 284-66-066(4).]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner.]

(3) Charts displaying the feature of each benefit plan offered by the issuer:

PLAN A

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$(652) []	\$0	\$(652) [] (Part A deductible)
61st thru 90th day	All but \$(163) [] a day	\$(163) [] a day	\$0
91st day and after: --- While using 60 lifetime reserve days	All but \$(326) [] a day	\$(326) [] a day	\$0
--- Once lifetime reserve days are used: --- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
--- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$(81.50) \$[]/day	\$0	Up to \$(81.50) \$[] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN A

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((~~\$100~~)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (Above Medicare approved amounts)	\$0	\$0	All costs
BLOOD First 3 pints	\$0	All costs	\$0
Next ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PLAN A

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES - - - Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- - - Durable medical equipment First ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0

PLAN B

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but ((\$652)) \$[]	(((\$652)) \$[] (Part A deductible)	\$0
61st thru 90th day	All but ((\$163)) \$[] a day	(((\$163)) \$[] a day	\$0
91st day and after: --- While using 60 lifetime reserve days	All but ((\$326)) \$[] a day	(((\$326)) \$[] a day	\$0
--- Once lifetime reserve days are used: --- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
--- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but ((\$81.50)) \$[]/day	\$0	Up to ((\$81.50)) \$[] a day
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PERMANENT

PLAN B

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((~~\$100~~)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 Generally 80% \$0	\$0 Generally 20% \$0	((\$100)) \$[] (Part B deductible) \$0 All costs
BLOOD First 3 pints Next ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$0 20%	\$0 ((\$100)) \$[] (Part B deductible) \$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PLAN B

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES - - - Medically necessary skilled care services and medical supplies - - - Durable medical equipment First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts	100% \$0 80%	\$0 \$0 20%	\$0 ((\$100)) \$[] (Part B deductible) \$0
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PLAN C

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days	All but ((\$652)) \$[]	((\$652)) \$[] (Part A deductible)	\$0
61st thru 90th day	All but ((\$163)) \$[] a day	((\$163)) \$[] a day	\$0
91st day and after: --- While using 60 lifetime reserve days	All but ((\$326)) \$[] a day	((\$326)) \$[] a day	\$0
--- Once lifetime reserve days are used: --- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
--- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but ((\$81.50)) \$[]/day	Up to ((\$81.50)) \$[] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

PERMANENT

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN C

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((~~\$100~~) \$[]) of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100) \$[]) of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 Generally 80% \$0	 ((\$100) \$[]) (Part B deductible) Generally 20% \$0	\$0 \$0 All costs
BLOOD First 3 pints Next ((\$100) \$[]) of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs ((\$100) \$[]) (Part B deductible) 20%	\$0 \$0 \$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PLAN C

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES - - - Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- - - Durable medical equipment First ((\$100) \$[]) of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 80%	((\$100) \$[]) (Part B deductible) 20%	\$0 \$0

PLAN C (continued)

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN D

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --- While using 60 lifetime reserve days --- Once lifetime reserve days are used: --- Additional 365 days --- Beyond the additional 365 days	All but ((\$652)) \$[] All but ((\$163)) \$[] a day All but ((\$326)) \$[] a day \$0 \$0	(((\$652)) \$[] (Part A deductible) (((\$163)) \$[] a day (((\$326)) \$[] a day 100% of Medicare eligible expenses \$0	\$0 \$0 \$0 \$0** All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but ((\$81.50)) \$[]/day \$0	\$0 Up to ((\$81.50)) \$[] a day \$0	\$0 \$0 All costs
BLOOD First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PERMANENT

PLAN D

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((~~\$100~~)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 Generally 80% \$0	\$0 Generally 20% \$0	((\$100)) \$[] (Part B deductible) \$0 All costs
BLOOD First 3 pints Next ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs \$0 20%	\$0 ((\$100)) \$[] (Part B deductible) \$0
CLINICAL LABORATORY SERVICES—((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PLAN D

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES - - - Medically necessary skilled care services and medical supplies - - - Durable medical equipment First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE	100% \$0 80%	\$0 \$0 20%	\$0 ((\$100)) E \$[] (Part B deductible) \$0

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
--- Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
--- Number of visits covered (must be received within 8 weeks of last Medicare approved visit)	\$0	Up to the number of Medicare approved visits, not to exceed 7 each week	
--- Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS - NOT COVERED BY MEDICARE

FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PERMANENT

PLAN E

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but ((\$652)) \$[]	(((\$652)) \$[] (Part A deductible))	\$0
61st thru 90th day	All but ((\$163)) \$[] a day	(((\$163)) \$[] a day)	\$0
91st day and after:			
--- While using 60 lifetime reserve days	All but ((\$326)) \$[] a day	(((\$326)) \$[] a day)	\$0
--- Once lifetime reserve days are used:			
--- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
--- Beyond the additional 365 days	\$0	\$0	All costs

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but ((\$81.50)) \$[]/day	Up to ((\$81.50)) \$[] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN E

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((\$100)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	(((\$100)) \$[] (Part B deductible))
Remainder of Medicare approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (Above Medicare approved amounts)	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	(((\$100)) \$[] (Part B deductible))
Remainder of Medicare approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PERMANENT

PLAN E

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
- - - Medically necessary skilled care services and medical supplies	100%	\$0	\$0
- - - Durable medical equipment			
First (\$100) \$[] of Medicare approved amounts*	\$0	\$0	(\$100) \$[] (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0

PLAN E (continued)

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
***PREVENTIVE MEDICARE CARE BENEFIT - NOT COVERED BY MEDICARE			
<u>Some annual physical and preventive tests and services ((such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education,)) administered or ordered by your doctor when not covered by Medicare</u>			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

***Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

[PLAN F] [HIGH DEDUCTIBLE PLAN F]

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as Plan F after one has paid a calendar year \$[] deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are \$[]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

PERMANENT

PERMANENT

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[] DEDUCTIBLE,**] PLAN PAYS	[IN ADDITION TO \$[] DEDUCTIBLE,**] YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscella- neous services and supplies First 60 days 61st thru 90th day 91st day and after: - - - While using 60 lifetime reserve days - - - Once lifetime reserve days are used: - - - Additional 365 days - - - Beyond the addi- tional 365 days	All but ((\$652)) \$[] All but ((\$163)) \$[] a day All but ((\$326)) \$[] a day \$0 \$0	(((\$652)) \$[] (Part A deductible) (((\$163)) \$[] a day (((\$326)) \$[] a day 100% of Medicare eligible expenses \$0	\$0 \$0 \$0 \$0*** All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including hav- ing been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days 21st thru 100th day 101st day and after	All approved amounts All but ((\$81.50)) \$[]/day \$0	\$0 Up to ((\$81.50)) \$[] a day \$0	\$0 \$0 All costs
BLOOD First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
HOSPICE CARE Available as long as your doc- tor certifies you are termi- nally ill and you elect to receive these services	All but very limited coinsur- ance for outpatient drugs and inpatient respite care	\$0	Balance

*****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

[PLAN F] [HIGH DEDUCTIBLE PLAN F]

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((\$100)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.
 [**This high deductible plan pays the same benefits as plan F after one has paid a calendar year \$[] deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are \$[]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	[AFTER YOU	[IN ADDITION
		PAY \$[] DEDUCTIBLE, **]	TO \$[] DEDUCTIBLE, **]
		PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 Generally 80% \$0	(((\$100)) \$[] (Part B deductible) Generally 20% 100%	\$0 \$0 \$0
BLOOD First 3 pints Next ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs (((\$100)) \$[] (Part B deductible) 20%	\$0 \$0 \$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PERMANENT

[PLAN F] [HIGH DEDUCTIBLE PLAN F]

PARTS A & B

SERVICES	MEDICARE PAYS	[AFTER YOU PAY	[IN ADDITION TO
		\$[] DEDUCTIBLE, **]	\$[] DEDUCTIBLE, **]
		PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES --- Medically necessary skilled care services and medical supplies --- Durable medical equipment First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts	100% \$0 80%	\$0 (((\$100)) \$[] (Part B deductible) 20%	\$0 \$0 \$0

PLAN F (continued)

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[] DEDUCTIBLE. **] PLAN PAYS	[IN ADDITION TO \$[] DEDUCTIBLE. **] YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum

PLAN G

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days			
61st thru 90th day	All but ((\$652)) \$[]	(((\$652)) \$[] (Part A deductible)	\$0
91st day and after: --- While using 60 lifetime reserve days	All but ((\$163)) \$[] a day	(((\$163)) \$[] a day	\$0
--- Once lifetime reserve days are used: --- Additional 365 days	All but ((\$326)) \$[] a day	(((\$326)) \$[] a day	\$0
--- Beyond the additional 365 days	\$0	100% of Medicare eligible expenses	\$0**
	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but ((\$81.50)) \$[]/day	Up to ((\$81.50)) \$[] a day	\$0
101st day and after	\$0	\$0	All costs

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
BLOOD First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN G (continued)

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((~~\$100~~)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (Above Medicare approved amounts)	\$0	80%	20%
BLOOD First 3 pints	\$0	All costs	\$0
Next ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PLAN G (continued)

PARTS A & B

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES --- Medically necessary skilled care services and medical supplies	100%	\$0	\$0

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
--- Durable medical equipment First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan --- Benefit for each visit --- Number of visits covered (must be received within 8 weeks of last Medicare approved visit) --- Calendar year maximum	\$0 80% \$0 \$0	\$0 20% Actual charges to \$40 a visit Up to the number of Medicare approved visits, not to exceed 7 each week \$1,600	((\$100)) \$[] (Part B deductible) \$0 Balance

OTHER BENEFITS - NOT COVERED BY MEDICARE

FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year Remainder of charges	\$0 \$0	\$0 80% to a lifetime maximum benefit of \$50,000	\$250 20% and amounts over the \$50,000 lifetime maximum
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PLAN H

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies First 60 days 61st thru 90th day 91st day and after: --- While using 60 lifetime reserve days --- Once lifetime reserve days are used: --- Additional 365 days --- Beyond the additional 365 days	All but ((\$652)) \$[] All but ((\$163)) \$[] a day All but ((\$326)) \$[] a day \$0 \$0	((\$652)) \$[] (Part A deductible) ((\$163)) \$[] a day ((\$326)) \$[] a day 100% of Medicare eligible expenses \$0	\$0 \$0 \$0 \$0** All costs

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but ((\$81.50)) \$[]/day	Up to ((\$81.50)) \$[] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN H

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((\$100)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	(((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	Generally 80%	Generally 20%	\$0
Part B excess charges (Above Medicare approved amounts)	\$0	100%	All costs
BLOOD			
First 3 pints	\$0	All costs	\$0
Next ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	(((\$100)) \$[] (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES— ((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PERMANENT

PLAN H

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
--- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--- Durable medical equipment			
First (\$100) \$[] of Medicare approved amounts*	\$0	\$0	(\$100) \$[] (Part B deductible)
Remainder of Medicare approved amounts	80%	20%	\$0

PLAN H (continued)

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of Charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
((BASIC OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250
Next \$2,500 each calendar year	\$0	50% - \$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs)

PLAN I

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but (\$652) \$[]	(\$652) \$[] (Part A deductible)	\$0
61st thru 90th day	All but (\$163) \$[] a day	(\$163) \$[] a day	\$0
91st day and after:			
--- While using 60 lifetime reserve days	All but (\$326) \$[] a day	(\$326) \$[] a day	\$0

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
- - - Once lifetime reserve days are used: - - - Additional 365 days - - - Beyond the additional 365 days	 \$0 \$0	100% of Medicare eligible expenses \$0	 \$0** All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days 21st thru 100th day 101st day and after	All approved amounts All but ((\$81.50)) \$[]/day \$0	\$0 Up to ((\$81.50)) \$[] a day \$0	\$0 \$0 All costs
BLOOD First 3 pints Additional amounts	\$0 100%	3 pints \$0	\$0 \$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

PERMANENT

****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN I

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((\$100)) \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100)) \$[] of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	 \$0 Generally 80% \$0	 \$0 Generally 20% 100%	 ((\$100)) \$[] (Part B deductible) \$0 \$0
BLOOD First 3 pints	\$0	All costs	\$0

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
Next ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	(((\$100)) \$[] (Part B deductible))
Remainder of Medicare approved amounts	80%	20%	\$0
CLINICAL LABORATORY SERVICES—((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

PLAN I (continued)

PARTS A & B

HOME HEALTH CARE			
MEDICARE APPROVED SERVICES			
--- Medically necessary skilled care services and medical supplies	100%	\$0	\$0
--- Durable medical equipment			
First ((\$100)) \$[] of Medicare approved amounts*	\$0	\$0	(((\$100)) \$[] (Part B deductible))
Remainder of Medicare approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
--- Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
--- Number of visits covered (must be received within 8 weeks of last Medicare approved visit)	\$0	Up to the number of Medicare approved visits, not to exceed 7 each week	
--- Calendar year maximum	\$0	\$1,600	

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges*	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
((BASIC OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE			
First \$250 each calendar year	\$0	\$0	\$250

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
Next \$2,500 each calendar year	\$0	50%—\$1,250 calendar year maximum benefit	50%
Over \$2,500 each calendar year	\$0	\$0	All costs))

[PLAN J] [HIGH DEDUCTIBLE PLAN J]

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

[**This high deductible plan pays the same benefits as plan J after one has paid a calendar year \$[] deductible. Benefits from high deductible plan J will not begin until out-of-pocket expenses are \$[]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Parts A and B, but does not include the plan's separate foreign travel emergency deductible.]

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[] DEDUCTIBLE,**] PLAN PAYS	[IN ADDITION TO \$[] DEDUCTIBLE,**] YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but ((\${652}) \$[]	((\${652}) \$[] (Part A deductible)	\$0
61st thru 90th day	All but ((\${163}) \$[] a day	((\${163}) \$[] a day	\$0
91st day and after: --- While using 60 lifetime reserve days	All but ((\${326}) \$[] a day	((\${326}) \$[] a day	\$0
--- Once lifetime reserve days are used: --- Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
--- Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but ((\${81.50}) \$[]/day	Up to ((\${81.50}) \$[] a day	\$0
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	3 pints	\$0
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	\$0	Balance

PERMANENT

*****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

[PLAN J] [HIGH DEDUCTIBLE PLAN J]

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed ((~~\$100~~) \$[]) of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

[**This high deductible plan pays the same benefits as plan J after one has paid a calendar year \$[] deductible. Benefits from high deductible plan J will not begin until out-of-pocket expenses are \$[]. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes the Medicare deductibles for Part A and B, but does not include the plan's separate foreign travel emergency deductible]

PERMANENT

SERVICES	MEDICARE PAYS	[AFTER YOU PAY \$[] DEDUCTIBLE, **] PLAN PAYS	[IN ADDITION TO \$[] DEDUCTIBLE, **] YOU PAY
MEDICAL EXPENSES - IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First ((\$100) \$[]) of Medicare approved amounts* Remainder of Medicare approved amounts Part B excess charges (Above Medicare approved amounts)	\$0 Generally 80% \$0	((\$100) \$[]) (Part B deductible) Generally 20% 100%	\$0 \$0 \$0
BLOOD First 3 pints Next ((\$100) \$[]) of Medicare approved amounts* Remainder of Medicare approved amounts	\$0 \$0 80%	All costs ((\$100) \$[]) (Part B deductible) 20%	\$0 \$0 \$0
CLINICAL LABORATORY SERVICES—((BLOOD)) TESTS FOR DIAGNOSTIC SERVICES	100%	\$0	\$0

[PLAN J] [HIGH DEDUCTIBLE PLAN J] (continued)

PARTS A & B

SERVICE	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOME HEALTH CARE MEDICARE APPROVED SERVICES --- Medically necessary skilled care services and medical supplies --- Durable medical equipment First ((\$100) \$[]) of Medicare approved amounts*	100% \$0	\$0 ((\$100) \$[]) (Part B deductible)	\$0 \$0

SERVICE	MEDICARE PAYS	PLAN PAYS	YOU PAY
Remainder of Medicare approved amounts	80%	20%	\$0
AT-HOME RECOVERY SERVICES-NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a home care treatment plan			
- - - Benefit for each visit	\$0	Actual charges to \$40 a visit	Balance
- - - Number of visits covered (must be received within 8 weeks of last Medicare approved visit)	\$0	Up to the number of Medicare approved visits, not to exceed 7 each week	
- - - Calendar year maximum	\$0	\$1,600	

[PLAN J] [HIGH DEDUCTIBLE PLAN J]

OTHER BENEFITS - NOT COVERED BY MEDICARE

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
FOREIGN TRAVEL - NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA First \$250 each calendar year	\$0	\$0	\$250
Remainder of charges	\$0	80% to a lifetime maximum benefit of \$50,000	20% and amounts over the \$50,000 lifetime maximum
((EXTENDED-OUTPATIENT PRESCRIPTION DRUGS - NOT COVERED BY MEDICARE First \$250 each calendar year	\$0	\$0	\$250
Next \$6,000 each calendar year	\$0	50% - \$3,000 calendar year maximum benefit	50%
Over \$6,000 each calendar year	\$0	\$0	All costs))
***PREVENTIVE MEDICAL CARE BENEFIT - NOT COVERED BY MEDICARE Some annual physical and preventive tests and services ((such as: Fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education;)) administered or ordered by your doctor when not covered by Medicare			
First \$120 each calendar year	\$0	\$120	\$0
Additional charges	\$0	\$0	All costs

***Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

PERMANENT

PLAN K

***You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[] each calendar year. The amounts that count toward your annual limit are noted with diamonds (◆) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.**

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

****A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.**

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but \$[]	\$[] (50% of Part A deductible)	\$[] (50% of Part A deductible)◆
61st thru 90th day	All but \$[] a day	\$[] a day	\$0
91st day and after: - - - While using 60 lifetime reserve days	All but \$[] a day	\$[] a day	\$0
- - - Once lifetime reserve days are used: - - - Additional 365 days	\$0	100% of Medicare eligible expenses	\$0***
- - - Beyond the additional 365 days	\$0	\$0	All costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	\$0	\$0
21st thru 100th day	All but \$[]/day	Up to \$[] a day	Up to \$[] a day◆
101st day and after	\$0	\$0	All costs
BLOOD			
First 3 pints	\$0	50%	50%◆
Additional amounts	100%	\$0	\$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	Generally, most Medicare eligible expenses for outpatient drugs and inpatient respite care	50% of coinsurance or copayments	50% of coinsurance or copayments◆

*****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN K

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*****Once you have been billed \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.**

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
<u>MEDICAL EXPENSES -</u> <u>IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,</u> <u>First \$[] of Medicare approved amounts****</u> <u>Preventative Benefits for Medicare covered services</u> <u>Remainder of Medicare approved amounts</u> <u>Part B excess charges (Above Medicare approved amounts)</u>	<u>\$0</u> <u>Generally 75% or more of Medicare approved amounts</u> <u>Generally 80%</u> <u>\$0</u>	<u>\$0</u> <u>Remainder of Medicare approved amounts</u> <u>Generally 10%</u> <u>\$0</u>	<u>\$[] (Part B deductible)****◆</u> <u>All costs above Medicare approved amounts</u> <u>Generally 10%◆</u> <u>All costs (and they do not count toward annual out-of-pocket limit of \$[])*</u>
<u>BLOOD</u> <u>First 3 pints</u> <u>Next \$[] of Medicare approved amounts****</u> <u>Remainder of Medicare approved amounts</u>	<u>\$0</u> <u>\$0</u> <u>Generally 80%</u>	<u>50%</u> <u>\$0</u> <u>Generally 10%</u>	<u>50%◆</u> <u>\$[] (Part B deductible)****◆</u> <u>Generally 10%◆</u>
<u>CLINICAL LABORATORY SERVICES—TESTS FOR DIAGNOSTIC SERVICES</u>	<u>100%</u>	<u>\$0</u>	<u>\$0</u>

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[4000] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN K (continued)

PARTS A & B

SERVICE	MEDICARE PAYS	PLAN PAYS	YOU PAY*
<u>HOME HEALTH CARE</u> <u>MEDICARE APPROVED SERVICES</u> <u>- - - Medically necessary skilled care services and medical supplies</u> <u>- - - Durable medical equipment</u> <u>First \$[] of Medicare approved amounts****</u> <u>Remainder of Medicare approved amounts</u>	<u>100%</u> <u>\$0</u> <u>80%</u>	<u>\$0</u> <u>\$0</u> <u>10%</u>	<u>\$0</u> <u>\$[] (Part B deductible)◆</u> <u>10%◆</u>

****Medicare benefits are subject to change. Please consult the latest *Guide to Health Insurance for People with Medicare*.

PLAN L

*You will pay half the cost-sharing of some covered services until you reach the annual out-of-pocket limit of \$[] each calendar year. The amounts that count toward your annual limit are noted with diamonds (◆) in the chart below. Once you reach the annual limit, the plan pays 100% of your Medicare copayment and coinsurance for the rest of the calendar year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

MEDICARE (PART A) - HOSPITAL SERVICES - PER BENEFIT PERIOD

**A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

PERMANENT

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY*
HOSPITALIZATION*** <u>Semiprivate room and board, general nursing and miscellaneous services and supplies</u> <u>First 60 days</u> <u>61st thru 90th day</u> <u>91st day and after:</u> <u>--- While using 60 lifetime reserve days</u> <u>--- Once lifetime reserve days are used:</u> <u>--- Additional 365 days</u> <u>--- Beyond the additional 365 days</u>	<u>All but \$[]</u> <u>All but \$[] a day</u> <u>All but \$[] a day</u> <u>\$0</u> <u>\$0</u>	<u>\$[] (75% of Part A deductible)</u> <u>\$[] a day</u> <u>\$[] a day</u> <u>100% of Medicare eligible expenses</u> <u>\$0</u>	<u>\$[] (25% of Part A deductible)◆</u> <u>\$0</u> <u>\$0</u> <u>\$0***</u> <u>All costs</u>
SKILLED NURSING FACILITY CARE* <u>You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital</u> <u>First 20 days</u> <u>21st thru 100th day</u> <u>101st day and after</u>	<u>All approved amounts</u> <u>All but \$[]/day</u> <u>\$0</u>	<u>\$0</u> <u>Up to \$[] a day</u> <u>\$0</u>	<u>\$0</u> <u>Up to \$[] a day◆</u> <u>All costs</u>
BLOOD <u>First 3 pints</u> <u>Additional amounts</u>	<u>\$0</u> <u>100%</u>	<u>75%</u> <u>\$0</u>	<u>25%◆</u> <u>\$0</u>
HOSPICE CARE <u>Available as long as your doctor certifies you are terminally ill and you elect to receive these services</u>	<u>Generally, most Medicare eligible expenses for outpatient drugs and inpatient respite care</u>	<u>75% of coinsurance or copayments</u>	<u>75% of coinsurance or copayments◆</u>

*****NOTICE:** When your Medicare Part A hospital benefits are exhausted, the insurer stands in the place of Medicare and will pay whatever amount Medicare would have paid for up to an additional 365 days as provided in the policy's "Core Benefits." During this time the hospital is prohibited from billing you for the balance based on any difference between its billed charges and the amount Medicare would have paid.

PLAN L

MEDICARE (PART B) - MEDICAL SERVICES - PER CALENDAR YEAR

*Once you have been billed \$[] of Medicare-approved amounts for covered services (which are noted with an asterisk), your Part B deductible will have been met for the calendar year.

<u>SERVICES</u>	<u>MEDICARE PAYS</u>	<u>PLAN PAYS</u>	<u>YOU PAY *</u>
<u>MEDICAL EXPENSES -</u> <u>IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,</u> <u>First \$[] of Medicare approved amounts***</u> <u>Preventative Benefits for Medicare covered services</u> <u>Remainder of Medicare approved amounts</u> <u>Part B excess charges (Above Medicare approved amounts)</u>	<u>\$0</u> <u>Generally 75% or more of Medicare approved amounts</u> <u>Generally 80%</u>	<u>\$0</u> <u>Remainder of Medicare approved amounts</u> <u>Generally 15%</u>	<u>\$[] (Part B deductible)****◆</u> <u>All costs above Medicare approved amounts</u> <u>Generally 5%◆</u> <u>All costs (and they do not count toward annual out-of-pocket limit of [\$])*</u>
<u>BLOOD</u> <u>First 3 pints</u> <u>Next \$[] of Medicare approved amounts****</u> <u>Remainder of Medicare approved amounts</u>	<u>\$0</u> <u>\$0</u> <u>Generally 80%</u>	<u>75%</u> <u>\$0</u> <u>Generally 15%</u>	<u>25%◆</u> <u>\$[] (Part B deductible)****◆</u> <u>Generally 5%◆</u>
<u>CLINICAL LABORATORY SERVICES—TESTS FOR DIAGNOSTIC SERVICES</u>	<u>100%</u>	<u>\$0</u>	<u>\$0</u>

*This plan limits your annual out-of-pocket payments for Medicare-approved amounts to \$[] per year. However, this limit does NOT include charges from your provider that exceed Medicare-approved amounts (these are called "Excess Charges") and you will be responsible for paying this difference in the amount charged by your provider and the amount paid by Medicare for the item or service.

PLAN L (continued)

PARTS A & B

<u>SERVICE</u>	<u>MEDICARE PAYS</u>	<u>PLAN PAYS</u>	<u>YOU PAY</u>
<u>HOME HEALTH CARE</u> <u>MEDICARE APPROVED SERVICES</u> <u>--- Medically necessary skilled care services and medical supplies</u> <u>--- Durable medical equipment</u> <u>First \$[] of Medicare approved amounts*****</u> <u>Remainder of Medicare approved amounts</u>	<u>100%</u> <u>\$0</u> <u>80%</u>	<u>\$0</u> <u>\$0</u> <u>15%</u>	<u>\$0</u> <u>\$[] (Part B deductible)◆</u> <u>5%◆</u>

*****Medicare benefits are subject to change. Please consult the latest Guide to Health Insurance for People with Medicare.

PERMANENT

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-110 Buyer's guide. (1) Issuers of disability insurance policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare must provide to all such applicants the pamphlet "Guide to Health Insurance for People with Medicare," developed jointly by the National Association of Insurance Commissioners and ~~((Health Care Financing Administration))~~ the Centers for Medicare and Medicaid Services, (CMS), or any reproduction or official revision of that pamphlet. The guide ~~((shall))~~ must be printed in a style and with a type character that is easily read by an average person eligible for Medicare supplement insurance and in no case may the type size be smaller than 12-point type. (Specimen copies may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C.)

(2) Delivery of the guide ~~((shall))~~ must be made whether or not ~~((such))~~ the policies or certificates are advertised, solicited, or issued as Medicare supplement insurance policies or certificates.

(3) Except in the case of a direct response issuers, delivery of the guide ~~((shall))~~ must be made to the applicant at the time of application and acknowledgement of receipt of the guide ~~((shall))~~ must be obtained by the issuer. Direct response issuers ~~((shall))~~ must deliver the guide to the applicant upon request but not later than at the time the policy is delivered.

(4) The guide ~~((shall))~~ must be reproduced in a form that is substantially identical in language, format, type size, type proportional spacing, bold character, and line spacing to the guide developed jointly by the National Association of Insurance Commissioners and ~~((the Health Care Financing Administration))~~ CMS.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-120 Notice regarding policies ~~((which))~~ that are not Medicare supplement policies. Any disability insurance policy or certificate (other than a Medicare supplement policy or certificate or a policy issued ~~((pursuant))~~ according to a contract under Section 1876 of the federal Social Security Act (42 U.S.C. Section 1395 et seq.)), disability income protection policy or other policy identified in RCW 48.66.020(1), whether issued on an individual or group basis, ~~((which policy))~~ that purports to provide coverage to residents of this state eligible for Medicare, ~~((shall))~~ must notify policyholders or certificate holders that the policy is not a Medicare supplement insurance policy or certificate. The notice ~~((shall))~~ must be printed or attached to the first page of the outline of coverage or equivalent disclosure form, and ~~((shall))~~ must be delivered to the policyholder or certificate holder. If no outline of coverage is delivered, the notice ~~((shall))~~ must be attached to the first page of the policy or cer-

tificate delivered to insureds. ~~((Such))~~ The notice ~~((shall))~~ must be in no less than twelve point type and ~~((shall))~~ contain the following language: "This (policy, certificate or subscriber contract) is not a Medicare supplement (policy, certificate or subscriber contract). If you are eligible for Medicare, review the "Guide to Health Insurance for People with Medicare" available from the company."

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-130 Requirements for application forms and replacement of Medicare supplement insurance coverage. (1) Application forms ~~((shall))~~ must include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has another Medicare supplement, Medicare Advantage, Medicaid coverage, or another health insurance or other disability policy or certificate in force or whether a Medicare supplement insurance policy or certificate is intended to replace any other policy or certificate of a health care service contractor, health maintenance organization, disability insurer, or fraternal benefit society presently in force. A supplementary application or other form to be signed by the applicant and agent containing ~~((such))~~ the questions and statements, may be used: ~~((Provided, however, That where))~~ If the coverage is sold without an agent, the supplementary application ~~((shall))~~ must be signed by the applicant.

[Statements]

(1) You do not need more than one Medicare supplement policy.

(2) If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages.

(3) If you are sixty-five or older, you may be eligible for benefits under Medicaid and may not need a Medicare supplement policy.

(4) If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended if requested during your entitlement to benefits under Medicaid for twenty-four months. You must request this suspension within ninety days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within ninety days of losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(5) If you are eligible for, and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supple-

ment policy can be suspended, if requested, while you are covered under the employer or union-based group health benefit plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstated if requested within 90 days of losing your employer or union-based group health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstated policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension.

(6) Counseling services may be available in your state to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a "Qualified Medicare Beneficiary" (QMB) and a "Specified Low-Income Medicare Beneficiary" (SLMB).

[Questions]

If you lost or are losing other health insurance coverage and received a notice from your prior insurer saying you were eligible for guaranteed issue of a Medicare supplement insurance policy, or that you had certain rights to buy such a policy, you may be guaranteed acceptance in one or more of our Medicare supplement plans. Please include a copy of the notice from your prior insurer with your application. PLEASE ANSWER ALL QUESTIONS.

[Please mark Yes or No below with an "X"]

To the best of your knowledge.

(1) (Do you have another Medicare supplement policy or certificate in force?

(a) If so, with which company?

(b) If so, do you intend to replace your current Medicare supplemental policy with this policy or certificate?

(2) Do you have any other health insurance coverage that provides benefits similar to this Medicare supplement policy?

(a) If so, with which company?

(b) What kind of policy?

(3) Are you covered for medical assistance through the state Medicaid program:

(a) As a "Specified Low Income Medicare Beneficiary" (SLMB)?

(b) As a "Qualified Medicare Beneficiary" (QMB)?

(e) For other Medicaid medical benefits?) (a) Did you turn age 65 in the last 6 months?

Yes No

(b) Did you enroll in Medicare Part B in the last 6 months?

Yes No

(c) If yes, what is the effective date?

(2) Are you covered for medical assistance through the state Medicaid program?

[NOTE TO APPLICANT: If you are participating in a "Spend- Down Program" and have not met your "Share of Cost," please answer NO to this question.]

Yes No

If yes,

(a) Will Medicaid pay your premiums for this Medicare supplement policy?

Yes No

(b) Do you receive any benefits from Medicaid OTHER THAN payments toward your Medicare Part B premium?

Yes No

(3)(a) If you had coverage from any Medicare plan other than original Medicare within the past 63 days (for example, a Medicare Advantage plan, or a Medicare HMO or PPO), fill in your start and end dates below. If you are still covered under this plan, leave "END" blank.

START / / END / /

(b) If you are still covered under the Medicare plan, do you intend to replace your current coverage with this new Medicare supplement policy?

Yes No

(c) Was this your first time in this type of Medicare plan?

Yes No

(d) Did you drop a Medicare supplement policy to enroll in the Medicare plan?

Yes No

(4)(a) Do you have another Medicare supplement policy in force?

Yes No

(b) If so, with what company and what plan do you have [optional for Direct Mailers]?

(c) If so, do you intend to replace your current Medicare supplement policy with this policy?

Yes No

(5) Have you had coverage under any other health insurance within the past 63 days? (For example, an employer, union or individual plan.)

Yes No

(a) If so, with what company and what kind of policy?

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(b) What are your dates of coverage under the other policy?

START / /

END / /

(If you are still covered under the other policy, leave "END" blank.)

(2) Agents ~~((shall))~~ must list any other medical or health insurance policies sold to the applicant.

(a) List policies sold ~~((which))~~ that are still in force.

(b) List policies sold in the past five years ~~((which))~~ that are no longer in force.

(3) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, ~~((shall))~~ must be returned to the applicant by the insurer upon delivery of the policy.

(4) Upon determining that a sale will involve replacement of Medicare Supplement Coverage, an issuer, other than a direct response issuer, or its agent, ~~((shall))~~ must furnish the applicant, ~~((prior to issuance or delivery of))~~ before issuing or delivering the Medicare supplement insurance policy or certificate, a notice regarding replacement of Medicare supplement insurance coverage. One copy of ~~((such))~~ the notice, signed by the applicant and the agent (except where the coverage is sold without an agent), ~~((shall))~~ must be provided to the applicant and an additional signed copy ~~((shall))~~ must be ~~((retained))~~ kept by the issuer. A direct response issuer ~~((shall))~~ must deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement insurance coverage.

(5) The notice required by subsection (4) of this section for an issuer, ~~((shall))~~ must be provided in substantially the form set forth in WAC 284-66-142 in no smaller than twelve point type, and ~~((shall))~~ must be filed with the commissioner ~~((prior to use))~~ before being used in this state.

(6) The notice required by subsection (4) of this section for a direct response insurer ~~((shall))~~ must be in substantially the form set forth in WAC 284-66-142 and ~~((shall))~~ must be filed with the commissioner ~~((prior to use))~~ before being used in this state.

(7) A true copy of the application for a Medicare supplement insurance policy issued by a health maintenance organization or health care service contractor for delivery to a resident of this state must be attached to or otherwise physically made a part of the policy when issued and delivered.

(8) Where inappropriate terms are used, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor or health maintenance organization may substitute appropriate terminology.

(9) Paragraphs 1 and 2 of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-135 Disclosure statements to be used with policies that are not Medicare supplement policies. Applications for the purchase of disability or other medical insurance policies or certificates, that are provided to persons eligible for Medicare, ~~((shall))~~ must disclose the extent to which the policy duplicates Medicare. The disclosure ~~((shall))~~ must be in the form provided by this section. The applicable disclosure statement ~~((shall))~~ must be provided as a part of, or together with, the application for the policy or certificate.

(1) Instructions for use of the disclosure statements for health insurance policies sold to Medicare beneficiaries that duplicate Medicare.

(a) ~~((Federal law, P.L. 103-432,))~~ Section 1882(d) of the federal Social Security Act [42 U.S.C. 1395ss] prohibits the sale of a disability or other health insurance policy (the term "policy" or "policies" includes certificates and contracts of all issuers) that duplicate Medicare benefits unless it will pay benefits without regard to other disability or other health coverage and it includes the prescribed disclosure statement on or together with the application.

(b) All types of disability or other health insurance policies that duplicate Medicare ~~((shall))~~ must include one of the attached disclosure statements, according to the particular policy type involved, on the application or together with the application. The disclosure statement may not vary substantially from the attached statements in terms of language or format (type size, type proportional spacing, bold character, line spacing, and usage of boxes around text).

(c) State and federal law prohibits insurers from selling a Medicare supplement policy to a person that already has a Medicare supplement policy except as a replacement.

(d) Property/casualty and life insurance policies are not considered disability or other health insurance.

(e) Disability income policies are not considered to provide benefits that duplicate Medicare.

(f) Long-term care insurance policies that coordinate with Medicare and other health insurance are not considered to provide benefits that duplicate Medicare.

(g) The federal law does not preempt state laws that are more stringent than the federal requirements.

~~((f))~~ (h) The federal law does not preempt existing state form filing requirements.

(2) Disclosure statement to be used for policies that provide benefits for expenses incurred for accidental injury only.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses that result from accidental injury. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

PERMANENT

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- outpatient prescription drugs if you are enrolled in Medicare Part D
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(3) Disclosure statement to be used with policies that provide benefits for specified limited services.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for expenses relating to the specific services listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any of the services covered by the policy are also covered by Medicare

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- outpatient prescription drugs if you are enrolled in Medicare Part D
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(4) Disclosure statement to be used with policies that reimburse expenses incurred for specified disease(s) or other specified impairment(s). This includes expense incurred cancer, specified disease and other types of health insurance policies that limit reimbursement to named medical conditions.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

This is not Medicare Supplement Insurance

This insurance provides limited benefits, if you meet the policy conditions, for hospital or medical expenses only when you are treated for one of the specific diseases or health conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- hospital or medical expenses up to the maximum stated in the policy

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physical services
- hospice
- outpatient prescription drugs if you are enrolled in Medicare Part D
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(5) Disclosure statement to be used with policies that pay fixed dollar amounts for specified diseases or other specified impairments. This includes cancer, specified disease, and other health insurance policies that pay a scheduled benefit or specific payment based on diagnosis of the conditions named in the policy.

IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS

PERMANENT

This is not Medicare Supplement Insurance

This insurance pays a fixed amount, regardless of your expenses, if you meet the policy conditions, for one of the specific diseases or health conditions named in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits because Medicare generally pays for most of the expenses for the diagnosis and treatment of the specific conditions or diagnoses named in the policy.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- hospice
- outpatient prescription drugs if you are enrolled in Medicare Part D
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(6) Disclosure statement to be used with indemnity policies and other policies that pay a fixed dollar amount per day, excluding long-term care policies.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays a fixed dollar amount, regardless of your expenses, for each day you meet the policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or service covered by the policy are also covered by Medicare

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- outpatient prescription drugs if you are enrolled in Medicare Part D
- hospice

- other approved items & services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(7) Disclosure statement to be used with policies that provide benefits for both expenses incurred and fixed indemnity basis.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance pays limited reimbursement for expenses if you meet the conditions listed in the policy. It also pays a fixed amount, regardless of your expenses, if you meet other policy conditions. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when:

- any expenses or service covered by the policy are also covered by Medicare; or
- it pays the fixed dollar amount stated in the policy and Medicare covers the same event

Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- outpatient prescription drugs if you are enrolled in Medicare Part D
- hospice care
- other approved items & services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(8) Disclosure statement to be used with long-term care policies providing both nursing home and noninstitutional coverage.

PERMANENT

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This is long term care insurance that provides benefits for covered nursing home and home care services.
- In some situations Medicare pays for short periods of skilled nursing home care, limited home health services and hospice care.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most long-term care expenses.

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(9) Disclosure statement to be used with policies providing nursing home benefits only.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This insurance provides benefits primarily for covered nursing home services.
- In some situations Medicare pays for short periods of skilled nursing home care and hospice care.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most nursing home expenses.

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.

- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.

- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(10) Disclosure statement to be used with policies providing home care benefits only.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

Federal law requires us to inform you that this insurance duplicates Medicare benefits in some situations.

- This insurance provides benefits primarily for covered home care services.
- In some situations, Medicare will cover some health related services in your home and hospice care which may also be covered by this insurance.
- This insurance does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

Neither Medicare nor Medicare Supplement insurance provides benefits for most services in your home.

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about long term care insurance, review the *Shopper's Guide to Long Term Care Insurance*, available from the insurance company.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ((~~senior~~)) health insurance ((~~counseling~~)) assistance program [SHIP].

(11) Disclosure statement to be used with other health insurance policies not specifically identified in the previous statements.

**IMPORTANT NOTICE TO PERSONS ON MEDICARE
THIS INSURANCE DUPLICATES SOME MEDICARE BENEFITS**

This is not Medicare Supplement Insurance

This insurance provides limited benefits if you meet the conditions listed in the policy. It does not pay your Medicare deductibles or coinsurance and is not a substitute for Medicare Supplement insurance.

This insurance duplicates Medicare benefits when it pays:

- the benefits stated in the policy and coverage for the same event is provided by Medicare

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Medicare generally pays for most or all of these expenses.

Medicare pays extensive benefits for medically necessary services regardless of the reason you need them. These include:

- hospitalization
- physician services
- [outpatient prescription drugs if you are enrolled in Medicare Part D]
- hospice
- other approved items and services

Before You Buy This Insurance

- ✓ Check the coverage in **all** health insurance policies you already have.
- ✓ For more information about Medicare and Medicare Supplement insurance, review the *Guide to Health Insurance for People with Medicare*, available from the insurance company.
- ✓ For help in understanding your health insurance, contact your state insurance department or state ~~((senior))~~ health insurance ~~((counseling))~~ assistance program [SHIP].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-142 Form of replacement notice.

NOTICE TO APPLICANT REGARDING REPLACEMENT OF MEDICARE SUPPLEMENT INSURANCE OR MEDICARE ADVANTAGE

[Insurance company's name and address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to terminate existing Medicare supplement or Medicare Advantage insurance and replace it with a policy to be issued by [Company name] Insurance Company. Your new policy will provide thirty days within which you may decide without cost whether you desire to keep the policy.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision, you should terminate your present Medicare supplement or Medicare Advantage coverage. You should evaluate the need for other disability coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY ISSUER, AGENT [BROKER OR OTHER REPRESENTATIVE]:

I have reviewed your current medical or health insurance coverage. To the best of my knowledge, this Medicare supplement policy will not duplicate your existing Medicare supplement or, if applicable, Medicare Advantage coverage because you intend to terminate your existing Medicare supplement coverage or leave your Medicare Advantage plan. The replacement policy is being purchased for the following reason(s) (check one):

Additional benefits.

No change in benefits, but lower premiums.

Fewer benefits and lower premiums.

My plan has outpatient prescription drug coverage and I am enrolling in Part D.

Disenrollment from a Medicare Advantage plan.

Please explain reason for disenrollment. [optional only for Direct Mailers]

Other. (please specify)

1. NOTE: If the issuer of the Medicare supplement policy being applied for does not, or is otherwise prohibited from imposing preexisting condition limitations, please skip to statement 2 below. If you have had your current Medicare supplement policy less than ~~((six))~~ three months, health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
2. State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) to the extent such time was spent (depleted) under original policy.
3. If you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Do not cancel your present policy until you have received your new policy and are sure that you want to keep it.

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.....
(Signature of Agent, Broker, or Other Representative)*

[Typed Name and Address of Issuer, Agent or Broker]

.....
(Applicant's Signature)

.....
(Date)

*Signature not required for direct response sales.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-160 Adjustment notice to conform existing Medicare supplement policies to changes in Medicare. As soon as practicable, but no later than thirty days (~~(prior to)~~) before the effective date of any Medicare benefit changes, every insurer providing Medicare supplement insurance coverage to a resident of this state (~~(shall)~~) must notify its insureds of modifications it has made to Medicare supplement policies. The adjustment notice is intended to be informational only and for the sole purpose of informing policyholders and certificate holders about changes in Medicare benefits, indexed deductible and copayment provisions, premium adjustments, and the like. The form of an adjustment notice provided to residents of this state (~~(shall)~~) must be filed with the commissioner (~~(prior to use)~~) before being used.

- (1) The notice (~~(shall)~~) must include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement insurance policy.
- (2) The notice (~~(shall)~~) must inform each covered person of the approximate date when premium adjustments due to changes in Medicare benefits will be made.
- (3) The notice of benefit modifications and any premium changes (~~(shall)~~) must be furnished in outline form and in clear and simple terms so as to facilitate comprehension.
- (4) The notice (~~(shall)~~) must not contain or be accompanied by any solicitation.
- (5) Issuers must comply with any notice requirements of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-170 Prohibition against preexisting conditions, waiting periods, elimination periods, and probationary periods in replacement policies or certificates.

(1) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer (~~(shall)~~) must waive any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare sup-

plement policy or certificate to the extent (~~(such))~~ the time was spent under the original policy.

(2) If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate (~~(which))~~ that has been in effect for at least (~~(six))~~ three months, the replacing policy (~~(shall))~~ may not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-200 Standards for loss ratios. The following standards apply to policies issued or delivered (~~(prior to))~~ before July 1, 1992, unless (~~(such))~~ the policies are approved under the standards of WAC 284-66-063 and 284-66-203. Medicare supplement insurance policies (~~(shall))~~ must return to policyholders in the form of aggregated benefits under (~~(such))~~ the policy, for the entire period for which rates are computed to provide coverage, loss ratios not less than those (~~(set forth))~~ in this section. (~~(Such))~~ The loss ratios (~~(shall))~~ must be on the basis of incurred claims losses and earned premiums for such period (~~(in accordance with))~~ according to accepted actuarial principles. The loss ratio standards of this section are more stringent and more appropriate than those imposed by RCW 48.66.100, and are necessary for the protection of the public interest.

(1) Where coverage is provided on a service rather than reimbursement basis, (~~(such))~~ the loss ratios (~~(shall))~~ must be on the basis of incurred health care expenses and earned premiums for (~~(such))~~ the period.

(2) All filings of rates and rating schedules (~~(shall))~~ must demonstrate that actual and expected losses in relation to premiums comply with the requirements of this chapter and are not excessive, inadequate or unfairly discriminatory.

(3) Every insurer providing Medicare supplement policies in this state (~~(shall))~~ must annually file its rates, rating schedules, and supporting documentation including ratios of incurred losses to earned premiums demonstrating that it is in compliance with the applicable loss ratio standards and that the rating period for (~~(which))~~ the policy is (~~(rated is))~~ reasonable (~~(in accordance with))~~ according to accepted actuarial principles and experience. If the initial rating period for (~~(which))~~ the policy is (~~(initially rated is))~~ more than one year, ratios of incurred losses to earned premiums (~~(shall))~~ must be filed by number of years of policy duration. Supporting documentation (~~(shall))~~ must include the amounts of unearned premium reserve, policy reserves, and claim reserves and liabilities, both nationally and for this state. This annual filing is in addition to filings made by insurers to establish initial rates or request rate adjustments required by WAC 284-66-240.

(4) Incurred losses (~~(shall))~~ must include claims paid and the change in claim reserves and liabilities. Incurred losses (~~(shall))~~ may not include policy reserves, home office or field overhead, acquisition and selling costs, taxes or other expenses, contributions to surplus, profit, or claims processing costs. Where coverage is provided by a health care service contractor or health maintenance organization, health care expense costs may not include home office and overhead

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costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, and claims processing costs.

(5) The following criteria will be used to determine whether policy forms are in compliance with the loss ratio standards of this section:

(a) For the most recent year, the ratio of the incurred losses to earned premiums is greater than or equal to the applicable percentages contained in this section; and

(b) The expected losses in relation to premiums over the entire rating period (~~for which the policy is rated~~) complies with the requirements of this section, relying on the judgment of the pricing actuary and acceptable to the commissioner; and

(c) ~~(For issue age level premium rated policies, an expected loss ratio for the third policy year, which is greater than or equal to the applicable percentage, shall be demonstrated for policies or certificates in force fewer than three years. For community rated policies the applicable percentage shall be demonstrated for the three most recent accounting periods. The applicable percentage shall be as defined in subsection (6) or (7) of this section.~~

~~(d))~~ For purposes of rate making and rate adjustments, similar policy forms ~~((shall))~~ must be grouped together according to the rules set forth in WAC 284-60-040. All Medicare supplement policies of an issuer issued for delivery between January 1, 1989, and July 1, 1992, are considered "similar policy forms" except those forms specifically approved under the standards of WAC 284-66-063 and 284-66-203.

~~((e))~~ (d) The commissioner may consider additional criteria including, but not limited to:

(i) Equitable treatment of policyholders; and

(ii) The amount of policy reserves as defined for the insurer's statutory annual statement.

(6) Medicare supplement insurance policies issued by authorized disability insurers and fraternal benefit societies ~~((shall be))~~ are expected to return to a policyholder in the form of aggregated loss ratios under the policy, at least sixty-five percent of the earned premiums in the case of individual policies, and seventy-five percent in the case of group policies.

(7) The minimum anticipated loss ratio requirement ~~((s))~~ for health maintenance organizations and health care service contractors ~~((shall be))~~ is seventy percent for individual forms and eighty percent for group contract forms. The minimum anticipated loss ratios are deemed to be met if the health care expense costs of the health maintenance organization or health care service contractor are seventy percent or more of the earned premium charged individual subscribers, or eighty percent or more of the earned premium charged subscribers covered under a group contract.

AMENDATORY SECTION (Amending Matter No. R 96-2, filed 4/11/96, effective 5/12/96)

WAC 284-66-203 Loss ratio and rating standards and refund or credit of premium. (1) Loss ratio and rating standards. For policies issued on or after July 1, 1992, and

those policies specifically approved by the commissioner under WAC 284-66-063 ~~((prior to))~~ before July 1, 1992:

(a) A Medicare supplement policy form or certificate form must be rated on an issue-age level premium basis or community rated basis, as described ~~((at))~~ in WAC 284-66-243 ~~((6), in order to meet the standards of WAC 284-66-340))~~ (7).

(b) A Medicare supplement policy form or certificate form ~~((shall))~~ may not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form:

(i) At least seventy-five percent of the aggregate amount of premiums earned in the case of group policies; or

(ii) At least sixty-five percent of the aggregate amount of premiums earned in the case of individual policies, calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization or health care service contractor on a service rather than reimbursement basis and earned premiums for ~~((such))~~ the period ~~((and in accordance with)),~~ according to accepted actuarial principles and practices.

(c) All filing of rates and rating schedules ~~((shall))~~ must demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions ~~((shall))~~ must also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards.

(d) For purposes of applying subsection (1)(b) of this section and WAC 284-66-243 (3)(c) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

(e) For policies issued ~~((prior to))~~ before April 28, 1996, expected claims in relation to premiums ~~((shall))~~ must meet:

(i) The originally filed anticipated loss ratio when combined with the actual experience since inception;

(ii) The appropriate loss ratio requirement from WAC 284-66-203 (1)(b)(i) and (ii) when combined with actual experience beginning with April 28, 1996, to date; and

(iii) The appropriate loss ratio requirement from WAC 284-66-203 (1)(b)(i) and (ii) over the entire future period for which the rates are computed to provide coverage.

(iv) In meeting the tests in (e)(i), (ii), and (iii) of this subsection, and for purposes of attaining credibility, with the prior written approval of the commissioner, an issuer may combine experience under policy forms ~~((which))~~ that provide substantially similar coverage. Once a combined form is adopted, the issuer may not separate the experience, except with the prior written approval of the commissioner.

(2) Refund or credit calculation.

(a) An issuer ~~((shall))~~ must collect and file with the commissioner by May 31 of each year the data contained in the reporting form contained in WAC 284-66-232 for each type in a standard Medicare supplement benefit plan.

(b) If on the basis of the experience as reported, the benchmark ratio since inception (ratio 1) exceeds the adjusted experience ratio since inception (ratio 3) in year three or later, then a refund or credit calculation is required. The refund calculation ~~((shall))~~ must be done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year ~~((shall))~~ must be excluded. This subsection applies only to annual experience reporting. Any revision of premium rates must be filed with and approved by the commissioner ~~((in accordance with))~~ according to WAC 284-66-243.

(c) For policies or certificates issued ~~((prior to))~~ before July 1, 1992, the issuer ~~((shall))~~ must make the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after the effective date of this section. The first ~~((such))~~ report ~~((shall be))~~ is due by May 31, 1998.

(d) A refund or credit ~~((shall))~~ may be made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credited exceeds a de minimis level. ~~((Such))~~ The refund ~~((shall))~~ must include interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary of Health and Human Services, but in no event ~~((shall))~~ may it be less than the average rate of interest for 13-week Treasury notes. A refund or credit against premiums due ~~((shall))~~ must be made by September 30 following the experience year ~~((upon which))~~ that is the basis for the refund or credit ~~((is based))~~.

(3) Annual filing of premium rates.

On or before May 31 of each calendar year, an issuer of standardized Medicare supplement policies and certificates issued ~~((in accordance with))~~ according to WAC 284-66-063, ~~((shall))~~ must file its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the commissioner on the form provided at subsection (6) of this section. The supporting documentation ~~((shall))~~ must also demonstrate ~~((in accordance with))~~ according to actuarial standards of practice using reasonable assumptions, that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. ~~((Such))~~ The demonstration ~~((shall))~~ must exclude active life reserves. An expected third-year loss ratio ~~((which))~~ that is greater than or equal to the applicable percentage ~~((shall))~~ must be demonstrated for policies or certificates in force less than three years.

(4) As soon as practicable, but ~~((prior to))~~ before the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state ~~((shall))~~ must file with the commissioner, ~~((in accordance with))~~ according to the applicable filing procedures of this state:

(a)(i) Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. ~~((Such))~~ The supporting documents as necessary to justify the adjustment ~~((shall))~~ must accompany the filing.

(ii) An issuer ~~((shall))~~ must make ~~((such))~~ any premium adjustments as are necessary to produce an expected loss ratio under ~~((such))~~ the policy or certificate ~~((as will conform))~~ to comply with minimum loss ratio standards for Medicare supplement policies and ~~((which))~~ that are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for ~~((such))~~ the Medicare supplement policies or certificates. No premium adjustment ~~((which))~~ that would modify the loss ratio experience under the policy other than the adjustments described ~~((herein shall))~~ in this section may be made with respect to a policy at any time other than upon its renewal date or anniversary date.

(iii) If an issuer fails to make premium adjustments acceptable to the commissioner, the commissioner may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio required by this section.

(b) Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. ~~((Such))~~ The riders, endorsements, or policy forms ~~((shall))~~ must provide a clear description of the Medicare supplement benefits provided by the policy or certificate.

(5) Public hearings.

(a) The commissioner may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for policy form or certificate form if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for ~~((such))~~ the reporting period. Public notice of ~~((such))~~ the hearing ~~((shall))~~ must be furnished in a manner deemed appropriate by the commissioner.

(b) This section does not in any way restrict a commissioner's statutory authority to approve or disapprove rates.

(6) Annual Medicare supplement insurance reporting form:

Annual Filing of Premium Rates and Experience
To be filed on or before May 31 of each calendar year

Experience from January 1 to December 31, of ___(year)___ reported by duration for all business from inception to December 31, ~~((49))~~ 20_____.

Company Name _____

Address _____

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NAIC Group Code _____	NAIC Company Code _____	CIC Code _____		
Plan _____	Type _____	Form No. _____		
Premium Rates [Attach schedule]				
Insurance is [check one] Group _____ or, Individual _____				
Washington Experience. [Show all experience for the reported calendar year (separately for each duration).]				
<u>Policy Duration</u>	<u>Incurred Losses</u>	<u>Earned Premiums</u>	<u>Loss Ratio</u>	<u>Claim Reserves</u>
I hereby certify that I have supervised the preparation of this experience exhibit, that all durational information has been furnished, and to the best of my knowledge, the data is accurate and is in compliance with RCW 48.66.150 and WAC 284-66-203.				
_____ Signature of Officer	_____ Date			
_____ Name and Title of Officer	_____ Prepared by			
_____ Phone Number	_____ Phone Number			

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-210 Policy reserves required. This section ((shall apply)) applies to every group and individual policy of an issuer ((which)) that relates its benefits to Medicare. The term "policy reserve" is intended to apply to all types and forms of insurance equally, whether they are called policies, contracts, or certificates. For all forms ((which)) that are issued on a level premium basis, policy reserves will be required. The policy reserve is in addition to claim reserves and premium reserves. The definition of the date of incurral must be the same for both claim reserves and policy reserves. Policy reserves ((shall)) must be based upon the following minimum standards:

- (1) Morbidity should be based upon a reasonable expectation of future claim costs for the benefits being provided. At time of policy issue this would be the morbidity assumptions used to price the contract. For later durations the morbidity should reflect the experience ((which)) that emerges including the effects of inflation and utilization. All morbidity assumptions must be reasonable in the view of the commissioner.
- (2) The interest rate used may not exceed the maximum rate permitted by statute in the valuation of life insurance issued on the same date as the Medicare supplement policy.
- (3) Termination rates ((shall)) must be on the same basis as the mortality table permitted by statute in the valuation of life insurance issued on the same date as the Medicare sup-

plement policy or on another basis satisfactory to the commissioner.

- (4) The minimum reserve is that calculated on the one-year full preliminary term method. This method produces a terminal reserve of zero at the first policy anniversary. The preliminary term method may be applied only in relation to the date of issue of a policy. Reserve adjustments introduced later as a result of rate increases, revisions in assumptions, or for other reasons, are to be applied immediately as of the effective date of adoption of the adjusted basis. ((Such)) The adjustments ((shall)) must be determined as follows:
 - (a) Present value of future payments of claim costs for benefits, determined using revised assumptions based on anticipated experience;
 - (b) Less the present value of future net premiums, determined using revised assumptions based on anticipated experience;
 - (c) Less the liability for contract reserves at the valuation date.
 - (5) Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy or contract, but the total policy reserve with respect to all benefits combined may not be less than zero.
 - (6) The minimum policy reserve ((shall)) must include a reasonable margin for the risk of adverse selection.

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AMENDATORY SECTION (Amending Order R 92-7, filed 8/19/92, effective 9/19/92)

WAC 284-66-220 Medicare supplement refund calculation form required. The form provided in WAC 284-66-232 (~~shall~~) must be filed with the commissioner annually (~~not later than~~) by May 31st of each calendar year beginning May 31, 1993. The form is to be filed in addition to the NAIC experience exhibit and not in lieu thereof.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-240 Filing requirements and premium adjustments. (1) (~~Unless such forms meet the standards of WAC 284-66-063 and 284-66-203;~~) All policy forms issued or delivered on or after January 1, 1990, and before July 1, 1992, as well as any future rate adjustments (~~thereto, shall~~) to such forms, must demonstrate compliance with the loss ratio requirements of WAC 284-66-200 and policy reserve requirements of WAC 284-66-210, unless the forms meet the standards of WAC 284-66-063 and 284-66-203. All filings of rate adjustments (~~shall~~) must be accompanied by the proposed rate schedule and an actuarial memorandum completed and signed by a qualified actuary as defined in WAC 284-05-060. In addition to the actuarial memorandum, the following supporting documentation must be submitted to demonstrate to the satisfaction of the commissioner that rates are not excessive, inadequate, or unfairly discriminatory and otherwise comply with the requirements of this chapter. If any of the items listed below are inappropriate due to the pricing methodology (~~utilized~~) used by the pricing actuary, the commissioner may waive the requirements upon request of the issuer.

(a) Filings of issue age level premium rates (~~shall~~) must be accompanied by the following:

(i) Anticipated loss ratios stated on a policy year basis for the period for which the policy is rated. Filings of future rate adjustments must contain the actual policy year loss ratios experienced since inception;

(ii) Anticipated total termination rates on a policy year basis for the period for which the policy is rated. The termination rates should be stated as a percentage and the source of the mortality assumption must be specified. Filings of future rate adjustments must include the actual total termination rates stated on a policy year basis since inception;

(iii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iv) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(v) Specimen copy of the compensation agreements or contracts between the issuer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, (~~such~~) the agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(vi) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(b) Filings of community rated forms (~~shall~~) must be accompanied by the following:

(i) Anticipated loss ratio for the accounting period for which the policy is rated. The duration of the accounting period must be stated in the filing, established based on the judgment of the pricing actuary, and must be reasonable in the opinion of the commissioner. Filings for rate adjustment must demonstrate that the actual loss ratios experienced during the three most recent accounting periods, on an aggregated basis, have been equal to or greater than the loss ratios required by WAC 284-66-200.

(ii) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(iii) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(iv) Specimen copy of the compensation agreements or contracts between the insurer and its agents, brokers, general agents, or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies, (~~such~~) the agreements demonstrating compliance with WAC 284-66-350 (where appropriate);

(v) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

(2) Every issuer (~~shall~~) must make (~~such~~) premium adjustments (~~as~~) that are necessary to produce an expected loss ratio under (~~such~~) the policy (~~as~~) that will conform with the minimum loss ratio standards of WAC 284-66-200.

(3) No premium adjustment (~~which~~) that would modify the loss ratio experience under the policy, other than the adjustments described in this section, may be made with respect to a policy at any time other than upon its renewal or anniversary date.

(4) Premium refunds or premium credits (~~shall~~) must be made to the premium payer no later than upon renewal if a credit is given, or within sixty days of the renewal or anniversary date if a refund is provided.

(5) For purposes of rate making and requests for rate increases, all individual Medicare supplement policy forms of an issuer are considered "similar policy forms" including forms no longer being marketed.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-243 Filing and approval of policies and certificates and premium rates. (1) An issuer (~~shall~~) may not deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the commissioner (~~in accordance with~~) according to the filing requirements and procedures prescribed by the commissioner.

(2) An issuer must file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as required by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the commissioner in the state that the policy or certificate was issued.

(3) An issuer (~~shall~~) may not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the commissioner (~~in~~

accordance with) according to the filing requirements and procedures prescribed by the commissioner.

~~((3))~~ (4)(a) Except as provided in (b) of this subsection, an issuer ~~((shall))~~ may not file for approval more than one form of a policy or certificate of each type for each standard Medicare supplement benefit plan.

(b) An issuer may offer, with the approval of the commissioner, up to four additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one for each of the following cases:

- (i) The inclusion of new or innovative benefits;
- (ii) The addition of either direct response or agent marketing methods;
- (iii) The addition of either guaranteed issue or underwritten coverage;
- (iv) The offering of coverage to individuals eligible for Medicare by reason of disability. The form number for products offered to enrollees who are eligible by reason of disability must be distinct from the form number used for a corresponding standardized plan offered to an enrollee eligible for Medicare by reason of age.

(c) For the purposes of this section, a "type" means an individual policy, a group policy, an individual Medicare SELECT policy, or a group Medicare SELECT policy.

~~((4))~~ (5)(a) Except as provided in (a)(i) of this subsection, an issuer ~~((shall))~~ must continue to make available for purchase any policy form or certificate form issued after the effective date of this regulation that has been approved by the commissioner. A policy form or certificate form ~~((shall))~~ is not ~~((be))~~ considered to be available for purchase unless the issuer has actively offered it for sale in the previous twelve months.

(i) An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the commissioner in writing its decision at least thirty days ~~((prior to))~~ before discontinuing the availability of the form of the policy or certificate. After receipt of the notice by the commissioner, the issuer ~~((shall))~~ may no longer offer for sale the policy form or certificate form in this state.

(ii) An issuer that discontinues the availability of a policy form or certificate form ~~((pursuant to))~~ under (a)(i) of this subsection, ~~((shall))~~ may not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five years after the issuer provides notice to the commissioner of the discontinuance. The period of discontinuance may be reduced if the commissioner determines that a shorter period is appropriate.

(b) The sale or other transfer of Medicare supplement business to another issuer ~~((shall be))~~ is considered a discontinuance for the purposes of this subsection.

(c) A change in the rating structure or methodology ~~((shall be))~~ is considered a discontinuance under (a) of this subsection, unless the issuer complies with the following requirements:

(i) The issuer provides an actuarial memorandum, in a form and manner prescribed by the commissioner, describing the manner in ~~((which))~~ that the revised rating methodology and resultant rates differ from the existing rating methodology and resultant rates.

(ii) The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The commissioner may approve a change to the differential ~~((which))~~ that is in the public interest.

~~((5))~~ (6)(a) Except as provided in (b) of this subsection, the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan ~~((shall))~~ must be combined for purposes of the refund or credit calculation prescribed in WAC 284-66-203.

(b) Forms assumed under an assumption reinsurance agreement ~~((shall))~~ may not be combined with the experience of other forms for purposes of the refund or credit calculation.

~~((6))~~ (7) An issuer may set rates only on a community rated basis or on an issue-age level premium basis for policies issued prior to January 1, 1996, and may set rates only on a community rated basis for policies issued after December 31, 1995.

(a) For policies issued prior to January 1, 1996, community rated premiums ~~((shall))~~ must be equal for all individual policyholders or certificateholders under a standardized Medicare supplement benefit form. Such premiums may not vary by age or sex. For policies issued after December 31, 1995, community rated premiums must be set according to RCW 48.66.045(3).

(b) Issue-age level premiums must be calculated for the lifetime of the insured. This will result in a level premium if the effects of inflation are ignored.

~~((7))~~ (8) All filings of policy or certificate forms ~~((shall))~~ must be accompanied by the proposed application form, outline of coverage form, proposed rate schedule, and an actuarial memorandum completed, signed and dated by a qualified actuary as defined in WAC 284-05-060. In addition to the actuarial memorandum, the following supporting documentation must be submitted to demonstrate to the satisfaction of the commissioner that rates are not excessive, inadequate, or unfairly discriminatory and otherwise comply with the requirements of this chapter:

(a) Anticipated loss ratios stated on a calendar year basis by duration for the period for which the policy is rated. Filings of future rate adjustments must contain the actual calendar year loss ratios experienced since inception, both before and after the refund required, if any and the actual loss ratios in comparison to the expected loss ratios stated in the initial rate filing on a calendar year basis by duration if applicable;

(b) Anticipated total termination rates on a calendar year basis by duration for the period for which the policy is rated. The termination rates should be stated as a percentage and the source of the mortality assumption must be specified. Filings of future rate adjustments must include the actual total termination rates stated on a calendar year basis since inception;

(c) Expense assumptions including fixed and percentage expenses for acquisition and maintenance costs;

(d) Schedule of total compensation payable to agents and other producers as a percentage of premium, if any;

(e) A complete specimen copy of the compensation agreements or contracts between the issuer and its agents, brokers, general agents, as well as the contracts between gen-

eral agents and agents or others whose compensation is based in whole or in part on the sale of Medicare supplement insurance policies. ~~((Such))~~ The agreements ~~((shall))~~ must demonstrate compliance with WAC 284-66-350 (where appropriate);

(f) Other data necessary in the reasonable opinion of the commissioner to substantiate the filing.

NEW SECTION

WAC 284-66-247 Interim rate and form filing requirements for standardized plans H, I and J and pre-standardized plans that include outpatient prescription drug benefits. The requirements of this section are in addition to all Medicare Supplement rate and form filing requirements set forth in this chapter.

(1) Form filings.

(a) To comply with the requirements of WAC 284-66-243(2), issuers are encouraged to use a generic rider or amendment that is bracketed for the purpose of identifying the modified policy forms. Riders or amendments may be used only for policies or certificates issued prior to January 1, 2006, and must be accompanied by a complete listing of the form numbers for all affected policies or certificates.

(b) After December 31, 2005, plans H, I, and J may not be issued to new enrollees using a rider or amendment to delete the outpatient prescription drug benefit. After that date, issuers must:

(i) Offer only new plans that are otherwise identical to their currently approved plans H, I, and J, with the outpatient prescription drug benefit removed. The new plans must incorporate all endorsements that have been previously approved by the commissioner.

(ii) Identify the new plan using the same form number as the currently approved corresponding plan, adding a unique identifier to the form number that distinguishes it from the plan with outpatient drug benefits.

(iii) Certify that the new plan, including any previously approved endorsements, is identical to the currently approved plan in all respects except for the deletion of the prescription drug benefit. The certification must be signed by an officer of the company.

(2) Rate filings.

(a) An issuer must submit revised rates for all policies or certificates that are modified using a rider or amendment to remove outpatient prescription drug coverage. The rates must be accompanied by an actuarial memorandum signed by a qualified actuary as defined in WAC 284-05-060 and include no less than the following information:

(i) The form number of the rider or amendment being used to modify the policy or certificate along with form number of the applicable policy or certificate.

(ii) If the modification applies to a prestandardized plan, a detailed description of the deleted prescription benefits.

(iii) A description and calculation of how the rate modification was determined including the general description and source of each assumption used.

(iv) A separate rate page listing the current rate charged for the underlying plan, the rate adjustment for the deleted outpatient drug benefit, and the final rate.

(b) An issuer must submit rates for standardized plans H, I, and J that will be issued after December 31, 2005. The rates must be consistent with the rates filed for the corresponding plans H, I and J that have been modified by rider or amendment to remove the outpatient prescription drug benefit and include all the current requirements for Medicare supplement rate filings noted in this chapter.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-250 Filing requirements for out-of-state group policies. Every issuer providing group Medicare supplement insurance benefits to a resident of this state ~~((shall))~~ must file with the commissioner, within thirty days of its use in this state, a copy of the master policy and any certificate used in this state, ~~((in accordance with))~~ according to the filing requirements and procedures ~~((applicable))~~ that apply to Medicare supplement policies issued in this state.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-260 Riders and endorsements. (1) Effective January 1, 1990, subject to RCW 48.66.050(2), and except for riders or endorsements issued ~~((in accordance with))~~ according to subsection (2) of this section, no rider, endorsement, waiver, or any other means of modifying contractual benefits may be used by an issuer to exclude, limit, or reduce the coverage or benefits of a Medicare supplement insurance policy or certificate issued to a resident of this state. Only riders or endorsements ~~((which))~~ that increase benefits or coverage may be used in this state.

(2) Effective January 1, 1990, except for riders or endorsements issued to bring a policy into compliance with changes to the minimum benefit standards or other contractual benefits required by this chapter or as ~~((hereafter))~~ amended:

(a) An amendment to a Medicare supplement insurance policy or certificate ~~((which))~~ that increases the premium must be requested or accepted by the policyholder in writing; and

(b) Where separate additional premium is charged for a rider, endorsement or other amendment to the contractual benefits of a Medicare supplement insurance policy or certificate, the premium charged ~~((shall))~~ must be set forth in the policy.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-270 Standards for claims payment: Compliance with Omnibus Budget Reconciliation Act of 1987. (1) An issuer ~~((shall))~~ must comply with Section 1882 (c)(3) of the Social Security Act (as enacted by Section 4081 (b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA'87), P.L. 100-203) by:

(a) Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim

form otherwise required and making a payment determination on the basis of the information contained in that notice;

(b) Notifying the participating physician or supplier and the beneficiary of the payment determination;

(c) Paying the participating physician or supplier directly;

(d) Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number, and a central mailing address to which notices from a Medicare carrier may be sent;

(e) Paying user fees for claim notices that are transmitted electronically or otherwise; and

(f) Providing to the Secretary of Health and Human Services, at least annually, a central mailing address ~~((to which))~~ that all claims may be sent by Medicare carriers.

(2) Compliance with the requirements set forth in subsection (1) of this section ~~((shall))~~ must be certified on the Medicare supplement insurance experience reporting form.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-300 Requirements for advertising. (1) At least thirty days ~~((prior to))~~ before use in this state, every issuer who provides Medicare supplement insurance coverage to a resident of this state ~~((shall))~~ must provide the commissioner with a copy of any Medicare supplement advertisement (as advertisement is defined in WAC 284-50-030) intended for use in this state whether through written, radio, or television medium. In the case of radio or television advertising, an audio cassette or VHS cassette ~~((shall))~~ must be supplied on request of the commissioner.

(2) Advertising ~~((shall))~~ must comply with the standards of the Washington disability advertising regulation (WAC 284-50-010 through 284-50-230), and ~~((shall set forth))~~ must identify the name in full of the issuer and the location of its home office or principal office in the United States (if an alien issuer).

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-310 Attained age rating prohibited. ~~((With respect to Medicare supplement insurance policies and certificates initially sold to residents of this state on or after January 1, 1989,))~~ The commissioner has found and ((hereby)) defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any issuer, directly or indirectly, to use the increasing age of an insured, subscriber, or participant as the basis for increasing premiums or prepayment charges with respect to Medicare supplement insurance. Accordingly, the rating practice commonly referred to as "attained age rating" is prohibited.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-320 Reporting of multiple policies. (1) On or before March 1st of each year, an issuer ~~((shall))~~ must report to the commissioner the following information for every individual resident of this state for which the issuer has

in force more than one Medicare supplement policy or certificate on a form approved by the commissioner, substantially in the form provided in WAC 284-66-323:

(a) Policy and certificate number; and

(b) Date of issuance.

(2) The items set forth above must be grouped by individual policyholder.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-330 Standards for marketing. (1) Every issuer marketing Medicare supplement insurance coverage in this state, directly or through its producers, ~~((shall))~~ must:

(a) Establish marketing procedures to assure that any comparison of policies or certificates by its agents or other producers will be fair and accurate.

(b) Establish marketing procedures to assure excessive insurance is not sold or issued.

(c) Display prominently by type, stamp or other appropriate means, on the first page of the policy or certificate the following:

"NOTICE TO BUYER: THIS (POLICY, CONTRACT OR CERTIFICATE) MAY NOT COVER ALL OF YOUR MEDICAL EXPENSES."

(d) Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has disability insurance and the types and amounts of any such insurance.

(e) Establish auditable procedures for verifying compliance with this section.

(2) In addition to the acts and practices prohibited in chapter 48.30 RCW, chapters 284-30 and 284-50 WAC, and this chapter, the commissioner has found and hereby defines the following to be unfair acts or practices and unfair methods of competition, and prohibited practices for any issuer, or their respective agents either directly or indirectly:

(a) Twisting. Making misrepresentations or misleading comparisons of any insurance policies or issuers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, ~~((retain))~~ keep, or convert any insurance policy.

(b) High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat whether explicit or implied, or otherwise applying undue pressure to coerce the purchase of, or recommend the purchase of, insurance.

(c) Cold lead advertising. Making use directly or indirectly of any method of marketing ~~((which))~~ that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-340 Appropriateness of recommended purchase and excessive insurance. (1) In recommending the purchase or replacement of any Medicare supplement policy or certificate an agent ~~((shall))~~ must make reasonable

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efforts to determine the appropriateness of a recommended purchase or replacement.

(2) Any sale of a Medicare supplement (~~coverage which~~) policy or certificate that will provide an individual more than one Medicare supplement policy or certificate is prohibited.

(3) An issuer may not issue a Medicare supplement policy or certificate to an individual enrolled in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-350 Permitted compensation arrangements. (1)(a) The commissioner has found and hereby defines it to be an unfair act or practice and an unfair method of competition, and a prohibited practice, for any issuer, directly or indirectly, to provide commission to an agent or other representative for the solicitation, sale, servicing, or renewal of a Medicare supplement policy or certificate (~~which~~) that is delivered or issued for delivery to a resident within this state unless the commission is identical as to percentage of premium for every policy year as long as the coverage under the policy or certificate remains in force with premiums being paid, or waived by the issuer, for (~~such~~) the coverage.

(b) Each commission payment must be made by the issuer no later than sixty days following the date on which the applicable premiums, (~~upon which the commission is calculated~~) that are the basis of the commission calculation, were paid. Each (~~such~~) payment must be paid to either the producing agent who originally sold the policy or to a successor agent designated by the issuer to replace the producing agent, or shared between them on some basis. The distribution of the commission payments (~~shall~~) must be designated by the issuer in its various agents' commission agreements and it may not terminate, reduce or (~~retain~~) keep the commission payment as long as the policy or certificate remains in force with premiums being paid, or waived by the issuer, for the coverage thereunder.

(c) Where an issuer provides a portion of the total commission for the solicitation, sale, servicing, or renewal of a Medicare supplement policy or certificate to a general agent, sales manager, district representative or other supervisor who has marketing responsibilities (other than a producing or successor agent), while such portion of total commissions continues to be paid it (~~shall~~) must be identical as to percentage of premium for every policy year as long as coverage under the policy or certificate remains in force with premiums being paid, or waived by the issuer, for (~~such~~) the coverage.

(2) For purposes of this section, "commission" includes pecuniary or nonpecuniary remuneration of any kind relating to the solicitation, sale, servicing, or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, advances on commissions, awards and finders fees.

(3) This section (~~shall~~) does not apply to salaried employees of an issuer who have marketing responsibilities if the salaried employee is not compensated, directly or indirectly, on any basis dependent upon the sale of insurance

being made, including but not limited to considerations of the number of applications submitted, the amount or types of insurance, or premium volume.

AMENDATORY SECTION (Amending Order R 92-1, filed 2/25/92, effective 3/27/92)

WAC 284-66-400 Chapter not exclusive. Nothing contained in this chapter (~~shall~~) may be construed to limit the authority of the commissioner to regulate Medicare supplement insurance policies or certificates under other sections of Title 48 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-66-077 Open enrollment.

WSR 05-17-020 PERMANENT RULES DEPARTMENT OF LICENSING

[Filed August 4, 2005, 3:32 p.m., effective September 4, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend chapter 308-20 WAC, Cosmetologists, barbers, manicurists and estheticians, the amendments will allow an apprentice to receive in-classroom theory hours of instruction from a licensed instructor at a location other than a licensed school.

Citation of Existing Rules Affected by this Order: Amending WAC 308-20-010 Definitions and 308-20-101 Apprentice credit for training in an approved apprentice salon/shop.

Statutory Authority for Adoption: RCW 18.16.030, 18.16.280, 43.24.023.

Adopted under notice filed as WSR 05-13-114 on June 20, 2005.

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 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 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: August 4, 2005.

Trudie Touchette
Administrator

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AMENDATORY SECTION (Amending WSR 04-05-005, filed 2/6/04, effective 3/8/04)

WAC 308-20-010 Definitions. (1) "Chemical compounds formulated for professional use only" are those compounds containing hazardous chemicals in a form not generally sold to the public; including but not limited to, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances, facial creams, or approved chemical compounds. These compounds must be designated for use on the hair, face, neck, skin, or scalp.

(2) "Monthly student report" are forms provided by the school, approved by the department, preprinted with the school name. The report must include the daily activities of the student in each subject, (i.e., number of shampoos, haircuts, perms, colors, etc.) within each course (i.e., barbering, manicuring, cosmetology, esthetics, or instructor-trainee).

(3) "Completed and graduated" is the completion of the school curriculum and the state approved minimum hourly course of training.

(4) "Apprentice salon/shop" is a location certified by the advisory committee that provides training for individuals accepted into the apprenticeship program. Apprentice salon/shops shall not receive payment from the apprentice for training.

(5) "Apprentice trainer" is a person that is currently licensed and in good standing. This person provides training in a licensed shop approved for the apprenticeship program, who must have received Journey Level training and have held a license in the curriculum for which he or she is providing training for a minimum of three years.

(6) "Completion of the apprenticeship program" is the completion of the apprentice salon/shop curriculum that includes the state approved hourly course of training as described in WAC 308-20-080 (~~and the in-classroom theory training from a school licensed with the department of licensing~~).

(7) "Monthly apprentice report" forms provided by the apprentice shop, approved by the department, printed with the shop name, for use in recording apprentice training hours and activities.

AMENDATORY SECTION (Amending WSR 04-05-005, filed 2/6/04, effective 3/8/04)

WAC 308-20-101 Apprentice credit for training in an approved apprentice salon/shop. (1) A minimum of one trainer per apprentice is required.

~~(2) ((Only the hours of instruction an apprentice is given under the direction of a trainer as defined in WAC 308-20-010 and in the standards developed by the apprenticeship program shall be credited toward completion of the apprenticeship training.~~

~~(3) Theory hours must be taught in a licensed school by a licensed instructor.)~~ Only those hours of theory instruction given under the direction of an instructor licensed under chapter 18.16 RCW shall be credited towards completion of the apprentice curriculum requirements for theory hours. Cosmetologist, barber, manicurist and esthetician theory hours must be taught in a classroom setting under the direct

supervision of an instructor licensed in the curriculum for which he or she is providing theory instruction.

(3) With the exception of theory hours, only those hours of instruction an apprentice is given under the direction of an apprentice trainer as defined in WAC 308-20-010 and in the standards developed by the apprenticeship program shall be credited toward completion of the apprenticeship training.

(4) When all of the apprenticeship program requirements have been met by the apprentice and within thirty days of an apprentice's completed training, the committee shall provide to the apprentice a copy of the apprentice's final report.

(5) An apprentice may transfer between shops only when the committee approves the transfer.

(6) Apprentice trainers and instructors must be physically present where apprentices are training.

WSR 05-17-026

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. A-021178 and TO-030288, General Order No. R-522—Filed August 5, 2005, 11:52 a.m., effective September 5, 2005]

In the Matter of repealing chapter 480-146 WAC, amending and adopting certain sections of chapters 480-73, 480-90, 480-100, 480-110, and 480-120 WAC, and amending WAC 480-121-063, relating to reporting of transactions between regulated utility and transportation companies and their subsidiaries.

1 STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 05-10-099, filed with the code reviser on May 4, 2005. The commission brings this proceeding pursuant to RCW 80.01.040, 80.04.160, and 81.04.160.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date that this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires that the commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the commission's reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules as adopted (other than editing changes), a summary of the comments received regarding the proposed rule, and the commission's responses to the comments, reflecting the commission's consideration of them.

5 The commission often includes a discussion of those matters in its rule adoption order. In addition, most rule-making proceedings involve extensive work by commission staff that includes summaries in memoranda of stakeholder comments, commission decisions, and staff recommendations in each of those areas.

6 In this docket, to avoid unnecessary duplication, the commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda presented at the adoption hearing and at the open meetings where the commission considered whether to begin a rule making and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

7 **REFERENCE TO AFFECTED RULES:** This order repeals, amends, or adopts the following sections of the Washington Administrative Code:

Chapter 480-146 WAC, Commission general—Securities, liens, refunding of notes, lease of utility facilities.

REPEAL: WAC 480-146-240 Application of rules.

WAC 480-146-250 Filing. This section incorporated in WAC 480-90-207, 480-100-207, 480-110-457, and 480-120-331, filing information.

WAC 480-146-260 Commission may require additional information. This section incorporated in WAC 480-90-207, 480-100-207, 480-110-457, and 480-120-331, filing information.

WAC 480-146-270 Applicant may include information by reference. This section incorporated in WAC 480-90-207, 480-100-207, 480-110-457, and 480-120-331, filing information.

WAC 480-146-280 Applicant duty when information is unavailable. This section incorporated in WAC 480-90-207, 480-100-207, 480-110-457, and 480-120-331, filing information.

WAC 480-146-290 Securities statements and applications. This section incorporated in proposed WAC 480-90-242, 480-100-242, 480-110-525, and 480-120-365, issuing securities.

WAC 480-146-300 Filing requirements for securities statements and applications. This section incorporated in proposed WAC 480-90-242, 480-100-242, 480-110-525, and 480-120-365, issuing securities.

WAC 480-146-310 Commission may set securities application or statement for public hearing. No longer relevant.

WAC 480-146-320 Minimum time required for commission order. This section incorporated in proposed WAC 480-90-242, 480-100-242, 480-110-525, and 480-120-365, issuing securities.

WAC 480-146-330 Supplemental securities filing may be exempt from time limitations. This section incorporated in proposed WAC 480-90-242, 480-100-242, 480-110-525, and 480-120-365, issuing securities.

WAC 480-146-340(1) Reporting of securities transactions. This section incorporated in proposed WAC 480-90-262, 480-100-262, 480-110-565, and 480-120-389, securities report.

WAC 480-146-340(2) Reporting of securities transactions. This section incorporated in proposed WAC 480-90-242, 480-100-242, 480-110-525, and 480-120-365, issuing securities.

WAC 480-146-340(3) Reporting of securities transactions. No longer relevant.

WAC 480-146-370 Application for approval of lease of utility facilities. This section incorporated in proposed WAC 480-100-282 Application for approval of lease of utility facilities.

WAC 480-146-380 Form of lease application. This section incorporated in proposed WAC 480-100-287 Form of lease application.

Chapter 480-73 WAC, Hazardous liquid pipeline companies.

Amend: WAC 480-73-110 Filing information. Adopts procedures for delivering a notice of securities issuance with commission.

Adopt: WAC 480-73-170 Issuing securities. Adopts procedures for filing a notice of a securities issuance with commission.

Adopt: WAC 480-73-200 Securities report. Adopts procedure for annual report of securities transactions and pertinent financial information.

Chapter 480-90 WAC, Gas companies—Operations.

Amend: WAC 480-90-207 Filing information.

1. Incorporates language from proposed repealers: WAC 480-146-250 Filing, 480-146-260 Commission may require additional information, 480-146-270 Applicant may include information by reference, and 480-146-280 Applicant duty when information is unavailable.

2. Adds language permitting filing by telefacsimile or electronic mail.

Adopt: WAC 480-90-242 Issuing securities.

1. Incorporates language from proposed repealers: WAC 480-146-290 Securities statements and applications, 480-146-300 Filing requirements for securities statements and applications, 480-146-320 Minimum time required for commission order, 480-146-330 Supplemental securities filings may be exempt from time limitations, and 480-146-340(1) Reporting of securities transactions.

2. Adds clarification of requirement to file a registration statement using a shelf registration process.

3. Adds language permitting confidential designation.

4. Adds requirement to report, to the extent known, disposition of proceeds for each purpose allowed by RCW 80.08.030.

Amend: WAC 480-90-248 Securities and transfers of property. Removes reference to chapters 80.08 RCW, Securities and 480-146 WAC, Commission general—Securities, liens, refunding of notes, lease of utility facilities.

Adopt: WAC 480-90-262 Securities report. Incorporates language from proposed repealer WAC 480-146-340(2) Reporting of securities transactions, and revises language to obtain pertinent information on the use of proceeds related to each allowable purpose listed in RCW 80.08.030.

Chapter 480-100 WAC, Electric companies—Operations.

Amend: WAC 480-100-207 Filing information.

1. Incorporates language from proposed repealers: WAC 480-146-250 Filing, 480-146-260 Commission may require additional information, 480-146-270 Applicant may include information by reference, and 480-146-280 Applicant duty when information is unavailable.

2. Adds language permitting filing by telefacsimile or electronic mail.

Adopt: **WAC 480-100-242 Issuing securities.**

1. Incorporates language from proposed repealers: WAC 480-146-290 Securities statements and applications, 480-146-300 Filing requirements for securities statements and applications, 480-146-320 Minimum time required for commission order, 480-146-330 Supplemental securities filings may be exempt from time limitations, and 480-146-340(1) Reporting of securities transactions.

2. Adds clarification of requirement to file a registration statement using a shelf registration process.

3. Adds language permitting confidential designation.

4. Adds requirement to report, to the extent known, disposition of proceeds for each purpose allowed by RCW 80.08.030.

Amend: **WAC 480-100-248 Securities and transfers of property.** Removes reference to chapters 80.08 RCW, Securities and 480-146 WAC, Commission general—Securities, liens, refunding of notes, lease of utility facilities.

Adopt: **WAC 480-100-262 Securities report.** Incorporates language from proposed repealer WAC 480-146-340(2) Reporting of securities transactions, and revises language to obtain pertinent information on the use of proceeds related to each allowable purpose listed in RCW 80.08.030.

Adopt: **WAC 480-100-282 Application for approval of lease of utility facilities.** Incorporates language from proposed repealer WAC 480-146-370 Application for approval of lease of utility facilities.

Adopt: **WAC 480-100-287 Form of lease application.** Incorporates language from proposed repealer WAC 480-146-380 Form of lease application.

Chapter 480-110 WAC, Water companies.

Amend: **WAC 480-110-457 Filing information.**

1. Incorporates language from proposed repealers: WAC 480-146-250 Filing, 480-146-260 Commission may require additional information, 480-146-270 Applicant may include information by reference, and 480-146-280 Applicant duty when information is unavailable.

2. Adds language permitting filing by telefacsimile or electronic mail.

Adopt: **WAC 480-110-525 Issuing securities.**

1. Incorporates language from proposed repealers: WAC 480-146-290 Securities statements and applications, 480-146-300 Filing requirements for securities statements and applications, 480-146-320 Minimum time required for commission order, 480-146-330 Supplemental securities filings may be exempt from time limitations, and 480-146-340(1) Reporting of securities transactions.

2. Adds clarification of requirement to file a registration statement using a shelf registration process.

3. Adds language permitting confidential designation.

4. Adds requirement to report, to the extent known, disposition of proceeds for each purpose allowed by RCW 80.08.030.

Amend: **WAC 480-110-555 Securities and transfers of property.** Removes reference to chapters 80.08 RCW, Securities and 480-146 WAC, Commission general—Securities, liens, refunding of notes, lease of utility facilities.

Adopt: **WAC 480-110-565 Securities report.** Incorporates language from proposed repealer WAC 480-146-340(2) Reporting of securities transactions, and revises language to obtain pertinent information on the use of proceeds related to each allowable purpose listed in RCW 80.08.030.

Chapter 480-120 WAC, Telecommunications operations.

Amend: **WAC 480-120-331 Filing information.**

1. Incorporates language from proposed repealers: WAC 480-146-250 Filing, 480-146-260 Commission may require additional information, 480-146-270 Applicant may include information by reference, and 480-146-280 Applicant duty when information is unavailable

2. Adds language permitting filing by telefacsimile or electronic mail.

Adopt: **WAC 480-120-365 Issuing securities.**

1. Incorporates language from proposed repealers: WAC 480-146-290 Securities statements and applications, 480-146-300 Filing requirements for securities statements and applications, 480-146-320 Minimum time required for commission order, 480-146-330 Supplemental securities filings may be exempt from time limitations, and 480-146-340(1) Reporting of securities transactions.

2. Adds clarification of requirement to file a registration statement using a shelf registration process.

3. Adds language permitting confidential designation.

4. Adds requirement to report, to the extent known, disposition of proceeds for each purpose allowed by RCW 80.08.030.

Adopt: **WAC 480-120-389 Securities report.** Incorporates language from proposed repealer WAC 480-146-340(2) Reporting of securities transactions, and revises language to obtain pertinent information on the use of proceeds related to each allowable purpose listed in RCW 80.08.030.

Chapter 480-121 WAC, Registration, competitive classification and price lists of telecommunications companies

Amend: **WAC 480-121-063 Regulatory requirements that may be waived for competitively classified telecommunications companies.** Removes reference to chapter 480-146 WAC and adds references to new financial reporting rules, WAC 480-120-389 Securities report and WAC 480-120-395 Affiliated interest and subsidiary transactions report.

8 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on October 2, 2002, at WSR 02-20-105, and October 28, 2002, at WSR 02-22-030, in Docket A-021178. The commission filed a preproposal statement of inquiry (CR-101) on March 13, 2003, at WSR 03-07-034, in Docket TO-030288.

9 ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement at WSR 02-20-105 advised interested persons that the commission was considering entering a rule making on establishing reporting rules for transactions between regulated utility and transportation companies and their subsidiaries. The statement at WSR 02-22-030 advised interested persons that other industries, including auto transportation companies, may be affected by rules adopted in this docket, and that rules adopted in this docket would not apply to competitive tele-

communications companies. The statement at WSR 03-07-034 advised interested persons that the commission was considering developing a new chapter applicable to the economic regulation of hazardous liquid pipeline companies regulated as common carriers by the commission, including, but not limited to, financial reporting requirements.

10 The commission also informed persons of the inquiry into these matters by providing notice of the subjects and the CR-101s 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 all registered companies and the commission's lists of regulatory attorneys. The commission posted the relevant rule-making information on its internet web site at <http://www.wutc.wa.gov>.

11 WORKSHOP; ORAL COMMENTS; WRITTEN COMMENTS: Pursuant to the notice, the commission held three stakeholder workshops. In addition, staff met informally to discuss issues related to financial reporting rules with representatives from Qwest Corporation (Qwest), PacifiCorp, Puget Sound Energy, Inc., Avista Corporation, and Olympic Pipe Line Company. Representatives of regulated companies and consumer advocacy organizations attended the workshops and/or filed written comments.

12 NOTICE OF PROPOSED RULE MAKING: The commission filed with the code reviser a notice of proposed rule making (CR-102) on September 1, 2004, at WSR 04-18-129, scheduling the matter for oral comment and adoption on October 13, 2004¹. On December 22, 2004, the commission filed a supplemental notice to WSR 04-18-129, notifying interested persons of changes to the rules proposed at WSR 05-01-224, and scheduling the matter for oral comment and adoption on February 1, 2005². On May 4, 2005, the commission filed a supplemental notice to WSR 05-01-224, notifying interested persons of changes to the rules relating to securities transactions proposed at WSR 05-10-099, and scheduling the matter for oral comment and adoption on Wednesday, June 15, 2005, at 9:30 a.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 Evergreen Park Drive S.W., Olympia, WA.

¹ The commission heard comments from interested persons on the rule proposal on October 13, 2004, but did not adopt the proposal.

² On February 28, 2005, the commission filed an adoption order with the code reviser at WSR 05-06-051, in which it amended, adopted, and repealed the majority of the rules noticed at WSR 05-01-224. The commission chose not to adopt certain proposed rules relating to securities transactions in its February 28, 2005, order.

13 COMMENTERS (WRITTEN COMMENTS): The commission received written comments from Qwest and Verizon Northwest, Inc. (Verizon) in response to the supplemental notice of rules proposed at WSR 05-10-099.

14 RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on June 15, 2005, before Chairman Mark H. Sidran, and Commissioners Patrick J. Oshie and Philip B. Jones. The commission heard oral comments from Fred Ottavelli representing commission staff, and from representatives of Verizon.

15 SUGGESTIONS FOR CHANGE THAT ARE REJECTED:

WAC 480-120-365(1), Verizon suggests that the time frame for filing the required report should be set more realistically and the distinction between investment grade and non-investment grade should be put back into the rule. Verizon proposes reporting thirty days after the end of the month in which the investment grade telecommunications company issues a security.

The commission does not accept Verizon's proposed change. RCW 80.08.040 specifically requires filing "before" issuance. The previous proposal of a blanket exemption for investment grade companies had been combined with a requirement for noninvestment grade companies to report five days prior to issuance. The proposed rule now replicates statutory language requiring a report "before" issuance. The commission may exempt certain issuances by order under the provisions of RCW 80.08.047 if application of the securities statute is not required by the public interest. WAC 480-120-365 (6)(b) and 480-120-389 (1)(b), Qwest observes that the proposed rules require reporting the actual use of proceeds "stating the final amount used for each purposed allowed by RCW 80.08.030." Qwest notes that cash is fungible, and argues that it is impossible to track the ultimate disposition of every dollar raised through a security issue.

The commission agrees that it would be difficult to track every particular dollar raised through a securities issuance. However, the proposed rules do not require such specificity. The statute limits the use of proceeds to specific purposes, and requires that a company officer certify that the proceeds of a security issuance are used for one of the purposes allowed in the statute. *RCW 80.08.030, 80.08.040(1)*. The commission may require the company to account for the disposition of proceeds of securities issuances "in such form and detail as it may deem advisable,..." *RCW 80.08.090*. The proposed rules, like the statutes on which they are based, do not require the company to track every particular dollar raised through a security issuance.

For example, assume that a company represents that \$100 million in debt will be used for allowed purposes. The company issues the debt and places the cash proceeds in an account commingled with other sources of cash. It subsequently spends \$50 million in cash on construction of its facilities and \$50 million in cash for refunding of its obligation. The company can report these as the use of proceeds without having tracked the actual cash (i.e., each dollar) from that issuance.

WAC 480-120-389 (1)(b), Qwest proposes that the requirement for an annual report detailing the actual use of proceeds from securities issuances be qualified with the words "if known" or "to the extent known" to recognize the timing of company expenditures.

The commission does not accept Qwest's proposal. Timing should not be a problem. WAC 480-120-389 (1)(b) requires a report by April 1 of each year of those transactions that occurred during the period January 1 through December 31 of the preceding year. This gives the reporting company ninety days to ascertain expenditures actually made during the preceding year. This information should be available by April 1.

16 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend, repeal, and adopt the rules in the supplemental CR-102 notice at WSR 05-10-099 with the changes described below.

17 CHANGES FROM PROPOSAL: The commission adopts the supplemental CR-102 proposal noticed at WSR 05-10-099 with the following changes:

WAC 480-120-365(6) and comparable sections for each industry. Qwest proposes that the requirement for a report sixty days after the issuance of any securities, setting forth actual proceeds from the issuance and the disposition of proceeds, be qualified with the words "if known" or "to the extent known" to recognize that cash raised through a securities issuance may well not be spent within sixty days of the issuance.

The commission recognizes that cash raised through a securities issuance may not be spent within sixty days of the issuance, and accepts Qwest's proposal to incorporate the words "to the extent known" into WAC 480-120-365 (6)(b), as well as WAC 480-73-170 (4)(b), 480-90-242 (6)(b), 480-100-242 (6)(b), and 480-110-525 (6)(b).

WAC 480-120-365 and comparable sections for each industry. the commission clarifies the intent of this rule by incorporating language suggested by Qwest that excludes those notes that are exempted from reporting under RCW 80.08.043, and that qualifies the reporting of any obligation or liability pursuant to RCW 80.08.130. This clarification has been incorporated into WAC 480-90-242, 480-100-242, 480-110-525, and 480-120-365. Similar language has been incorporated into WAC 480-73-170 to qualify the reporting of obligation or liability pursuant to RCW 81.08.130.

18 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that chapter 480-146 WAC should be repealed; WAC 480-73-110, 480-90-207, 480-90-248, 480-100-207, 480-100-248, 480-110-457, 480-110-555, 480-120-331, and 480-121-063 should be amended; and WAC 480-73-170, 480-73-200, 480-90-242, 480-90-262, 480-100-242, 480-100-262, 480-100-282, 480-100-287, 480-110-525, 480-110-565, 480-120-365, and 480-120 389, 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 13, Amended 8, Repealed 13.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 7, Repealed 13.

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.

ORDER

THE COMMISSION ORDERS:

19 (1) The commission repeals chapter 480-146 WAC.

20 (2) The commission amends and adopts the following sections 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): WAC 480-73-110, 480-90-207, 480-90-248, 480-100-207, 480-100-248, 480-110-457, 480-110-555, 480-120-331, and 480-121-063.

21 (3) The commission adopts the following new sections 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): WAC 480-73-170, 480-73-200, 480-90-242, 480-90-262, 480-100-242, 480-100-262, 480-100-282, 480-100-287, 480-110-525, 480-110-565, 480-120-365, and 480-120 389.

22 This order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 3rd day of August, 2005.

Washington Utilities and Transportation Commission

Mark H. Sidran, Chairman

Patrick J. Oshie, Commissioner

Philip B. Jones, Commissioner

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-73-110 Filing information. (1) **Filing.** The commission records center will accept any filing under WAC 480-73-170 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part II in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-73-170 Issuing securities. (1) Before a pipeline company issues stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other evidences of indebtedness, or assumes any obligation or liability as guarantor subject to reporting under RCW 81.08.130, it must file with the commission:

(a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 81.08.030;

(b) A description of the proposed issuance, including the terms of financing; and

(c) A statement as to why the transaction is in the public interest.

(2) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute undertaking the issuance of a security, and therefore a filing with the commission is not required under the provisions of RCW 81.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under the Securities Act of 1933, Rule 415 - Delayed or Continuous Offering and Sale of Securities.

(3) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

(4) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a pipeline company must file with the commission a verified statement:

(a) Outlining the final terms and conditions of the transaction; and

(b) Setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 81.08.030.

NEW SECTION

WAC 480-73-200 Securities report. Each pipeline company that has issued securities must file with the commission an annual securities transaction report. The report is due ninety days from the end of the company's reporting period, whether a fiscal or calendar year. At a minimum, the report must contain:

(1) A schedule of the securities issued during the reporting period including a detailed description of the final agreements;

(2) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 81.08.030;

(3) The level of expenses for each of the securities transactions for the reporting period;

(4) A schedule of securities retired, refunded, repurchased, or otherwise removed from the company's capitalization; and

(5) A schedule of securities scheduled to mature in the fiscal or calendar year following the reporting period.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-90-207 Filing information. (1) **Filing.** The commission record center will accept any filing under WAC 480-90-242 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part III in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-90-242 Issuing securities. For the purpose of this section:

"Securities" means stocks, stock certificates, other evidence of interest or ownership, bonds, notes other than those notes exempted from reporting under RCW 80.08.043, or other evidence of indebtedness, or any obligation or liability as guarantor subject to reporting under RCW 80.08.130.

(1) Before a gas utility issues a security, it must file with the commission:

(a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;

(b) A description of the proposed issuance, including the terms of financing; and

(c) A statement as to why the transaction is in the public interest.

(2) A commission order is not required for such a filing. The utility may request a written order affirming that the utility has complied with the requirements of RCW 80.08.040. The utility must submit the request for a commission order, along with the information required in subsection (1) of this section, at least fifteen business days before the requested effective date for the order. Requests for supplemental orders may be exempt from the fifteen business day requirement.

(3) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute undertaking the issuance of a security, and therefore a filing with the commission is not required under

the provisions of RCW 80.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under the Securities Act of 1933, Rule 415 -Delayed or Continuous Offering and Sale of Securities.

(4) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

(5) Filings under this section may be submitted with portions designated confidential pursuant to WAC 480-07-160 (Confidential information).

(6) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a utility must file with the commission a verified statement:

(a) Outlining the final terms and conditions of the transaction; and

(b) Setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 80.08.030.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-90-248 ((Securities and)) Transfers of property. ~~((1) Before a gas utility issues stock, securities, or other evidence of indebtedness, the utility must comply with the requirements of chapters 80.08 RCW and 480-146 WAC.~~

~~((2))~~ Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, a gas utility must obtain from the commission an order authorizing such transaction in accordance with chapter 80.12 RCW (Transfers of property) and chapter 480-143 WAC (Commission general—Transfers of property).

NEW SECTION

WAC 480-90-262 Securities report. Each gas utility that has issued securities must file with the commission an annual securities transaction report. The report is due five months from the end of the utility's reporting period, whether a fiscal or calendar year. At a minimum, the report must contain:

(1) A schedule of the securities issued during the reporting period including a detailed description of the final agreements;

(2) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 80.08.030;

(3) The level of expenses for each of the securities transactions for the reporting period;

(4) A schedule of securities retired, refunded, repurchased, or otherwise removed from the utility's capitalization; and

(5) A schedule of securities scheduled to mature in the fiscal or calendar year following the reporting period.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-100-207 Filing information. (1) **Filing.** The commission records center will accept any filing under WAC 480-100-242 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part III in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-100-242 Issuing securities. For the purpose of this section:

"Securities" means stocks, stock certificates, other evidence of interest or ownership, bonds, notes other than those notes exempted from reporting under RCW 80.08.043, or other evidence of indebtedness, or any obligation or liability as guarantor subject to reporting under RCW 80.08.130.

(1) Before an electric utility issues a security, it must file with the commission:

(a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;

(b) A description of the proposed issuance, including the terms of financing; and

(c) A statement as to why the transaction is in the public interest.

(2) A commission order is not required for such a filing. The utility may request a written order affirming that the utility has complied with the requirements of RCW 80.08.040. The utility must submit the request for a commission order, along with the information required in subsection (1) of this section, at least fifteen business days before the requested effective date for the order. Requests for supplemental orders may be exempt from the fifteen business day requirement.

(3) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute issuance of a security, and therefore a filing with the commission is not required under the provisions of RCW 80.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under

the Securities Act of 1933, Rule 415 - Delayed or Continuous Offering and Sale of Securities.

(4) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

(5) Filings under this section may be submitted with portions designated confidential pursuant to WAC 480-07-160 (Confidential information).

(6) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a utility must file with the commission a verified statement:

(a) Outlining the final terms and conditions of the transaction; and

(b) Setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 80.08.030.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-100-248 ((Securities and)) Transfers of property. ~~(((1) Before an electric utility issues stock, securities, or other evidence of indebtedness, the utility must comply with the requirements of chapters 80.08 RCW and 480-146 WAC.~~

~~(2))~~ Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, an electric utility must obtain from the commission an order authorizing such transaction in accordance with chapters 80.12 RCW (Transfers of property) and 480-143 WAC (Commission general—Transfers of property).

NEW SECTION

WAC 480-100-262 Securities report. Each electric utility that has issued securities must file with the commission an annual securities transaction report. The report is due five months from the end of the utility's reporting period, whether a fiscal or calendar year. At a minimum, the report must contain:

(1) A schedule of the securities issued during the reporting period including a detailed description of the final agreements;

(2) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 80.08.030;

(3) The level of expenses for each of the securities transactions for the reporting period;

(4) A schedule of securities retired, refunded, repurchased, or otherwise removed from the utility's capitalization; and

(5) A schedule of securities scheduled to mature in the fiscal or calendar year following the reporting period.

PART ((5)) VI—SAFETY AND STANDARDS RULES

NEW SECTION

WAC 480-100-282 Application for approval of lease of utility facilities. Under the provisions of RCW 80.04.520, the applicant must certify that the requested approval of lease of utility facilities is necessary to exempt any owner of the facilities from being a public utility company under the Public Utility Holding Company Act of 1935.

NEW SECTION

WAC 480-100-287 Form of lease application. A filing for approval of lease of utility facilities must be submitted in the following form:

Before The Washington Utilities And Transportation Commission

**In the Matter of
the Application
of (insert name)
for an Order
Approving the
Lease of Utility
Facilities.**

No. . . .
(Number to be
inserted by Com-
mission)

.....

Application is hereby made to the Washington Utilities and Transportation Commission for an order authorizing the lease of utility facilities. The following general information and exhibits are furnished in support:

GENERAL INFORMATION

1. Name of applicant.
2. Address of principal office of applicant.
3. Name and address of attorney or agent.
4. State or states under which applicant is organized and form of organization.
5. A general description of the property owned by applicant and the field of its operations.

EXHIBIT "A"

A statement by applicant certifying that the requested approval is necessary or appropriate to exempt any owner of the facilities from being a public utility company under the federal Public Utility Holding Company Act of 1935.

EXHIBIT "B"

Detailed unconsolidated balance sheet as of three months before the date the application is filed, and a pro forma balance sheet as of the same date showing the effect of the proposed lease. Indicate separately the amount of intangibles and the amount reflected in plant acquisition adjustment account if such items are included in the fixed capital or utility plant accounts of the balance sheet.

PERMANENT

EXHIBIT "B-1"

(A) Detailed income and profit-and-loss statement for the twelve months ended as of the date of the balance sheet submitted as Exhibit "B."

(B) Reconciliation of the retained earnings account for the period covered by the income and profit-and-loss statement. Retained earnings should be segregated from other surplus accounts.

EXHIBIT "C"

1. A description of the property to be leased.
2. The historical or original cost of the property to be leased and the related accrued depreciation. (Estimated in both cases if actual amounts are not known.)
3. The amount of contributions in aid of construction.
4. Terms of the lease.

EXHIBIT "D"

Economic and financial justification for entering into the proposed lease including a lease versus purchase analysis.

EXHIBIT "E"

Show such other facts that may be pertinent to the application.

The undersigned applicant requests that the Washington Utilities and Transportation Commission enter an order granting this application.

Dated this _____ day of _____, 20__.

By _____
(Applicant/Title)

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-110-457 Filing information. (1) **Filing.** The commission records center will accept any filing under WAC 480-110-525 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part IV in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-110-525 Issuing securities. (1) Before a water company issues stocks, stock certificates, other evidence of interest or ownership, bonds, notes other than those notes exempted from reporting under RCW 80.08.043, or other evidences of indebtedness, or assumes any obligation or liability as guarantor subject to reporting under RCW 80.08.130, it must file with the commission:

(a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;

(b) A description of the proposed issuance, including the terms of financing; and

(c) A statement as to why the transaction is in the public interest.

(2) A commission order is not required for such a filing. The company may request a written order affirming that the company has complied with the requirements of RCW 80.08.040. The company must submit the request for a commission order, along with the information required in subsection (1) of this section, at least fifteen business days before the requested effective date for the order. Requests for supplemental orders may be exempt from the fifteen business day requirement.

(3) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute undertaking the issuance of a security, and therefore a filing with the commission is not required under the provisions of RCW 80.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under the Securities Act of 1933, Rule 415 - Delayed or Continuous Offering and Sale of Securities.

(4) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

(5) Filings under this section may be submitted with portions designated confidential pursuant to WAC 480-07-160 (Confidential information).

(6) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a company must file with the commission a verified statement:

(a) Outlining the final terms and conditions of the transaction; and

(b) Setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 80.08.030.

PERMANENT

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-110-555 (~~Securities and~~) **Transfers of property.** ~~((1) Before issuing stock, evidence of indebtedness, or any other securities, the company must comply with the requirements of chapters 80.08 RCW and 480-146 WAC. (2))~~ Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, a water company must obtain from the commission an order authorizing such transaction in accordance with chapters 80.12 RCW (Transfers of property) and 480-143 WAC (Commission general—Transfers of property).

NEW SECTION

WAC 480-110-565 Securities report. Each water company that has issued securities must file with the commission an annual securities transaction report. The report is due ninety days from the end of the company's reporting period, whether a fiscal or calendar year. At a minimum, the report must contain:

- (1) A schedule of the securities issued during the reporting period including a detailed description of the final agreements;
- (2) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 80.08.030;
- (3) The level of expenses for each of the securities transactions for the reporting period;
- (4) A schedule of securities retired, refunded, repurchased, or otherwise removed from the company's capitalization; and
- (5) A schedule of securities scheduled to mature in the fiscal or calendar year following the reporting period.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-120-331 Filing information. (1) **Filing.** The commission records center will accept any filing under WAC 480-120-365 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part VIII in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-120-365 Issuing securities. For the purpose of this section:

"Securities" means stocks, stock certificates, other evidence of interest or ownership, bonds, notes other than those notes exempted from reporting under RCW 80.08.043, or other evidence of indebtedness, or any obligation or liability as guarantor subject to reporting under RCW 80.08.130.

(1) Before a telecommunications company subject to the provisions of chapter 80.08 RCW issues a security, it must file with the commission:

- (a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;
- (b) A description of the proposed issuance, including the terms of financing; and
- (c) A statement as to why the transaction is in the public interest.

(2) A commission order is not required for such a filing. The company may request a written order affirming that the company has complied with the requirements of RCW 80.08.040. The company must submit the request for a commission order, along with the information required in subsection (1) of this section, at least fifteen business days before the requested effective date for the order. Requests for supplemental orders may be exempt from the fifteen business day requirement.

(3) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute issuance of a security, and therefore a filing with the commission is not required under the provisions of RCW 80.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under the Securities Act of 1933, Rule 415 - Delayed or Continuous Offering and Sale of Securities.

(4) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

(5) Filings under this section may be submitted with portions designated confidential pursuant to WAC 480-07-160 (Confidential information).

(6) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a company must file with the commission a verified statement:

- (a) Outlining the final terms and conditions of the transaction; and
- (b) Setting forth actual proceeds from the issuance and, to the extent known, the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 80.08.030.

NEW SECTION

WAC 480-120-389 Securities report. (1) Each telecommunications company subject to the provisions of chapter 80.08 RCW that has issued securities during the prior year, must file with the commission by April 1 of each year an annual securities transaction report for the period January 1 through December 31 of the preceding year. At a minimum, the report must contain:

- (a) A description of the final agreements;
 - (b) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 80.08.030;
 - (c) The level of expenses for each of the securities transactions;
 - (d) Information to determine the individual and collective impact on capital structure; and
 - (e) The pro forma cost of money for the securities transactions.
- (2) The company may provide by reference the information required in subsection (1)(a), (b), and (c) of this section if the information has previously been filed with the commission.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-121-063 Regulatory requirements that may be waived for competitively classified telecommunications companies. (1) The following regulatory requirements are waived for competitively classified companies:

- (a) RCW 80.04.300 (Budgets to be filed by companies—Supplementary budgets);
- (b) RCW 80.04.310 (Commission's control over expenditures);
- (c) RCW 80.04.320 (Budget rules);
- (d) RCW 80.04.330 (Effect of unauthorized expenditure—Emergencies);
- (e) RCW 80.04.360 (Earnings in excess of reasonable rate—Consideration in fixing rates);
- (f) RCW 80.04.460 (Investigation of accidents);
- (g) RCW 80.04.520 (Approval of lease of utility facilities);
- (h) RCW 80.36.100 (Tariff schedules to be filed and open to public);
- (i) RCW 80.36.110 (Tariff changes—Statutory notice—Exception);
- (j) Chapter 80.08 RCW (Securities) (except RCW 80.08.140, State not obligated);
- (k) Chapter 80.12 RCW (Transfers of property);
- (l) Chapter 80.16 RCW (Affiliated interests);
- (m) WAC 480-80-101 Tariff requirements through WAC 480-80-143 Special contracts for gas, electric, and water companies;
- (n) Chapter 480-140 WAC (Commission general—Budgets);
- (o) Chapter 480-143 WAC (Commission general—Transfers of property);
- (p) ~~Chapter 480-146 WAC (Commission general—Securities, liens, refunding of notes, lease of utility facilities);~~
- ~~(q))~~ WAC 480-120-102 (Service offered);

~~((#))~~ (q) WAC 480-120-339 (Streamlined filing requirements for Class B telecommunications company rate increases);

~~((#))~~ (r) WAC 480-120-311 (Access charge and universal service reporting);

~~((#))~~ (s) WAC 480-120-344 (Expenditures for political or legislative activities);

~~((#))~~ (t) WAC 480-120-352 (Washington Exchange Carrier Association (WECA));

~~((#))~~ (u) WAC 480-120-369 (Transferring cash or assuming obligation);

~~((#))~~ (v) WAC 480-120-375 (Affiliated interests—Contracts or arrangements); ~~(and~~

~~(#))~~ (w) WAC 480-120-395 (Affiliated interest and subsidiary transactions report);

(x) WAC 480-120-389 (Securities report); and
(y) WAC 480-120-395 (Affiliated interest and subsidiary transactions report).

This rule supersedes all waivers of regulatory requirements for competitively classified companies granted by the commission at the time of a company's competitive classification. However, subsequent to the adoption of this rule, the commission may revoke the waiver of any regulatory requirement set forth in (a) through ~~((#))~~ (y) of this subsection or may waive any regulatory requirement not included in (a) through ~~((#))~~ (y) of this subsection.

(2) The commission may by order revoke waivers of regulatory requirements if it determines that revocation is necessary to protect the public interest.

(3) In addition, the commission may waive regulatory requirements for telecommunications companies that it has classified as competitive if it determines that competition with the regulatory waiver will serve the same purposes as public interest regulation.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-146-240	Application of rules.
WAC 480-146-250	Filing.
WAC 480-146-260	Commission may require additional information.
WAC 480-146-270	Applicant may include information by reference.
WAC 480-146-280	Applicant duty when information is unavailable.
WAC 480-146-290	Securities statements and applications.
WAC 480-146-300	Filing requirements for securities statements and applications.
WAC 480-146-310	Commission may set securities application or statement for public hearing.

PERMANENT

WAC 480-146-320	Minimum time required for commission order.
WAC 480-146-330	Supplemental securities filings may be exempt from time limitations.
WAC 480-146-340	Reporting of securities transactions.
WAC 480-146-370	Application for approval of lease of utility facilities.
WAC 480-146-380	Form of lease application.

(1) Eligibility: All persons who currently hold a sea cucumber commercial fishery license are eligible to offer their license(s) for purchase under the program.

(2) Method of purchase: The department will rank offers to sell sea cucumber licenses from the lowest offer to the highest offer. The department will purchase licenses each year from the funds made available under RCW 77.70.190, with a maximum purchase price of \$((8,000)) 12,000 per license.

(3) Offer process: The department will accept offers to sell beginning August 1st of each year and will purchase licenses based on the funds that are available on the following September 30th.

(4) Selection process: The department will select licenses to be purchased beginning with the lowest offer to sell, and continuing until there are insufficient funds to purchase a complete offer. If two or more licenses are offered at the same price, selection will be by random draw.

(5) License reduction process: Upon selection, the department will issue a warrant to the license holder in the amount of the offer. On the date the warrant is mailed to the mailing address of the license holder as shown in their department licensing file, the department will void the license. Upon receipt of the warrant, the license holder is to return the license cards to the department.

(6) No prohibition on reentry: License holders who sell a license under the program may reenter the sea cucumber commercial fishery.

(7) Program termination: This program terminates when the number of sea cucumber commercial fishery licensees is reduced to twenty-five.

WSR 05-17-027
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-170—Filed August 5, 2005, 1:21 p.m., effective September 5, 2005]

Effective Date of Rule: Thirty-one days after filing.
 Purpose: Amend sea cucumber license reduction rule.
 Citation of Existing Rules Affected by this Order:
 Amending WAC 220-95-110.

Statutory Authority for Adoption: RCW 77.12.047.
 Adopted under notice filed as WSR 05-09-011 on April 7, 2005.

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.

Date Adopted: June 17, 2005.

Susan Yeager
 for Ron Ozment, Chair
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 02-184, filed 8/9/02, effective 9/9/02)

WAC 220-95-110 Sea cucumber license reduction program. In order to provide for economic stability in the commercial sea cucumber fishery, and in accordance with RCW 77.70.190, the department establishes the sea cucumber license reduction program (program).

WSR 05-17-038
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 9, 2005, 10:30 a.m., effective October 1, 2005]

Effective Date of Rule: October 1, 2005.

Purpose: Safety standards for electrical workers, chapter 296-45 WAC, the purpose of this adoption is to be at-least-as-effective-as the Occupational Safety and Health Administration (OSHA). The department received letters from OSHA indicating that we were not as-effective-as the federal requirements relating to the electrical standard, chapter 296-45 WAC. For example:

- A qualified employee must position themselves so that he/she is neither within reach of nor otherwise exposed to contact with energized parts.
- The fall protection requirements relating to lineman's belts, safety straps and lanyards currently reference the employer to another standard, therefore we are incorporating them into chapter 296-45 WAC.

PERMANENT

AMENDED SECTIONS:**WAC 296-45-25510 Fall protection.**

- Added a new subsection (2) relating to specific requirements about lineman's belts, safety straps, and lanyards. The language being adopted is the Occupational Safety and Health Administration (OSHA) requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.

WAC 296-45-315 Materials handling and storage.

- Added a new subsection (4)(d) relating to pole handling and framing operations. The language being adopted is OSHA requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.

WAC 296-45-325 Working on or near exposed energized parts.

- Added language in subsection (3) relating to qualified employees positioning themselves so that he/she is neither within reach of nor otherwise exposed to contact with energized parts. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.

WAC 296-45-385 Overhead lines.

- Revised language in subsection (2)(d) relating to installing and removing overhead lines. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.
- Added a new subsection (2)(h) relating to each pull being snubbed or dead ended. The language being adopted is OSHA requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.
- Added a new subsection (13)(d) relating to towers and structures. The language being adopted is OSHA requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.
- Added a new subsection (13)(e) relating to towers and structures. The language being adopted is OSHA requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.
- Added a new subsection (14) relating to conductors, subconductors, and overhead ground conductors being bonded to a tower. The language being adopted is OSHA requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.
- Renumbered current subsections (14), (15) and (16) to subsections (15), (16) and (17) because of the new subsection (14) mentioned above.

WAC 296-45-475 Substations.

- Added a new subsection (1)(d) relating to access and working space. The language being adopted is OSHA requirements and our language is identical to OSHA. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.
- Revised language in subsection (3) relating to substation fences. This is being done as a result of WISHA receiving a "not-at-least-as-effective-as" letter from OSHA.

Citation of Existing Rules Affected by this Order: Amending WAC 296-45-25510 Fall protection, 296-45-315 Materials handling and storage, 296-45-325 Working on or near exposed energized parts, 296-45-385 Overhead lines, and 296-45-475 Substations.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 05-07-124 on March 22, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 5, 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 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 5, Repealed 0.

Date Adopted: August 9, 2005.

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-25510 Fall protection. (1) Personal fall arrest equipment shall meet the requirements of WAC 296-155-245.

(2) (~~Body belts and safety straps for work positioning shall meet the requirements of WAC 296-155-245.~~) Specific requirements for lineman's belts, safety straps and lanyards.

(a) All fabric used for safety straps must withstand an A.C. dielectric test of not less than 25,000 volts per foot "dry" for 3 minutes, without visible deterioration.

(b) All fabric and leather used must be tested for leakage current and must not exceed 1 milliampere when a potential of 3,000 volts is applied to the electrodes positioned 12 inches apart.

(c) Direct current tests may be permitted in lieu of alternating current tests.

(d) The cushion part of the body belt must:

(i) Contain no exposed rivets on the inside;

(ii) Be at least three (3) inches in width;

(iii) Be at least five thirty-seconds (5/32) inch thick, if made of leather; and

(iv) Have pocket tabs that extended at least 1 1/2 inches down and three (3) inches back of the inside of circle of each D ring for riveting on plier or tool pockets. On shifting D belts, this measurement for pocket tabs must be taken when the D ring section is centered.

(e) A maximum of four (4) tool loops must be so situated on the body belt that four (4) inches of the body belt in the center of the back, measuring from D ring to D ring, must be free of tool loops, and any other attachments.

(f) Suitable copper, steel, or equivalent liners must be used around bar of D rings to prevent wear between these members and the leather or fabric enclosing them.

(g) All stitching must be of a minimum 42-pound weight nylon or equivalent thread and must be lock stitched. Stitching parallel to an edge must not be less than three-sixteenths (3/16) inch from edge of narrowest member caught by the thread. The use of cross stitching on leather is prohibited.

(h) The keeper of snaphooks must have a spring tension that will not allow the keeper to begin to open with a weight of 2 1/2 pounds or less, but the keeper of snaphooks must begin to open with a weight of four (4) pounds, when the weight is supported on the keeper against the end of the nose.

(i) Testing of lineman's safety straps, body belts and lanyards must be in accordance with the following procedure:

(i) Attach one end of the safety strap or lanyard to a rigid support, the other end must be attached to a 250-pound canvas bag of sand;

(ii) Allow the 250-pound canvas bag of sand to free fall 4 feet for (safety strap test) and 6 feet for (lanyard test); in each case stopping the fall of the 250-pound bag;

(iii) Failure of the strap or lanyard must be indicated by any breakage, or slippage sufficient to permit the bag to fall free of the strap or lanyard. The entire "body belt assembly" must be tested using one D ring. A safety strap or lanyard must be used that is capable of passing the "impact loading test" and attached as required in (i)(i) of this subsection. The body belt must be secured to the 250-pound bag of sand at a point to simulate the waist of a man and allowed to drop as stated in (i)(ii) of this subsection. Failure of the body belt must be indicated by any breakage, or slippage sufficient to permit the bag to fall free of the body belt.

(3) Body belts, safety straps, lanyards, lifelines, and body harnesses shall be inspected before use each day to determine that the equipment is in safe working condition. Defective equipment may not be used.

(4) Employees shall not wear climbers while doing work where they are not required. Employees shall not continue to wear their climbers while working on the ground; except for momentary or short periods of time on the ground.

(5) Employees, when working from a hook ladder, must either belt themselves securely to the ladder, attach themselves to the structures by means of a safety line, or belt themselves to ladder safety equipment, which shall consist of a safety rope or belting threaded through the rungs or secured to the ladder at intervals of not more than three feet.

(6) Before an employee throws his/her weight on a belt, the employee shall determine that the snap or fasteners are properly engaged.

(7) Safety straps shall not be placed around poles above the cross-arm except where it is not possible for the strap to slide or be slipped over the top of the pole by inadvertence of the employee. Neither end of the strap shall be allowed to hang loose or dangle while the employee is ascending or descending poles or other structures.

(8) Body belts and safety straps shall not be stored with sharp-edged tools or near sharp objects. When a body belt, safety strap and climbers are kept in the same container, they shall be stored in such a manner as to avoid cutting or puncturing the material of the body belt or safety strap with the gaffs or climbers.

(9) Employees shall not attach metal hooks or other metal devices to body belts. Leather straps or rawhide thongs shall have hardwood or fibre crossbars. Leather straps and rawhide thongs shall not have metal or other conductive crossbars on them.

(10) Climbing gaffs shall be kept properly sharpened and shall be at least 1-1/8 inches in length.

(11) Lifelines shall be protected against being cut or abraded.

(12) Fall arrest equipment, work positioning equipment, or travel restricting equipment shall be used by employees working at elevated locations more than 4 feet (1.2 m) above the ground on poles, towers, or similar structures if other fall protection has not been provided. Fall protection equipment is not required to be used by a qualified employee climbing or changing location on poles, towers, or similar structures, unless conditions, such as, but not limited to, ice, high winds, the design of the structure (for example, no provision for holding on with hands), or the presence of contaminants on the structure, could cause the employee to lose his or her grip or footing.

Note 1: This subsection applies to structures that support overhead electric power generation, transmission, and distribution lines and equipment. It does not apply to portions of buildings, such as loading docks, to electric equipment, such as transformers and capacitors, nor to aerial lifts. Requirements for fall protection associated with walking and working surfaces are contained in WAC 296-155-245; requirements for fall protection associated with aerial lifts are contained in chapter 296-155 WAC, Part J-1.

Note 2: Employees undergoing training are not considered "qualified employees" for the purposes of this provision. Unqualified employees (including trainees) are required to use fall protection any time they are more than 4 feet (1.2 m) above the ground.

(13) The following requirements apply to personal fall arrest systems:

(a) When stopping or arresting a fall, personal fall arrest systems shall limit the maximum arresting force on an employee to 1800 pounds (8 kN) if used with a body harness.

(b) Personal fall arrest systems shall be rigged such that an employee can neither free fall more than 6 feet (1.8 m) nor contact any lower level.

(14) If vertical lifelines or droplines are used, not more than one employee may be attached to any one lifeline.

(15) Snaphooks may not be connected to loops made in webbing-type lanyards.

- (16) Snaphooks may not be connected to each other.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-315 Materials handling and storage. (1) General. Material handling and storage shall conform to the requirements of chapter 296-24 WAC, Part D.

(2) Materials storage near energized lines or equipment. In areas not restricted to qualified persons only, materials or equipment may not be stored closer to energized lines or exposed energized parts of equipment than the following distances plus an amount providing for the maximum sag and side swing of all conductors and providing for the height and movement of material handling equipment:

(a) For lines and equipment energized at 50 kV or less, the distance is 10 feet (305 cm).

(b) For lines and equipment energized at more than 50 kV, the distance is 10 feet (305 cm) plus 4 inches (10 cm) for every 10 kV over 50 kV.

(c) In areas restricted to qualified employees, material may not be stored within the working space about energized lines or equipment.

Note: Requirements for the size of the working space are contained in WAC 296-45-475(1) and 296-45-48515.

(3) Prior to unloading steel, poles, crossarms and similar materials, the load shall be thoroughly examined to determine if the load has shifted, binders or stakes have broken or the load is otherwise hazardous to employees. The hoist rope shall not be wrapped around the load. This provision shall not apply to electric construction crews when setting or removing poles.

(4) Pole handling.

(a) During pole hauling operations, all loads shall be secured to prevent displacement, and a red flag shall be displayed at the trailing end of the longest pole.

(b) While loading and unloading materials, roadways shall not be blocked unless approved traffic control is used.

(c) When hauling poles during darkness, illuminated warning devices shall be attached to the trailing end of the longest pole in accordance with the state of Washington motor vehicle code.

(d) Framing. During framing operations, employees must not work under a pole or a structure suspended by a crane, A-frame or similar equipment unless the pole or structure is adequately supported.

(5) Tag lines. When necessary to control loads, tag lines or other approved devices shall be used.

(6) Oil filled equipment. During construction or repair of oil filled equipment, the oil may be stored in temporary containers other than those required by WAC 296-155-270, such as pillow tanks.

(7) Storage of tools and materials. All tools and materials shall be stored in a safe and orderly manner in yards for equipment and other areas.

AMENDATORY SECTION (Amending WSR 03-17-071, filed 8/19/03, effective 11/1/03)

WAC 296-45-325 Working on or near exposed energized parts. This section applies to work on exposed live parts, or near enough to them, to expose the employee to any hazard they present.

(1) General. Only qualified employees may work on or with exposed energized lines or parts of equipment. Only qualified employees may work in areas containing unguarded, uninsulated energized lines or parts of equipment operating at 50 volts or more. Electric lines and equipment shall be considered and treated as energized unless the provisions of WAC 296-45-175 through 296-45-17565 or 296-45-335 have been followed.

(2) Except as provided in subsection (3) of this section, at least two qualified employees shall be present while the following types of work are being performed:

(a) Installation, removal, or repair of lines that are energized at more than 600 volts;

(b) Installation, removal, or repair of deenergized lines if an employee is exposed to contact with other parts energized at more than 600 volts;

(c) Installation, removal, or repair of equipment, such as transformers, capacitors, and regulators, if an employee is exposed to contact with parts energized at more than 600 volts;

(d) Work involving the use of mechanical equipment, other than insulated aerial lifts, near parts energized at more than 600 volts; and

(e) Other work that exposes an employee to electrical hazards greater than or equal to those posed by operations that are specifically listed in subsection (2)(a) through (d) of this section.

Note 1: One employee will serve principally as a standby person who must be so located that they may physically reach the other employee in the event of an accident either with their hand or with a hot stick twelve feet or less in length. The standby will be so positioned as to be able to observe the other employee, their bodily movements, and verbally warn of any impending dangers. In no case when working in pairs will employees work simultaneously on energized wires or parts of different phases or polarity;

Note 2: When installing or removing a hot line clamp connection on a multiphase system, it is permissible for the second employee to stand by at the lower controls of the aerial lift provided the connection or disconnection does not interrupt or pick up load. The hot line clamp and connecting jumper must be constructed so it cannot make contact with any other energized parts. The work must not be performed above lines or apparatus energized at more than 600 V.

Note 3: In cases of necessity the standby person may temporarily assist the other employee provided that they both work on wires or parts of the same phase or polarity. Both employees shall so position themselves so that the presence of the second person does not increase the hazard.

(3) The provisions of WAC 296-45-325(2) do not apply ((in the following circumstances:)) to (a) through (e) of this subsection. In addition to the requirements of subsection (4) of this section, a qualified employee working under this subsection (3), must position themselves so that he/she is neither within reach of nor otherwise exposed to contact with energized parts.

(a) When re-fusing circuits or equipment with a hot stick.

(b) When operating switches by means of operating handle or switch sticks.

(c) When installing or removing a hot line clamp connection with an approved hot stick on a single-phase line or apparatus, providing that the connection or disconnection does not interrupt or pick up a load.

Note 1: The hot line clamp and connecting jumper must be constructed so that it cannot make contact with any other energized parts.

Note 2: On a multiphase feed this applies only when one single-phase line or apparatus is present on the load side.

(d) When installing or removing by hot stick simple load metering devices provided the connection does not interrupt or pickup load.

(e) Emergency repairs to the extent necessary to safeguard the general public.

(4) "Minimum approach distances." The employer shall ensure that no employee approaches or takes any conductive object closer to exposed energized parts than set forth in Table 1 through Table 4, unless:

The employee is insulated from the energized part (insulating gloves or insulating gloves and sleeves worn in accordance with subsection (6) of this section are considered insulation of the employee only with regard to the energized part upon which work is being performed); or

The energized part is insulated from the employee and from any other conductive object at a different potential.

Note 1: WAC 296-45-475 (5)(a) and 296-45-48525(1) contain requirements for the guarding and isolation of live parts. Parts of electric circuits that meet these two provisions are not considered as "exposed" unless a guard is removed or an employee enters the space intended to provide isolation from the live parts.

Note 2: When an employee is required to work on or within reach of any unprotected conductors that are or may become energized at more than 50 volts and less than 600 volts between phases, they shall take the following precautions:

- 1: They shall wear approved insulating gloves or insulating gloves and sleeves during the time they are working on such conductor, or
- 2: They shall cover, with approved devices, any adjacent unprotected conductor that could be touched by any part of their body, and use insulated tools.
- 3: Cables which are properly insulated for the voltages to which they are energized, shall be considered as an effective barrier to protect the employees and Table 1 need not apply.

(5) Initial determination.

(a) Before any work is performed, the location of energized lines and their condition, the location and condition of energized equipment, the condition of the poles, the location of circuits and equipment including power communication lines, CATV and fire alarm circuits, shall be determined as shall any other particular hazard of a particular work site.

(b) No work shall be performed on energized lines or parts until the voltage of such equipment and lines is determined.

(6) Type of insulation. If the employee is to be insulated from energized parts by the use of insulating gloves (under subsection (4) of this section), insulating sleeves shall also be used. However, insulating sleeves need not be used under the following conditions:

(a) If exposed energized parts on which work is not being performed are insulated from the employee; and

(b) If such insulation is placed from a position not exposing the employee's upper arm to contact with other energized parts.

(7) Working position. The employer shall ensure that each employee, to the extent that other safety-related conditions at the worksite permit, works in a position from which a slip or shock will not bring the employee's body into contact with exposed, uninsulated parts energized at a potential different from the employee.

(8) Making connections. The employer shall ensure that connections are made as follows:

(a) In connecting deenergized equipment or lines to an energized circuit by means of a conducting wire or device, an employee shall first attach the wire to the deenergized part;

(b) When disconnecting equipment or lines from an energized circuit by means of a conducting wire or device, an employee shall remove the source end first; and

(c) When lines or equipment are connected to or disconnected from energized circuits, loose conductors shall be kept away from exposed energized parts.

(9) Rubber gloves can only be used on 5,000 volts or less between phases.

(10) It shall not be permissible to consider one part of a high voltage switch or disconnect as deenergized for the purpose of doing work on it if the remainder of the switch or disconnect remains energized unless approved barriers are erected which will prevent employees who are doing the work on such equipment from coming in direct contact with the energized parts.

(11) Conductor support tools such as link sticks, strain carriers, and insulator cradles may be used: Provided, That the clear insulation is at least as long as the insulator string or the minimum distance specified in Table 1 for the operating voltage.

(12) Apparel.

(a) When work is performed within reaching distance of exposed energized parts of equipment, the employer shall ensure that each employee removes or renders nonconductive all exposed conductive articles, such as key or watch chains, rings, or wrist watches or bands, unless such articles do not increase the hazards associated with contact with the energized parts.

(b) The employer shall train each employee who is exposed to the hazards of flames or electric arcs in the hazards involved.

(c) The employer shall ensure that each employee who is exposed to the hazards of flames or electric arcs does not wear clothing that, when exposed to flames or electric arcs, could increase the extent of injury that would be sustained by the employee.

Note: Clothing made from the following types of fabrics, either alone or in blends, is prohibited by this subsection, unless the employer can demonstrate that the fabric has been treated to withstand the conditions that may be encountered or that the clothing is worn in such a manner as to eliminate the hazard involved: Acetate, nylon, polyester, rayon.

(d) Workers shall wear clothing appropriate to the season and the kind of work being performed. Shirts or jumpers must

have full length sleeves that are rolled down. Protective hard hats and eye protection shall be worn when working on or near live parts or while climbing poles.

(13) Fuse handling. When fuses must be installed or removed with one or both terminals energized at more than 300 volts or with exposed parts energized at more than 50 volts, the employer shall ensure that tools or gloves rated for the voltage are used. When expulsion-type fuses are installed with one or both terminals energized at more than 300 volts, the employer shall ensure that each employee wears eye protection meeting the requirements of WAC 296-45-25505(1), uses a tool rated for the voltage, and is clear of the exhaust path of the fuse barrel.

(14) Covered (noninsulated) conductors. The requirements of this section which pertain to the hazards of exposed live parts also apply when work is performed in the proximity of covered (noninsulated) wires.

(15) Noncurrent-carrying metal parts. Noncurrent-carrying metal parts of equipment or devices, such as transformer cases and circuit breaker housings, shall be treated as energized at the highest voltage to which they are exposed, unless the employer inspects the installation and determines that these parts are grounded before work is performed.

(16) Opening circuits under load. Devices used to open circuits under load conditions shall be designed to interrupt the current involved.

Table 1: AC Live Work Minimum Approach Distance

Voltage in kilovolts phase to phase*	Distance to employee			
	Phase to ground		Phase to Phase	
	(m)	(ft-in)	(m)	(ft-in)
0 to 0.050	not specified		not specified	
0.051 to 0.300	avoid contact		avoid contact	
0.301 to 0.750	0.31	1-0	0.31	1-0
0.751 to 15	0.65	2-2	0.67	2-3
15.1 to 36.0	0.77	2-7	0.86	2-10
36.1 to 46.0	0.84	2-9	0.96	3-2
46.1 to 72.5	1.00**	3-3**	1.20	3-11
72.6 to 121	0.95**	3-2**	1.29	4-3
138 to 145	1.09	3-7	1.50	4-11
161 to 169	1.22	4-0	1.71	5-8
230 to 242	1.59	5-3	2.27	7-6
345 to 362	2.59	8-6	3.80	12-6
500 to 550	3.42	11-3	5.50	18-1
765 to 800	4.53	14-11	7.91	26-0

*For single-phase systems, use the highest voltage available.

For single-phase lines off three phase systems, use the phase-to-phase voltage of the system.

**The 46.1 to 72.5 kV phase-to-ground 3-3 distance contains a 1-3 electrical component and a 2-0 inadvertent movement component while the 72.6 to 121 kV phase-to-ground 3-2 distance contains a 2-2 electrical component and a 1-0 inadvertent movement component.

Note 1: These distances take into consideration the highest switching surge an employee will be exposed to on any system with air as the insulating medium and the maximum voltages shown.

Note 2: The clear live-line tool distance shall equal or exceed the values for the indicated voltage ranges.

Note 3: See Appendix B to this section for information on how the minimum approach distances listed in the tables were derived.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-385 Overhead lines. This section provides additional requirements for work performed on or near overhead lines and equipment.

(1) General.

(a) Before elevated structures and adjacent structures, such as poles or towers of the adjacent supporting poles, structures, and conductor supporting hardware, are subjected to such stresses as climbing or the installation or removal of equipment may impose, the employer shall ascertain that the structures are capable of sustaining the additional or unbalanced stresses. If the pole or other structure cannot withstand the loads which will be imposed, it shall be braced or otherwise supported so as to prevent failure.

Note: Appendix C contains test methods that can be used in ascertaining whether a wood pole is capable of sustaining the forces that would be imposed by an employee climbing the pole. This paragraph also requires the employer to ascertain that the pole can sustain all other forces that will be imposed by the work to be performed.

(b) When poles are set, moved, or removed near exposed energized overhead conductors, the pole may not contact the conductors.

(c) When a pole is set, moved, or removed near an exposed energized overhead conductor, the employer shall ensure that each employee wears electrical protective equipment or uses insulated devices when handling the pole and that no employee contacts the pole with uninsulated parts of his or her body.

(d) To protect employees from falling into holes into which poles are to be placed, the holes shall be attended by employees or physically guarded whenever anyone is working nearby.

(2) Installing and removing overhead lines. The following provisions apply to the installation and removal of overhead conductors or cable.

(a) The employer shall use the tension stringing method, barriers, or other equivalent measures to minimize the possibility that conductors and cables being installed or removed will contact energized power lines or equipment.

(b) When conductors are being strung in or removed, they shall be kept under positive control to prevent accidental contact with energized circuit.

(c) The protective measures required by WAC 296-45-375 (10)(c) for mechanical equipment shall also be provided for conductors, cables, and pulling and tensioning equipment when the conductor or cable is being installed or removed close enough to energized conductors that any of the following failures could energize the pulling or tensioning equipment or the wire or cable being installed or removed:

- (i) Failure of the pulling or tensioning equipment;
- (ii) Failure of the wire or cable being pulled; or
- (iii) Failure of the previously installed lines or equipment.

(d) ~~((If the conductors being installed or removed cross over energized conductors in excess of 600 volts and if the design of the circuit interrupting devices protecting the lines so permits, the automatic reclosing feature of these devices shall be made inoperative.))~~ When conductors being installed

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or removed cross over energized conductors in excess of 600 volts, rope nets or guard structures must be installed unless provision is made to isolate or insulate the worker or the energized conductor. Where the design of the circuit-interrupting devices protecting the lines so permits, the automatic-reclosing feature of these devices must be made inoperative. In addition, the line being strung must be grounded on either side of the crossover or considered and worked as energized.

(e) Before lines are installed parallel to existing energized lines, the employer shall make a determination of the approximate voltage to be induced in the new lines, or work shall proceed on the assumption that the induced voltage is hazardous. Unless the employer can demonstrate that the lines being installed are not subject to the induction of a hazardous voltage or unless the lines are treated as energized, the following requirements also apply:

(i) Each bare conductor shall be grounded in increments so that no point along the conductor is more than 2 miles (3.22 km) from a ground.

(ii) The grounds required in subsection (2)(e)(i) of this section shall be left in place until the conductor installation is completed between dead ends.

(iii) The grounds required in subsection (2)(e)(i) of this section shall be removed as the last phase of aerial cleanup.

(iv) If employees are working on bare conductors, grounds shall also be installed at each location where these employees are working, and grounds shall be installed at all open dead-end or catch-off points or the next adjacent structure.

(v) If two bare conductors are to be spliced, the conductors shall be bonded and grounded before being spliced.

(f) Reel handling equipment, including pulling and tensioning devices, shall be in safe operating condition and shall be leveled and aligned.

(g) Load ratings of stringing lines, pulling lines, conductor grips, load-bearing hardware and accessories, rigging, and hoists may not be exceeded.

(h) Each pull must be snubbed or dead ended at both ends before subsequent pulls.

(3) Pulling lines and accessories shall be inspected prior to each use and replaced or repaired when damaged or when there is a reasonable basis to doubt the dependability of such lines or accessories.

(4) Conductor grips may not be used on wire rope, unless the grip is specifically designed for this application.

(5) Reliable communications, through two-way radios or other equivalent means, shall be maintained between the reel tender and the pulling rig operator.

(6) The pulling rig may only be operated when it is safe to do so.

Note: Examples of unsafe conditions include employees in locations prohibited by subsection (7) of this section, conductor and pulling line hang-ups, and slipping of the conductor grip.

(7) While the conductor or pulling line is being pulled (in motion) with a power-driven device, employees are not permitted directly under overhead operations or on the cross arm, except as necessary to guide the stringing sock or board over or through the stringing sheave.

(8) Live-line bare-hand work is prohibited.

(9) When winches, trucks, or tractors are being used to raise poles, materials, to pull in wires, to pull slack or in any other operation, there shall be an operator at the controls unless the machinery or process is stopped.

(10) Leadworkers shall designate an employee to give signals when required.

(11) Raising poles, towers or fixtures in the close proximity of high voltage conductors shall be done under the supervision of a qualified employee.

(12) Employees shall not crawl over insulator strings but shall use a platform or other approved device to work from when making dead ends or doing other work beyond strings of insulators, at such distance that they cannot reach the work from the pole or fixture. While working on the platform or other device, they shall be secured with safety straps or a rope to prevent falling. The provision of this subsection does not apply to extra high voltage bundle conductors when the use of such equipment may produce additional hazard. Climbing over dead end assemblies is permissible only after they have been completed and pinned in the final position.

(13) Towers and structures. The following requirements apply to work performed on towers or other structures which support overhead lines.

(a) The employer shall ensure that no employee is under a tower or structure while work is in progress, except where the employer can demonstrate that such a working position is necessary to assist employees working above.

(b) Tag lines or other similar devices shall be used to maintain control of tower sections being raised or positioned, unless the employer can demonstrate that the use of such devices would create a greater hazard.

(c) The loadline may not be detached from a member or section until the load is safely secured.

(d) No one must be permitted to remain in the footing while equipment is being spotted for placement.

(e) A designated employee must be utilized to determine that required clearance is maintained in moving equipment under or near energized lines.

(14) All conductors, subconductors, and overhead ground conductors must be bonded to the tower at any isolated tower where it may be necessary to complete work on the transmission line.

(15) A transmission clipping crew shall have a minimum of two structures clipped in between the crew and the conductor being sagged.

~~((15))~~ (16) While on patrol at night and operating a motor vehicle on public highways, there shall be two employees, at least one of whom shall be a journey level lineworker or otherwise qualified employee. If repair to line or equipment is found to be of such nature as to require two lineworkers, work shall not proceed until additional help has been obtained provided that in cases of emergency where delay would increase the danger to life, limb, or substantial property, one employee may clear the hazard without assistance.

~~((16))~~ (17) Except during emergency restoration procedures, work shall be discontinued when adverse weather conditions would make the work hazardous in spite of the work practices required by this section.

Note: Thunderstorms in the immediate vicinity, high winds, snow storms, and ice storms are examples of adverse weather

conditions that are presumed to make this work too hazardous to perform, except under emergency conditions.

AMENDATORY SECTION (Amending WSR 98-07-009, filed 3/6/98, effective 5/6/98)

WAC 296-45-475 Substations. This section provides additional requirements for substations and for work performed in them.

(1) Access and working space. Sufficient access and working space shall be provided and maintained about electric equipment to permit ready and safe operation and maintenance of such equipment.

Note: Guidelines for the dimensions of access and working space about electric equipment in substations are contained in American National Standard-National Electrical Safety Code, ANSI C2-1997. Installations meeting the ANSI provisions comply with WAC 296-45-475(1). An installation that does not conform to this ANSI standard will, nonetheless, be considered as complying with WAC 296-45-475(1) if the employer can demonstrate that the installation provides ready and safe access based on the following evidence:

(a) That the installation conforms to the edition of ANSI C2 that was in effect at the time the installation was made;

(b) That the configuration of the installation enables employees to maintain the minimum approach distances required by WAC 296-45-325(5) while they are working on exposed, energized parts; and

(c) That the precautions taken when work is performed on the installation provide protection equivalent to the protection that would be provided by access and working space meeting ANSI C2-1997.

(d) Precaution must be taken to prevent accidental operation of relays or other protective devices due to jarring, vibration, or improper wiring.

(2) Draw-out-type circuit breakers. When draw-out-type circuit breakers are removed or inserted, the breaker shall be in the open position. The control circuit shall also be rendered inoperative, if the design of the equipment permits.

(3) Substation fences. Conductive fences around substations (~~(shall)~~ must be grounded. When a substation fence (~~(is)~~ must be expanded or (~~(a section is)~~ removed), fence (~~(grounding)~~ continuity (~~(shall)~~ must be maintained(~~(;)~~ and bonding (~~(shall)~~ must be used to prevent electrical discontinuity. A temporary fence affording similar protection when the site is unattended, must be provided. Adequate interconnection with ground must be maintained between temporary fence and permanent fence.

(4) Guarding of rooms containing electric supply equipment.

(a) Rooms and spaces in which electric supply lines or equipment are installed shall meet the requirements of subsection (4)(b) through (e) of this section under the following conditions:

(i) If exposed live parts operating at 50 to 150 volts to ground are located within 8 feet of the ground or other working surface inside the room or space;

(ii) If live parts operating at 151 to 600 volts and located within 8 feet of the ground or other working surface inside the room or space are guarded only by location, as permitted under subsection (5)(a) of this section; or

(iii) If live parts operating at more than 600 volts are located within the room or space, unless:

(A) The live parts are enclosed within grounded, metal-enclosed equipment whose only openings are designed so that foreign objects inserted in these openings will be deflected from energized parts; or

(B) The live parts are installed at a height above ground and any other working surface that provides protection at the voltage to which they are energized corresponding to the protection provided by an 8-foot height at 50 volts.

(b) The rooms and spaces shall be so enclosed within fences, screens, partitions, or walls as to minimize the possibility that unqualified persons will enter.

(c) Signs warning unqualified persons to keep out shall be displayed at entrances to the rooms and spaces.

(d) Entrances to rooms and spaces that are not under the observation of an attendant shall be kept locked.

(e) Unqualified persons may not enter the rooms or spaces while the electric supply lines or equipment are energized.

(5) Guarding of energized parts.

(a) Guards shall be provided around all live parts operating at more than 150 volts to ground without an insulating covering, unless the location of the live parts gives sufficient horizontal or vertical or a combination of these clearances to minimize the possibility of accidental employee contact.

Note: Guidelines for the dimensions of clearance distances about electric equipment in substations are contained in American National Standard-National Electrical Safety Code, ANSI C2-1997. Installations meeting the ANSI provisions comply with subsection (5)(a) of this section. An installation that does not conform to this ANSI standard will, nonetheless, be considered as complying with subsection (5)(a) of this section if the employer can demonstrate that the installation provides sufficient clearance based on the following evidence:

(i) That the installation conforms to the edition of ANSI C2 that was in effect at the time the installation was made;

(ii) That each employee is isolated from energized parts at the point of closest approach; and

(iii) That the precautions taken when work is performed on the installation provide protection equivalent to the protection that would be provided by horizontal and vertical clearances meeting ANSI C2-1997.

(b) Except for fuse replacement and other necessary access by qualified persons, the guarding of energized parts within a compartment shall be maintained during operation and maintenance functions to prevent accidental contact with energized parts and to prevent tools or other equipment from being dropped on energized parts.

(c) When guards are removed from energized equipment, barriers shall be installed around the work area to prevent employees who are not working on the equipment, but who are in the area, from contacting the exposed live parts.

(6) Substation entry.

(a) Upon entering an attended substation, each employee other than those regularly working in the station shall report his or her presence to the employee in charge in order to receive information on special system conditions affecting employee safety.

(b) The job briefing required by WAC 296-45-135 shall cover such additional subjects as the location of energized

equipment in or adjacent to the work area and the limits of any deenergized work area.

WSR 05-17-040
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 9, 2005, 10:32 a.m., effective September 15, 2005.]

Effective Date of Rule: September 15, 2005.

Purpose: Employer - worker reemployment incentives, chapter 296-17 WAC, these rules were developed based on comments received during the public hearing for rules previously promulgated and codified. See WSR 05-01-105. These rules will:

- Define the employer of record,
- Clarify who the employer of record is in occupational disease claims, and
- Clarify how the department will handle certification for preferred workers with multiple claims.

Citation of Existing Rules Affected by this Order: Amending WAC 296-16-112 and 296-16-135.

Statutory Authority for Adoption: RCW 51.04.010, 51.04.020, and 51.16.120.

Adopted under notice filed as WSR 05-11-059 on May 17, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: August 9, 2005.

Gary Weeks
Director

NEW SECTION

WAC 296-16-112 For purposes of the "preferred worker" program, who is the "employer of record"? When "preferred worker" certification is considered under a claim, the employer of record is any employer determined as responsible for all or part of that claim's costs in the department's final order establishing:

- (1) Claim allowance, for injury claims; and
- (2) Claim liability, for occupational disease claims.

NEW SECTION

WAC 296-16-135 Will the department grant a worker "preferred worker" certification under multiple open claims at the same time? No. While a worker may have multiple open claims at the same time, the department will not grant the worker "preferred worker" certification under more than one of these claims at the same time.

(1) If the worker still has "preferred worker" certification time remaining from a previous claim, and also applies for "preferred worker" certification under a subsequent claim, the department will not grant the worker additional certification. In order to seek employment as a certified "preferred worker," the worker must use the certification time remaining from the previous claim.

(2) If the worker received "preferred worker" certification under a prior claim, and the thirty-six months of that certification has ended, the worker may be eligible for "preferred worker" certification under a subsequent or new open claim.

WSR 05-17-053
PERMANENT RULES
DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed August 9, 2005, 3:42 p.m., effective September 9, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending WAC 196-25-002 to provide additional definitions and clarify existing rule language and amending WAC 196-25-040 to clarify existing rule language.

Citation of Existing Rules Affected by this Order: Amending WAC 196-25-002 and 196-25-040.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 05-07-142 on March 23, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: April 28, 2005.

George A. Twiss
Executive Director
Board of Registration for Professional
Engineers and Land Surveyors

AMENDATORY SECTION (Amending WSR 98-12-053, filed 5/29/98, effective 7/1/98)

WAC 196-25-002 Definitions. Board. The Washington state board of registration for professional engineers and land surveyors.

Professional engineer. A person registered by the board under chapter 18.43 RCW to practice engineering in this state.

Professional land surveyor. A person registered by the board under chapter 18.43 RCW to practice land surveying in this state.

Resident engineer or resident land surveyor. A currently registered professional engineer or land surveyor who maintains a business headquarters or branch office as his/her normal place of employment, and is in responsible charge of the engineering and/or land surveying services.

Business. A corporation, professional service corporation (PS), joint stock association (JSA) or limited liability company (LLC) or professional limited liability company (PLLC) that is practicing or offering to practice, engineering or land surveying or both in this state.

Designee, designated engineer, designated land surveyor. A currently registered professional engineer designated by the business to be in responsible charge of engineering activities for the business in ((this state)) Washington, OR, a currently registered professional land surveyor designated by the business to be in responsible charge of land surveying activities for the business in ((this state)) Washington.

Employee. A person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the right to control and direct the employee in the material details of the scope, schedule and location of employment.

Branch office. One or more alternate locations in Washington of a business, not recognized as the business' main office or headquarters, which is established to offer and provide engineering and/or land surveying services from that location.

Project office. A temporary remote location of an engineering and/or land surveying business that is a convenient workplace for providing specific engineering and/or land surveying services only in support of a project.

Certificate of authorization. A certificate issued by the board, pursuant to chapter 18.43 RCW, to a business authorizing it to practice engineering or land surveying or both in this state. (Note: This is a different certificate than the certificate of authorization that may be filed with the secretary of state.)

AMENDATORY SECTION (Amending WSR 99-15-057, filed 7/15/99, effective 8/15/99)

WAC 196-25-040 Provisions pertaining to ((both)) only corporations, joint stock associations and limited liability companies. (1) If the business offers both engineering and land surveying services, there must be a designee for each profession. If a person is licensed in both engineering and land surveying, that person may be designated for both professions.

(2) An affidavit must be signed by the designee(s) stating that he or she knows they have been designated by the business as being responsible for the engineering and/or land surveying activities in the state of Washington.

(3) The designated engineer and/or designated land surveyor must be an employee of the business.

(4) No person may be the designated engineer or designated land surveyor at more than one business at any one time.

(5) ((If)) When there is a change in the designee(s), the business must notify the board in writing ((within)) no later than thirty days ((of)) after the effective date of the change and submit a new affidavit.

(6) If the business changes its name, the business must submit a copy of its amended certificate of authority or amended certificate of incorporation (for corporations) or a copy of the certificate of amendment (for LLC's), as filed with the secretary of state within thirty days of the ((filing)) name change.

(7) At the time of renewal, the corporation or limited liability company must submit a copy of the document issued to their company by the state of Washington master license service which states that the corporation or limited liability company has been "renewed by the authority of the secretary of state" and shows a current expiration date.

(8) The filing of the resolution shall not relieve the business of any responsibility or liability imposed upon it by law or by contract. Any business that is certified under chapter 18.43 RCW and this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

WSR 05-17-059

PERMANENT RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed August 10, 2005, 2:12 p.m., effective October 1, 2005]

Effective Date of Rule: October 1, 2005.

Purpose: Motor vehicles, the department has rewritten and clarified requirements relating to motor vehicles. This rule making has placed motor vehicle requirements for general industry (WAC 296-24-233) into one chapter (chapter 296-865 WAC, Motor vehicles). This rule making is part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department has eliminated unnecessary requirements and outdated terminology.

AMENDED SECTION:

WAC 296-305-04501 Automotive fire apparatus design and construction.

- Update a reference.

NEW SECTIONS:

WAC 296-865-100 Scope.

- Created this section to explain the requirements relating to motor vehicles.

WAC 296-865-200 All motor vehicles.

- Created this summary page to include all the sections located in WAC 296-865-200 that relate to general requirements for all motor vehicles.

WAC 296-865-20005 Motor vehicle operation.

- Requirements in this section were moved from WAC 296-24-233(1) and Title 46 RCW, Motor vehicles.

WAC 296-865-20010 Transportation of passengers.

- Requirements in this section were moved from WAC 296-24-233 (15)(a), (b), and Title 46 RCW, Motor vehicles.

WAC 296-865-20015 Motor vehicle equipment.

- Requirements in this section were moved from WAC 296-24-233 (10), (11), (15)(a), (c), (f), and (k).

WAC 296-865-300 Trucks and trailers.

- Created this summary page to include all sections located in WAC 296-865-300 that relate to requirements for trucks and trailers.

WAC 296-865-30005 Truck operation.

- Requirements in this section were moved from WAC 296-24-233 (5), (7), and (8).

WAC 296-865-30010 Dump trucks.

- Requirements in this section were moved from WAC 296-24-233(9).

WAC 296-865-30015 Semitruck brakes.

- Requirements in this section were moved from WAC 296-24-233 (2), (3), (4), and (14).

WAC 296-865-30020 Transportation of loads.

- Requirements in this section were moved from WAC 296-24-233(12).

WAC 296-865-400 Definitions.

- The following definitions have been added to chapter 296-865 WAC, Motor vehicles: Motor vehicle, semi-truck, trailer, and truck.

REPEALED SECTION:

WAC 296-24-233 Motor vehicle trucks and trailers.

- Repeal this section.
- Requirements relating to motor vehicles have been moved to chapter 296-865 WAC, Motor vehicles.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-24-233 Motor vehicle trucks and trailers; and amending WAC 296-305-04501 Automotive fire apparatus design and construction.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 05-08-112 on April 5, 2005.

Changes Other than Editing from Proposed to Adopted Version: The following housekeeping changes have been made from the proposal to the adopted language.

WAC 296-865-20010 Transportation of passengers.

- Moved the requirement to "Make sure vehicles used to transport employees are, at all times, well equipped, covered against the weather, and maintained in good mechanical condition" from Table 1 in WAC 296-865-20015 Motor vehicle equipment, into a bullet in this section.
- Moved the requirement to "Make sure transporting sharp tools that could present a hazard to employees in the vehicle that you provide compartments or (cargo) screens strong enough to retain the tools" from Table 1 in WAC 296-865-20015 Motor vehicle equipment, into a bullet in this section.

WAC 296-865-20015 Motor vehicle equipment.

- Moved the requirement to "Make sure all equipment operated on public roadways meets all of the state of Washington motor vehicle laws" from Table 1 into a bullet in this section.
- Moved the requirement to "Make sure all parts and accessories are safe to use" from Table 1 into a bullet in this section.
- Rephrased the heading titles and requirements in Table 1.

WAC 296-865-300 Trucks and trailers.

- Changed the title of WAC 296-865-30020 from "Transportation of loads" to "Truck and trailer loads."

WAC 296-865-30020 Transportation of loads.

- Changed the title of WAC 296-865-30020 from "Transportation of loads" to "Truck and trailer loads."

A final cost-benefit analysis is available by contacting Trista Zugel, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504, phone (360) 902-6805, fax (360) 902-4202, e-mail zugy235@lni.wa.gov.

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 1, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 11, Amended 1, 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 11, Amended 1, Repealed 1.

Date Adopted: August 3, 2005.

Judy Schurke
for Gary K. Weeks
Director

PERMANENT

Chapter 296-865 WAC

MOTOR VEHICLES

NEW SECTION

WAC 296-865-100 Scope. This chapter applies to all motor vehicles and semitrucks used on public or private roadways.

Definition:

Motor vehicle means any vehicle, machine, tractor, trailer, or any combination of these that is driven by mechanical power and used on the roadways in the transportation of people or materials.

This section does not apply to:

- Powered industrial trucks (forklifts) covered by another chapter, Powered industrial trucks, chapter 296-863 WAC;
- Construction equipment covered by another chapter, Safety standards for construction work, chapter 296-155 WAC;
- Logging trucks covered by another chapter, Logging operations, chapter 296-54 WAC;

AND

- Agricultural equipment covered by another chapter, Safety standards for agriculture, chapter 296-307 WAC.

NEW SECTION

WAC 296-865-200 All motor vehicles.

Your responsibility:

To make sure all motor vehicle occupants are safe and equipment is safe to use.

Motor vehicle operation

WAC 296-865-20005.

Transportation of passengers

WAC 296-865-20010.

Motor vehicle equipment

WAC 296-865-20015.

NEW SECTION

WAC 296-865-20005 Motor vehicle operation.

You must:

- Allow only drivers who are qualified to operate a motor vehicle.
- Allow only drivers who have a current motor vehicle operator's license to operate motor vehicles on public roadways.
- Make sure employees follow any site-specific rules and posted speed limits when operating motor vehicles on roadways privately owned and maintained.

NEW SECTION

WAC 296-865-20010 Transportation of passengers.

You must:

- Transport all passengers safely.
- Make sure all employees use seat belts, if the vehicle is equipped with seat belts.

Exemption: This does not apply to emergency medical workers during the treatment of a patient in an ambulance.

You must:

- Make sure vehicles used to transport employees are, at all times:
 - Well equipped;
 - Covered against the weather;

AND

- Maintained in good mechanical condition.
- Make sure when transporting sharp tools that could present a hazard to employees in the vehicle that you provide compartments or (cargo) screens strong enough to retain the tools.

NEW SECTION

WAC 296-865-20015 Motor vehicle equipment.

You must:

- Make sure all equipment operated on public roadways meets all of the state of Washington motor vehicle laws.
- Make sure all parts and accessories are safe to use.
- Make sure all motor vehicle equipment meets the specification or requirements in Table 1.

**Table 1
Motor Vehicle Equipment**

If you have this type of equipment:	Then make sure the equipment is:
Seats	Properly secured; AND Available for every employee in the vehicle.
Tires	Safe to use.
Exhaust systems	Designed to eliminate the exposure of exhaust gases and fumes; AND Installed and maintained in proper condition.
Fire extinguishers	Provided when the vehicle is: – At least 26,000 pounds (manufacturer's gross weight); AND – Only used in the state of Washington.

NEW SECTION

WAC 296-865-300 Trucks and trailers.

Your responsibility:

To make sure all trucks and trailers are operated and maintained safely.

Truck operation

WAC 296-865-30005.

Dump trucks

WAC 296-865-30010.

Semitruck brakes

WAC 296-865-30015.

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Truck and trailer loads
WAC 296-865-30020.

NEW SECTION

WAC 296-865-30005 Truck operation.

You must:

- Make sure truck drivers operate equipment at a safe speed at all times for roadway conditions.
- Make sure truck drivers either:
 - Sound their horn before starting to back and intermittently during the entire backing operation;

OR

– Have a working automatic reverse signal alarm that is audible:

- Above the surrounding noise level;

AND

- No less than fifteen feet from the rear of the vehicle.
- Make sure, during the backing of trucks where vision is obstructed, a signal person is stationed at a point giving a clear view of the rear of the truck and the operator of the truck at all times.

NEW SECTION

WAC 296-865-30010 Dump trucks.

You must:

- Make sure dump trucks have a device installed on the frame that will hold the bed in the raised position when employees are working underneath.

NEW SECTION

WAC 296-865-30015 Semitruck brakes.

You must:

- Make sure semitrucks are equipped with brakes that will safely hold the maximum load on maximum grades.

Note: Trailers may use air brakes or other types of brake equipment approved by the Washington state patrol.

You must:

- Test brakes before descending a steep grade.
- Follow the requirements in Table 2, Truck Braking Requirements.

**Table 2
Semitruck Braking Requirements**

When	You must
You park a truck on an incline	– Turn the wheels into the curb; AND – Have at least one "driver" wheel chocked on each side, independent of the braking system.
Using air brakes	Cut air into the trailer brake system at the time the trailer is attached to the truck.

NEW SECTION

WAC 296-865-30020 Truck and trailer loads.

You must:

- Make sure all loads transported on trucks or trailers are:
 - Properly secured and distributed;

AND

– Limited to a safe operating load for the:

- Condition of the roadway;

AND

- Capacity of the bridges, trestles, and other structures.

Note: The commercial motor vehicles unit of the Washington state patrol determines how much weight can be carried on a vehicle by factoring manufacture limitations, number of axles, and other variables. For more information:

- See RCW 46.44.041, Maximum gross weights—Wheel-base and axle factors; or
- Contact the commercial motor vehicles unit of the Washington state patrol at Trucks@wsp.wa.gov.

NEW SECTION

WAC 296-865-400 Definitions. Motor vehicle means any vehicle, machine, tractor, trailer, or any combination of these that is driven by mechanical power and used on the roadways in the transportation of people or materials.

Semitruck means a truck and trailer combination designed and used primarily for carrying material and property.

Trailer means a nonmotorized vehicle designed to be towed by a motor vehicle.

Truck means any motor vehicle designed, used, or maintained primarily for the transportation of property.

AMENDATORY SECTION (Amending WSR 99-05-080, filed 2/17/99, effective 6/1/99)

WAC 296-305-04501 Automotive fire apparatus design and construction. (1) All new fire apparatus with the exception of specialized equipment, shall conform to the following minimum safety standards contained in NFPA Booklets No. 1901, 1902, 1903, 1904, and other 1900's.

(2) Fire apparatus, purchased after December 17, 1977, weighing 10,000 pounds or more shall conform with the following U.S. Department of Transportation standards, when applicable:

(a) 49 CFR Ch. V (10-93 edition) 571.121 "Air brake systems";

(b) 49 CFR Ch. V (10-93 edition) 571.106 "Hydraulic brake hoses";

(c) 49 CFR Ch. V (10-93 edition) 571-211 "Hydraulic brake hoses."

(3) Employers acquiring used apparatus or used equipment shall not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and chapter 296-865 WAC ((296-24-233)), Motor vehicles.

(4) Fire apparatus tailboards and steps shall have a non-skid rough surface.

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(5) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to minimize the exposure of the fire fighter to the exhaust gases and fumes.

(6) Spinner knobs shall not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, shall have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-24-233 Motor vehicle trucks and trailers.

WSR 05-17-065 PERMANENT RULES

WASHINGTON STATE PATROL

[Filed August 11, 2005, 12:21 p.m., effective September 11, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This WAC has not been updated since the original language was adopted in December 1998, and it is necessary to make changes to stay current with technological advances.

Citation of Existing Rules Affected by this Order: Amending chapter 204-50 WAC, Ignition interlock breath alcohol devices.

Statutory Authority for Adoption: RCW 46.61.688(2).

Adopted under notice filed as WSR 05-12-049 on May 26, 2005.

A final cost-benefit analysis is available by contacting Ms. Christine Fox, P.O. Box 42614, Olympia, WA 98504-2614, phone (360) 753-3697, fax (360) 586-8233, e-mail Christine.Fox@wsp.wa.gov.

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 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.

Date Adopted: August 11, 2005.

Paul S. Beckley
Chief

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-030 Definitions ((for words or terms used in this chapter)). The following definitions shall apply throughout this chapter:

Alcohol - The generic class of organic compounds known as alcohols and, specifically the chemical compound ethyl alcohol. For the purpose of ignition interlock devices, there is no requirement expressed or implied that the device be specifically for ethyl alcohol.

((Approved)) Authorized service provider (ASP) - The person or company ((who is approved by ESR)) meeting all qualifications outlined throughout this chapter and approved and trained by the manufacturer to service, install, monitor, calibrate, and provide information on ((a)) manufacturer's devices ((based on certification to ESR by the manufacturer that the person or company is qualified and is properly trained to provide these services)) currently certified for use in Washington state.

Bogus sample - Any air sample that is altered, diluted, stored, or filtered human breath, or which is obtained from an air compressor, hot air dryer, balloon, manual air pump, or other mechanical device, and is provided by an individual attempting to start or continue to operate a vehicle equipped with a device.

Ignition interlock device (IID) - An electronic device that is installed in a vehicle which requires the taking of a BAC test prior to the starting of the vehicle and at periodic intervals after the engine has been started. If the unit detects a BAC test result below the alcohol setpoint, the unit will allow the vehicle's ignition switch to start the engine. If the unit detects a BAC test result above the alcohol setpoint, the vehicle will be prohibited from starting.

Breath or blood alcohol concentration (BAC) - ((In this chapter means)) Is the amount of alcohol in a person's blood or breath determined by chemical analysis, which shall be measured by grams of alcohol per:

- (a) 100 milliliters of blood; or
- (b) 210 liters of breath.

Circumvention - Means the attempted or successful bypass of the proper functioning of an ignition interlock device including, but not limited to, the operation of a vehicle without a properly functioning device, the push start of a vehicle with the device, disconnection or alteration of the device, the introduction of a bogus sample other than a deep-lung sample from the driver of the vehicle, introduction of an intentionally contaminated or altered breath sample, continued operation of the interlock vehicle after the device detects excess breath alcohol.

Court (or originating court) - The particular Washington state court, if any, that has required the use of an ignition

interlock (~~breath alcohol~~) device by a particular individual or has responsibility for the preconviction or postconviction supervision of an individual required to use or using the device.

Certification - The testing and approval process required by RCW 46.04.215.

Chief - The chief of the Washington state patrol.

Device - An ignition interlock breath alcohol device (IID).

DOL - The department of licensing of the state of Washington.

ESR - The equipment and standards review (~~section~~) unit of the Washington state patrol.

~~(Interlock - The state in which a motor vehicle is prevented from starting by a device.)~~ Fail level - The BAC of .025 or a level set by the originating court, if lower, at which the device will prevent the operator from starting the vehicle, and/or once the vehicle is started, the level at which the operator must record a test below, or must shut off the vehicle, to avoid registering a violation reset.

Lessee - A person who has entered into an agreement with a manufacturer or (~~approved~~) authorized service provider to lease a device.

Manufacturer - The person, company, or corporation who produces the device, and (~~who~~) certifies to ESR that a service provider is qualified to (~~become approved by ESR to~~) service, install, monitor, calibrate, and provide information on devices.

OAC - Office of the administrator of the court.

Restricted operator - A person whose (~~operating~~) driving privileges (~~is~~) are restricted to operating only motor vehicles equipped with an approved, functioning (~~ignition interlock device or other approved, functioning biological or technical device~~) IID.

Tampering - Any act or attempt to disable or circumvent the legal operation of an IID.

Violation reset - The condition caused by the failure of the operator of (~~the~~) a vehicle(s) to perform a test or retest as required, or by the operator's inability to achieve such test or retest results at (~~a level lower than~~) the lower of the maximum allowable alcohol concentration as set by the originating court or .025 BAC, the device and the vehicle in which it is installed must be returned to the manufacturer or (~~approved~~) authorized service provider to be reset.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-040 Testing (~~and~~) certification (~~process~~), revocation or surrender of certification and recertification. Testing and certification. To be certified, a device must meet or exceed the minimum test standards in sections one and two of the model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register, Volume 57, Number 67, Tuesday, April 7, 1992, on pages 11774 - 11787, or as rules are adopted. Only a notarized statement, from a laboratory capable of performing the tests specified, will be accepted as proof of meeting or exceeding the standards. The notarized statement shall

include the name and signature of the person in charge of the tests under the following sentence:

Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory). They do meet or exceed all specifications listed in the Federal Register, Volume 57, Number 67, pages 11774 - 11787.

Signed

~~((A list of laboratories performing the required tests shall be maintained by the ESR.))~~

Upon receipt of a statement from a testing laboratory that two samples of a device have successfully passed the test procedures listed in this chapter, and confirmation that all other requirements of this chapter have been met, the chief (~~shall~~) may issue a letter of certification for the device.

Revocation or surrender of certification.

The letter of certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the chief for cause. Reasons for revocation include but are not limited to:

(1) Evidence of repeated device failures due to gross defects in design, materials, and/or workmanship during manufacture, installation, monitoring, or calibration of the device such that the standards for accuracy and reliability of the devices for which the devices were tested are not being met (as determined by ESR);

(2) Evidence that the features and functionality of a manufacturer's devices are not being programmed properly by (~~approved service provider~~) ASP(s) or are being circumvented by lessees such that the standards for anticircumvention for which the devices were tested are not being met;

(3) Any violation on the part of the manufacturer(s) or (~~approved service provider~~) ASP(s) of any of the laws or regulations related to the installation, servicing, monitoring, and calibration of devices, including, but not limited to, "other provisions" listed in WAC 204-50-120;

(4) Notice of cancellation of manufacturer's and/or (~~approved service provider's~~) ASP's required liability insurance is received;

(5) Notification that the manufacturer is no longer in business.

(6) Notification that material modification or alteration in the components and/or the design of the certified device is not provided or the recertification process is not completed as outlined in WAC 204-50-050.

(7) Unless necessary for the immediate good and welfare of the public, revocation shall be effective (~~ten~~) thirty days (after manufacturer's receipt of notice, which shall be sent) from the date of the letter sent to the manufacturer via certified mail, return receipt requested. A copy of each notice of revocation shall be provided to the (~~originating court~~) the director of the DOL and to the OAC for the state of Washington. The manufacturer's device(s) will be removed from the list of certified devices on the WSP web site.

~~((6))~~ (8) Upon voluntary surrender, or revocation of a letter of certification for a manufacturer's device, all like devices shall be removed and replaced by a certified device, (~~not later than the end of the current calibration period~~) within sixty-five days of the effective date of such surrender

or revocation. The ASP must notify all affected lessees of decertification and the requirements for a new device to be installed by an existing ASP.

~~((7) A manufacturer whose letter of certification has been revoked may request a review of revocation by submitting the request in writing to the chief within twenty days of receipt of notice of revocation.~~

~~(8) The ESR shall maintain a file of all current, revoked, and voluntarily surrendered letters of certification.)~~ (9) The ESR shall maintain a file of all current, revoked, and voluntarily surrendered letters of certification for the period of time as outlined in the WSP records retention schedule.

Review for recertification.

A manufacturer whose letter of certification has been revoked may request a review of revocation by submitting the request in writing to the chief within thirty days from the date on the revocation letter. The request must be made in writing and mailed to WSP ESR Unit, P.O. Box 42614, Olympia, WA 98504-2614.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-050 Modifications to a certified device.

The manufacturer shall notify ESR, in writing, of any material modification or alteration in the components and/or the design of the certified device. ~~((Such modifications shall warrant retesting of the device to ensure the modifications or alterations do not adversely affect the ability of the device to meet the specifications adopted))~~ Within ninety days of notifying the ESR of the material modification or alteration to a certified device, the manufacturer must resubmit to ESR the evidence of compliance as required in WAC 204-50-040.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-070 Variable calibration. To be certified, a device must be capable of being preset, by the manufacturer or by an ~~((approved service provider, to interlock when the breath sample provided is))~~ ASP, at any fail level from .02 through .09% BAC (plus or minus ~~((-.003%))~~ .005% BAC). The actual setting of each device ~~((shall be determined))~~, unless otherwise mandated by the originating court, shall be .025 BAC. The capability to change this setting shall be made secure, by the manufacturer, or by an ~~((approved service provider.~~ As guidance for the courts, the federal specifications referred to in WAC 204-50-040 recommends an interlock level of .025 BAC for the initial test and a fail level of up to .02% higher for subsequent random retests)) ASP.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-080 Device maintenance and reports.

(1) Each lessee shall have the device examined by the manufacturer or by an ~~((approved service provider))~~ ASP for correct calibration and evidence of tampering at intervals not to exceed sixty-five days, or more often as may be ordered by the originating court.

~~(2) ((Examination shall include a physical inspection of the device, and its wiring, and the vehicle and its wiring for evidence of tampering or circumvention. Notation shall also be made of the vehicle's odometer reading.~~

~~(3))~~ The device must be calibrated for accuracy according to the manufacturer's procedures. All data contained in the device's memory must be downloaded ~~((into a format from which the required reports can be generated.~~

~~(4))~~ and the manufacturer and/or ((approved service provider)) the ASP shall make a hard copy or electronic equivalent of the client data and the results of each examination. Any evidence of noncompliance, violations, or signs of tampering or circumvention shall be reported ((to the originating court)) as requested by and in a format acceptable to the originating court and/or DOL. All information obtained as a result of each inspection shall be retained by the manufacturer or approved service provider for two years from the date the device is removed from the vehicle.

~~((5))~~ (3) Any ASP proposing to offer a mail-in calibration and examination program to their lessees must obtain approval from ESR prior to implementing the mail-in program. To obtain approval the ASP must submit procedures outlining how the mail-in program will work. ASP must also provide the customer with written instructions on how to utilize the mail-in program. A mail-in program does not eliminate or take the place of any requirements outlined in WAC 204-50-120.

(4) The manufacturer and/or ~~((approved service provider))~~ ASP must provide ~~((;))~~ upon request ~~((of))~~, additional reports in a format acceptable to and at no cost to DOL and/or the originating court ~~((-additional reports which may include, but are not limited to, the following: Proof of installation, removal, transfer of vehicle, vehicle information, compliance reporting, statements of charges and payments, service calls, lessee error of operation, device failure, faulty automotive equipment, and lessee demographic information. Such reports must be supplied in a format acceptable to the originating court, and at no cost to the originating court)).~~

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-090 Device security. The manufacturer and its approved service provider(s) shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. These steps shall include:

(1) Special locks, seals, and installation procedures that prevent or record evidence of tampering and/or circumvention attempts.

(2) In addition, the approved service provider will affix to the device a label containing the following notation: "Warning - This device has been installed under ((court order)) the laws of the state of Washington. Attempts to disconnect, tamper with, or circumvent this device may subject you to criminal prosecution. For more information, call (insert manufacturer's or approved service provider's toll free number)."

(3) No owner or employee of a manufacturer of ASP may authorize or assist with the disconnection of a device, or enable the use of any "emergency bypass" mechanism or any

other "bypass" procedure that allows a person restricted to use the vehicle equipped with a functioning ignition interlock, to start or operate a vehicle without providing all required breath samples. Doing so may subject the person to criminal prosecution under RCW 46.20.750 and may cause the revocation of a manufacturer's certification under WAC 204-50-040.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-110 Mandatory operational features. Notwithstanding other provisions of this chapter, a certified device must comply with the following:

(1) The device shall be designed to permit a "restart" within two minutes of a stall or when the ignition has been turned off.

(2) The device shall automatically and completely purge residual alcohol before allowing subsequent tests.

(3) The device shall be installed in such a manner that it will not interfere with the normal operation of the vehicle after it has been started.

(4) Each device shall be provided with an ample supply of disposable mouth pieces designed to minimize the introduction of saliva into the device.

(5) Each device shall be uniquely serial numbered. Along with any other information (~~(requested)~~) required by DOL or by an originating court, all reports to DOL or to an originating court concerning a particular device shall include the name, address, and driver's license number of the lessee, (~~(the name of the originating court,)~~) and the unique number of the device. The name, address, telephone number (toll free(~~(, if not a local call from the originating court)~~)), and contact person of the manufacturer or approved service provider furnishing such report shall also be included as part of the report.

(6) Each device shall record each time the vehicle is started, the results of the test, how long the vehicle was operated, and any (~~(indication)~~) indication of bypassing or (~~(tampering)~~) tampering with the device.

(7) Each device shall require the operator of the vehicle to submit to a retest within ten minutes of starting the vehicle. Retesting shall continue at intervals not to exceed sixty minutes after the first retest. The device shall be equipped with a method of immediately notifying peace officers if the required retest(s) above is not performed, or if the result of the retest exceeds the lower of .025 BAC or the alcohol concentration as prescribed by the originating court. Examples of acceptable forms of notification are repeated honking of the vehicle's horn, repeated flashing of the vehicle's headlights, or the wailing of a small siren. Such notification may be disabled only by switching the (~~(vehicles')~~) engine off, or by the achievement of a retest at a level the lower (~~(than)) of .025 BAC or the maximum allowable alcohol concentration as set by the originating court~~.

(8) In addition, if a retest is not performed when called for by the device, or if the operator is unable to achieve a retest at a level the lower (~~(than)) of .025 BAC or the (~~(a)) maximum allowable alcohol concentration as set by the originating court~~~~, the device shall automatically enter a violation

reset condition. A device which enters a violation reset condition and the vehicle in which it is installed, must be returned to the manufacturer or (~~(approved service provider))~~ ASP to be serviced within five days or the device shall render the vehicle inoperable. The manufacturer or approved service provider shall notify the originating court (if any) of such violation reset conditions in a format acceptable to the originating court within five days of servicing the device. The manufacturer or ASP shall provide notification to DOL in a format acceptable should DOL promulgate rules requiring such notification.

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-120 Other provisions. Notwithstanding other provisions of this chapter, each manufacturer of a certified device, either on its own or through its approved service provider(s):

(1) Shall guarantee repair or replacement of a defective device within the state of Washington within a maximum of forty-eight hours of receipt of a complaint.

(2) Shall demonstrate to the satisfaction of ESR, a service delivery plan under which any restricted operator may obtain installation and routine service of that manufacturer's device within a seventy-five mile radius of his or her place of residence. Further, shall provide ESR, a map of the state of Washington showing the area covered by each approved service provider, and the name, address, and telephone number of each approved service provider. The manufacturer shall (~~(notify))~~ provide ESR (~~(of)) a revised map showing~~ any changes to its authorized service provider network within ten days of such change. Also within thirty days of any additions to the approved service provider network, provide evidence to ESR that any added ASPs have the insurance coverage as required by subsection (7) of this section.

(3) Shall maintain a twenty-four hour, three hundred sixty-five days a year toll-free telephone number for lessees to call if they have problems with the device they have leased from the manufacturer or approved service provider. Calls must either be answered by a technician qualified to service the manufacturer's devices, or the call must be returned by a qualified technician within thirty minutes of the original call.

(4) Shall provide the (~~(originating court and the))~~ lessee a statement of charges clearly specifying warranty details, monthly lease amount, any additional charges anticipated for routine calibration and service checks and what items, if any, are provided without charge. To ensure equal accessibility of the benefits of this technology to all citizens of the state of Washington, such pricing shall be uniform statewide(~~(, whether in urban or rural portions of the state))~~).

(5) Shall provide the lessee written notice of any changes in the statement of charges regardless of what person or agency requested the change, prior to the implementation of such changes.

(6) Shall provide to ESR proof that the manufacturer has products liability insurance coverage with minimum liability limits of one million dollars per occurrence, and three million dollar aggregate. Liability covered shall include, but not limited to: Defects in product design (~~(and))~~, materials, (~~(as well~~

as)) and workmanship during manufacture, calibration, installation, removal, and all completed operations. Such insurance must be provided by a company ((licensed)) authorized to offer such coverage in the state, and such company shall include the state of Washington as an additional insured, and shall agree to notify ESR not less than thirty days before the expiration or termination of such coverage. Insurance coverage required in this subsection must be in addition to, and not considered a replacement for coverage required in subsection (7) of this section.

(7) Shall provide ESR proof that each and every ((approved service provider)) ASP has garage keepers liability insurance coverage with minimum liability limits of fifty thousand dollars. Liability covered shall include, but not be limited to, damage to lessee's vehicle and personal property while in the care and/or custody of the ((approved service provider)) ASP. Further shall provide ESR proof that each and every ((approved service provider)) ASP has completed operations insurance coverage with minimum liability limits of one million dollars per occurrence, and two million dollars aggregate. Liability covered shall include, but not be limited to, defects in materials and workmanship during installation, removal, service, calibration, and monitoring. All such insurance must be provided by a company ((licensed)) authorized to offer such coverage in the state, and such company shall include the state of Washington as an additional insured, and shall agree to notify ESR not less than thirty days before expiration or termination of such coverage. Insurance coverage required in this subsection must be in addition to and not considered a replacement for coverage required in subsection (6) of this section.

(8) Shall ((advise)), if so requested by the originating court ((prior to removing the device under)), notify the originating court, if any, of the removal of a device under any circumstances other than:

(a) ~~((Completion of sentence or other terms of a court order.~~

~~((b)) Immediate device repair needs. ((note: Whenever a device is removed for repair, and cannot be immediately reinstalled, a substitute device shall be utilized. Under no circumstances shall a restricted operator's vehicle be permitted to be driven without a required device.~~

~~((c)) (b) Removal of the device in order to switch it to a replacement vehicle to be operated by the restricted operator. Report of such a vehicle switch must be transmitted to the originating court within two business days of such a switch, if so requested by the originating court at the time of initial installation of the device. Report of such a vehicle switch must be transmitted to the DOL within two business days of such a switch, if so requested by the DOL. NOTE: Whenever a device is removed for repair, and cannot be immediately reinstalled, a substitute device shall be utilized. Under no circumstances shall a manufacturer or ASP knowingly permit a restricted operator to drive a vehicle not equipped with a functioning device.~~

AMENDATORY SECTION (Amending WSR 99-01-156, filed 12/23/98, effective 1/1/99)

WAC 204-50-130 Removal procedures. ((When so notified in writing by the originating court.)) The manufacturer or its approved service provider shall remove the device and return the vehicle in normal operating condition. The manufacturer or its ((approved service provider)) ASP shall provide any final report requested by the originating court and/or requested by DOL.

WSR 05-17-078

PERMANENT RULES

HEALTH CARE AUTHORITY

(Basic Health)

[Order 05-03—Filed August 12, 2005, 7:56 a.m., effective September 12, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The 2005 legislature passed HB 1170, making students under a temporary visa to study in the United States ineligible for subsidized Basic Health coverage. Basic Health rules must be updated to be consistent with that requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 182-25-010 and 182-25-040.

Statutory Authority for Adoption: RCW 70.47.050.

Other Authority: Chapter 188, Laws of 2005.

Adopted under notice filed as WSR 05-13-105 on June 17, 2005.

Changes Other than Editing from Proposed to Adopted Version: Based on stakeholder input, the words "immigration status" that were added to WAC 182-25-040 (2)(c) in the draft were not included in this final version. This change was unnecessary and could be interpreted more broadly than intended.

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 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 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 2, Repealed 0.

Date Adopted: August 12, 2005.

Cyndi Presnell
Assistant Rules Coordinator

AMENDATORY SECTION (Amending Order 04-03, filed 11/5/04, effective 1/1/05)

WAC 182-25-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the administrator of the Washington state health care authority (HCA) or designee.

(2) "Appeal procedure" means a formal written procedure for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction.

(3) "Basic health plan" (or "BHP") means the system of enrollment and payment for basic health care services administered by the administrator through managed health care systems.

(4) "BHP Plus" means the program of expanded benefits available to children through coordination between the department of social and health services (DSHS) and basic health plan. Eligibility for BHP Plus is determined by the department of social and health services, based on Medicaid eligibility criteria. To be eligible for the program children must be under age nineteen, with a family income at or below two hundred percent of federal poverty level, as defined by the United States Department of Health and Human Services. They must be Washington state residents, not eligible for Medicare, and may be required to meet additional DSHS eligibility requirements.

(5) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a health care provider or to the MHCS.

(6) "Covered services" means those services and benefits in the BHP schedule of benefits (as outlined in the member handbook issued to the enrollee, or to a subscriber on behalf of the enrollee), which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, coinsurance and deductible.

(7) "Disenrollment" means the termination of coverage for a BHP enrollee.

(8) "Effective date of enrollment" means the first date, as established by BHP, on which an enrollee is entitled to receive covered services from the enrollee's respective managed health care system.

(9) "Dependent," as it applies to the subsidized or non-subsidized programs, means:

(a) The subscriber's lawful spouse, not legally separated, who resides with the subscriber; or

(b) The unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, legal guardianship, or placement pending adoption, who is:

(i) Younger than age nineteen, and who has not been relinquished for adoption by the subscriber or the subscriber's dependent spouse; or

(ii) Younger than age twenty-three, and a registered student at an accredited secondary school, college, university, technical college, or school of nursing, attending full time, other than during holidays, summer and scheduled breaks; or

(c) A person of any age who is incapable of self-support due to disability, and who is the unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, or legal guardianship; or

(d) An unmarried child younger than age nineteen who is residing with the subscriber under an informal guardianship agreement. For a child to be considered a dependent of the subscriber under this provision:

(i) The guardianship agreement must be signed by the child's parent;

(ii) The guardianship agreement must authorize the subscriber to obtain medical care for the child;

(iii) The subscriber must be providing at least fifty percent of the child's support; and

(iv) The child must be on the account for BHP coverage.

(10) "Eligible full-time employee" means an employee who meets all eligibility requirements in WAC 182-25-030 and who is regularly scheduled to work thirty or more hours per week for an employer. The term includes a self-employed individual (including a sole proprietor or a partner of a partnership, and may include an independent contractor) if the individual:

(a) Is regularly scheduled to work thirty hours or more per week; and

(b) Derives at least seventy-five percent of his or her income from a trade or business that is licensed to do business in Washington.

Persons covered under a health benefit plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements.

(11) "Eligible part-time employee" means an employee who meets all the criteria in subsection (10) of this section, but who is regularly scheduled to work fewer than thirty hours per week for an employer.

(12) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

(13) "Employer" means an enterprise licensed to do business in Washington state, as defined by RCW 50.04.080, with employees in addition to the employer, whose wages or salaries are paid by the employer.

(14) "Enrollee" means a person who meets all applicable eligibility requirements, who is enrolled in BHP, and for whom applicable premium payments have been made.

(15) "Family" means an individual or an individual and eligible spouse and dependents. For purposes of eligibility determination and enrollment in BHP, an individual cannot be a member of more than one family.

(16) "Financial sponsor" means a person, organization or other entity, approved by the administrator, that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any dependents.

(17) "Gross family income" means total cash receipts, as defined in (a) of this subsection, before taxes, from all sources, for subscriber and dependents whether or not they are enrolled in BHP, with the exceptions noted in (b) of this subsection. An average of documented income received over a period of several months will be used for purposes of eligibility determination, unless documentation submitted confirms a change in circumstances so that an average would not be an accurate reflection of current income. A twelve-month average will be used when calculating gambling income, lump-sum payments, and income from capital gains. A twelve-month history of receipts and expenses will be

required for calculating self-employment or rental income unless the applicant or enrollee has not owned the business for at least twelve months.

(a) Income includes:

(i) Wages, tips and salaries before any deductions;

(ii) Net receipts from nonfarm self-employment (receipts from a person's own business, professional enterprise, or partnership, after deductions for business expenses). In calculating net self-employment income, deductions will not be allowed for noncash-flow items such as depreciation, amortization, or business use of home, and a net loss from this calculation will not be used to offset other income sources;

(iii) Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses). In calculating net self-employment income, deductions will not be allowed for noncash-flow items such as depreciation, amortization, or business use of home, and a net loss from this calculation will not be used to offset other income sources;

(iv) Periodic payments from Social Security, railroad retirement, military pension or retirement pay, military disability pensions, military disability payments, government employee pensions, private pensions, unemployment compensation, and strike benefits from union funds;

(v) One-time insurance payments other than reimbursement for a loss, periodic insurance or annuity payments, and compensation for injury other than reimbursement for medical costs, including workers' compensation;

(vi) Public assistance, alimony, child support, and military family allotments;

(vii) Work study, assistantships, or training stipends;

(viii) Dividends and interest accessible to the enrollee without a penalty for early withdrawal;

(ix) Net rental income, net royalties, and net gambling or lottery winnings;

(x) Lump sum inheritances and periodic receipts from estates or trusts; and

(xi) Net income from capital gains.

(b) Income does not include the following types of money received:

(i) Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car;

(ii) Tax refunds, gifts, loans;

(iii) Noncash receipts, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, goods or services received due to payments a trust makes to a third party, and such noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, state supplementary payment income that is specifically dedicated to reimburse for services received, and housing assistance;

(iv) Income earned by dependent children with the exception of distributions from a corporation, partnership, or business;

(v) Income of a family member who resides in another household when such income is not available to the subscriber or dependents seeking enrollment in BHP;

(vi) College or university scholarships, grants, and fellowships;

(vii) Payments from the department of social and health services adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145;

(viii) Documented child care expenses for the care of a dependent child of a subscriber may be deducted (at a rate set by the administrator and consistent with Internal Revenue Service requirements) when calculating gross family income. To qualify for this deduction:

(A) The subscriber and the spouse listed as a dependent on the account, if any, must be employed or attending school full-time during the time the child care expenses were paid; and

(B) Payment may not be paid to a parent or stepparent of the child or to a dependent child of the subscriber or his/her spouse.

(18) "Home care agency" means a private or public agency or organization that administers or provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence, and is licensed by the department of social and health services (DSHS) as a home care agency. In order to qualify, the agency must be under contract with one of the following DSHS programs: Chore, Medicaid Personal Care, Community Options Program Entry System (COPES) or Respite Care (up to level three).

(19) "Institution" means a federal, state, county, city or other government correctional or detention facility or government-funded facility where health care historically has been provided and funded through the budget of the operating agency, and includes, but is not limited to: Washington state department of corrections institutions; federal, county and municipal government jail and detention institutions; Washington state department of veterans affairs soldiers' and veterans' homes; department of social and health services state hospitals and facilities and juvenile rehabilitation institutions and group homes. An institution does not include: Educational institutions; government-funded acute health care or mental health facilities except as provided above; chemical dependency facilities; and nursing homes.

(20) "Institutionalized" means to be confined, voluntarily or involuntarily, by court order or health status, in an institution, as defined in subsection (19) of this section. This does not include persons on work release or who are residents of higher education institutions, acute health care facilities, alcohol and chemical dependency facilities, or nursing homes.

(21) "Insurance broker" or "agent" means a person who is currently licensed as a disability insurance broker or agent, according to the laws administered by the office of the insurance commissioner under chapter 48.17 RCW.

(22) "Managed health care system" (or "MHCS") means:

(a) Any health care organization (including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof) which has entered into a contract with the HCA to provide basic health care services; or

(b) A self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under

RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(23) "Maternity benefits through medical assistance," also known as S-Medical, means the coordinated program between BHP and DSHS for eligible pregnant women. This program includes all Medicaid benefits, including maternity coverage. Eligible members must be at or below one hundred eighty-five percent of the federal poverty level. Eligibility for this program is determined by DSHS, based on Medicaid eligibility criteria.

(24) "Medicaid" means the Title XIX Medicaid program administered by the department of social and health services, and includes the medical care programs provided to the "categorically needy" and the "medically needy" as defined in chapter 388-503 WAC.

(25) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(26) "Nonsubsidized enrollee" or "full premium enrollee" means an individual who enrolls in BHP, as the subscriber or dependent, and who pays or on whose behalf is paid the full costs for participation in BHP, without subsidy from the HCA.

(27) "Open enrollment" means a time period designated by the administrator during which enrollees may enroll additional dependents or apply to transfer their enrollment from one managed health care system to another.

(28) "Participating employee" means an employee of a participating employer or home care agency who has met all the eligibility requirements and has been enrolled for coverage under BHP.

(29) "Participating employer" means an employer who has been approved for enrollment in BHP as an employer group.

(30) "Preexisting condition" means any illness, injury or condition for which, in the six months immediately preceding an enrollee's effective date of enrollment in BHP:

(a) Treatment, consultation or a diagnostic test was recommended for or received by the enrollee; or

(b) Medication was prescribed or recommended for the enrollee; or

(c) Symptoms existed which would ordinarily cause a reasonably prudent individual to seek medical diagnosis, care or treatment.

(31) "Premium" means a periodic payment, determined under RCW 70.47.060(2), which an individual, an employer, a financial sponsor, or other entity makes to BHP for enrollment in BHP.

(32) "Program" means subsidized BHP, nonsubsidized BHP, BHP Plus, maternity benefits through medical assistance, or other such category of enrollment specified within this chapter.

(33) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington.

(34) "Rate" means the amount, including administrative charges and any applicable premium and prepayment tax imposed under RCW 48.14.0201, negotiated by the administrator with and paid to a managed health care system, to provide BHP health care benefits to enrollees.

(35) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, as described in the member handbook.

(36) "Service area" means the geographic area served by a managed health care system as defined in its contract with HCA.

(37) "Subscriber" is a person who applies to BHP on his/her own behalf or on behalf of his/her dependents, if any, who is responsible for payment of premiums and to whom BHP sends notices and communications. The subscriber may be a BHP enrollee or the spouse, parent, or guardian of an enrolled dependent and may or may not be enrolled for coverage. Notices to a subscriber and, if applicable, a financial sponsor or employer shall be considered notice to the subscriber and his/her enrolled dependents.

(38) "Subsidized enrollee" or "reduced premium enrollee" means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA. Full-time students who have received a temporary visa to study in the United States are not eligible to enroll as subsidized enrollees. To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, "subsidized enrollee" also means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA.

(39) "Subsidy" means the difference between the amount of periodic payment the HCA makes to a managed health care system on behalf of a subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(40) "Washington state resident" or "resident," for purposes of this chapter, means a person who physically resides and maintains a residence in the state of Washington.

(a) To be considered a Washington resident, enrollees who are temporarily out of Washington state for any reason:

(i) May be required to demonstrate their intent to return to Washington state; and

(ii) May not be out of Washington state for more than three consecutive calendar months.

(b) Dependent children who meet the requirements of subsection (9)(b)(ii) of this section and are attending school out-of-state may be considered to be residents if they are out-of-state during the school year, provided their primary residence is in Washington state and they return to Washington state during breaks. Dependent children attending school out-of-state may also be required to provide proof that they pay out-of-state tuition, vote in Washington state and file their federal income taxes using a Washington state address.

(c) "Residence" may include, but is not limited to:

- (i) A home the person owns or is purchasing or renting;
- (ii) A shelter or other physical location where the person is staying in lieu of a home; or
- (iii) Another person's home.

AMENDATORY SECTION (Amending Order 04-03, filed 11/5/04, effective 1/1/05)

WAC 182-25-040 Enrollment in the plan. (1) Any individual applying for enrollment in BHP must submit a signed, completed BHP application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or guardian, who shall also be held responsible for payment of premiums due on behalf of the child. If an applicant is accepted for enrollment, the applicant's signature acknowledges the applicant's obligation to pay the monthly premium in accordance with the terms and conditions identified in the member handbook. Applications for BHP Plus enrollment on behalf of children under the age of nineteen will be referred to the department of social and health services for Medicaid eligibility determination.

(2) Each applicant for subsidized enrollment or BHP Plus must list all eligible dependents, whether or not the dependents will be enrolled, and must supply other information and documentation as required by BHP and, where applicable, DSHS medical assistance.

(a) Applicants for subsidized enrollment must provide documentation showing the amount and sources of their gross family income. Income documentation must include a copy of the applicant's most recently filed federal income tax form or verification of nonfiling status, and copies of pay stubs or other documents showing income for the most recent thirty days or complete calendar month as of the date of application. Applicants who were not required to file a federal income tax return may be required to provide other documentation showing year-to-date income. As described in WAC 182-25-010(17), BHP may use an average of documented income when determining eligibility.

(b) Applicants for subsidized or nonsubsidized enrollment must provide documentation of Washington state residence, displaying the applicant's name and current address, for example, a copy of a current utility bill or rent receipt. Other documentation may be accepted if the applicant does not have a physical residence, for example, a signed statement from a person or other entity who is providing temporary shelter.

(c) BHP may request additional information from applicants for purposes of establishing or verifying eligibility, premium responsibility or MHCS selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in BHP. Intentional submission of false information will result in disenrollment of the subscriber and all enrolled dependents.

(3) Each member may be enrolled in only one BHP account. Each family applying for enrollment must designate a MHCS from which the applicant and all enrolled dependents will receive covered services. All applicants from the same family who are covered under the same account must

receive covered services from the same MHCS (with the exception of cases in which a subscriber who is paying for BHP coverage for his/her dependent who lives in a different service area). No applicant will be enrolled for whom designation of a MHCS has not been made as part of the application for enrollment. Procedures for the selection of MHCS are set forth in the BHP member handbook. Generally, enrollees may change from one MHCS to another only during open enrollment or if they are able to show good cause for the transfer, for example, when enrollees move to an area served by a different MHCS or where they would be billed a higher premium for their current MHCS.

(4) When a MHCS assists BHP applicants in the enrollment process, it must provide them with the toll-free number for BHP and information on all MHCS available within the applicant's county of residence and the estimated premiums for each available MHCS.

(5) If specific funding has been appropriated for that purpose, insurance brokers or agents who have met all statutory and regulatory requirements of the office of the insurance commissioner, are currently licensed through the office of the insurance commissioner, and who have completed BHP's training program, will be paid a commission for assisting eligible applicants to enroll in BHP.

(a) Individual policy commission: Subject to availability of funds, and as a pilot program, BHP will pay a one-time fee to any currently licensed insurance broker or agent who sells BHP to an eligible individual applicant if that applicant has not been a BHP member within the previous five years.

(b) Group policy commission: Subject to availability of funds, and as a pilot program, fees paid for the sale of BHP group coverage to an eligible employer will be based on the number of employees in the group for the first and second months of the group's enrollment.

(c) Insurance brokers or agents must provide the prospective applicant with the BHP toll-free information number and inform them of BHP benefits, limitations, exclusions, waiting periods, co-payments, all MHCSs available to the applicant within his/her county of residence and the estimated premium for each of them.

(d) All statutes and regulations of the office of the insurance commissioner will apply to brokers or agents who sell BHP, except they will not be required to be appointed by the MHCS.

(e) BHP will not pay renewal commissions.

(6) Except as provided in WAC 182-25-030(7), applications for enrollment will be reviewed by BHP within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(7)(a) Eligible applicants will be enrolled in BHP in the order in which their completed applications, including all required documentation, have been received by BHP, provided that:

(i) At least one MHCS is accepting new enrollment in the program for which the applicant is applying and from the geographic area where the applicant lives; and

(ii) The applicant also remits full payment of the first premium bill to BHP by the due date specified by BHP.

(b) In the event a waiting list is implemented, eligible applicants will be enrolled in accordance with WAC 182-25-030(6).

(8) An open enrollment period of at least twenty consecutive days will be held annually. During this open enrollment period, enrollees may apply to enroll additional family members or to transfer their enrollment to a different MHCS, provided the MHCS selected is accepting new enrollment for the enrollee's program in the geographic area where the enrollee lives.

(9) Not all family members are required to apply for enrollment in BHP; however, any family member for whom application for enrollment is not made at the same time that other family members apply, may not subsequently enroll as a family member until the next open enrollment period, unless the subscriber has experienced a "qualifying change in family status." "Qualifying changes in family status" include:

(a) The loss of other health care coverage, for a family member who has previously waived coverage, provided BHP receives the family member's application within thirty days of the loss of other coverage, along with proof of the family member's continuous medical coverage from the date the subscriber enrolled in BHP;

(b) Marriage or assuming custody or dependency of a child or adult dependent (other than newborn or newly adopted children), provided BHP receives the new family member's application within thirty days of the change in family status;

(c) Addition of an eligible newborn child or a child newly placed for adoption provided BHP receives the child's application for enrollment within sixty days of the date of birth or placement for adoption. These children may be enrolled effective from the date of birth or placement for adoption; or

(d) Addition of a family member who was not previously eligible for coverage, and who has become eligible.

(10) Subscribers must notify BHP of any changes that could affect their eligibility or subsidy or their dependents' eligibility or subsidy:

(a) Within thirty days of the end of the first month of receiving an increased income; or

(b) Within thirty days of a change other than an income change (for example, a change in family size or address).

(11) BHP will verify the continuing eligibility of subsidized enrollees through the recertification process at least once every twelve months. Upon request of BHP, subsidized enrollees must submit evidence satisfactory to BHP, proving their continued eligibility for enrollment and for the premium subsidy they are receiving.

(a) BHP will verify income of subsidized enrollees through comparison with other state and federal agency records or other third-party sources.

(b) If the enrollee's income on record with other agencies or third-party source differs from the income the enrollee has reported to BHP, or if questions arise concerning the documentation submitted, BHP will require updated documentation from the enrollee to prove continued eligibility for the subsidy they are receiving. At that time, BHP may also require updated documentation of residence to complete the recertification process.

(c) Subsidized enrollees who have been enrolled in BHP six months or more and have not provided updated income documentation for at least six months will be required to submit new income documentation if their wage or salary income cannot be compared to an independent source for verification.

(12) In addition to verification of income, subsidized and nonsubsidized enrollees must annually submit documentation satisfactory to BHP of the following:

(a) Washington state residence;

(b) Full-time student status for dependent students age nineteen through twenty-two; and

(c) Medicare ineligibility for enrollees age sixty-five or over.

(13) When determining eligibility for subsidized enrollment, noncitizens may be required to provide proof of immigration status, to verify whether they are here on a temporary visa to study in the United States.

(14) For good cause such as, but not limited to, when information received indicates a change in income or a source of income the enrollee has not reported, BHP may require enrollees to provide verification required in subsections (11) and (12) of this section more frequently, regardless of the length of time since their last recertification.

~~((14))~~ (15) Enrollees who fail to comply with a recertification request will be disenrolled, according to the provisions of WAC 182-25-090 (2)(e).

~~((15))~~ (16) If, as a result of recertification, BHP determines that an enrollee has not reported income or income changes accurately, the enrollee will be subject to the provisions of WAC 182-25-085.

WSR 05-17-084

PERMANENT RULES

HORSE RACING COMMISSION

[Filed August 12, 2005, 3:18 p.m., effective September 12, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 260-12-250 Problem gambling information sign must be posted, by removing all penalties. These penalties already exist in WAC 260-84-060 Penalty matrices.

Citation of Existing Rules Affected by this Order: Amending WAC 260-12-250 Problem gambling information sign must be posted.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-13-107 on June 17, 2005.

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.

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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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 11, 2005.

R. M. Leichner
Executive Secretary

AMENDATORY SECTION (Amending WSR 95-07-142, filed 3/22/95, effective 4/22/95)

WAC 260-12-250 Problem gambling information sign must be posted. The legislature recognizes that some individuals in Washington state are problem or compulsive gamblers. Because the state promotes and regulates gambling through the activities of the lottery commission, gambling commission and horse racing commission, the state has the responsibility to continue to provide resources for the support of services for problem and compulsive gamblers. RCW 9.46.071 requires that the lottery commission, gambling commission and horse racing commission shall jointly develop informational signs concerning problem and compulsive gambling, and that signs shall be placed in establishments of horse racing licensees, gambling licensees and lottery retailers.

All Class A, B and C licensees shall post problem and compulsive gambling informational signs in locations of their establishments, including satellite locations, which are clearly visible in patron traffic areas. The informational signs will be provided to the licensee by the horse racing commission and will contain a toll-free hot line number for problem and compulsive gamblers.

~~((If a licensee fails to post the problem and compulsive gambling informational signs in its establishment or satellite locations, it shall be fined \$50.00 for the first violation, \$100.00 for the second violation and \$200.00 for each violation noted thereafter.))~~

WSR 05-17-089
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed August 12, 2005, 4:24 p.m., effective September 12, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: DSHS is amending WAC 388-412-0025 How do I get my benefits?, to simplify language and replace an incorrect Department of Revenue phone number.

Citation of Existing Rules Affected by this Order: Amending WAC 388-412-0025.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 05-13-171 on June 21, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 9, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-22-038, filed 10/28/03, effective 12/1/03)

WAC 388-412-0025 How do I get my benefits? (1)
Your cash benefits are sent to you by either:

(a) Electronic benefit transfer (EBT) ~~((electronic benefits))~~ card, which is a direct deposit into a DSHS account that you access with a debit card called the Washington EBT Quest card;

(b) Electronic funds transfer (EFT), which is a direct deposit into your own bank account;

(c) A check to a payee who is not approved for direct deposit; or

~~((b))~~ (d) A check to you if you get:

(i) Diversion cash assistance (DCA) that cannot be paid directly to a vendor;

(ii) Additional requirements for emergent needs (AREN) that cannot be paid directly to a vendor;

(iii) Ongoing additional requirements (OAR) that cannot be paid directly to a vendor;

(iv) Clothing and personal incidentals (CPI) payments; or

(v) State supplemental payment (SSP) and you do not receive your benefit through EFT.

(2) You use a Quest debit card to access your benefits in your EBT account. You get a personal identification number (PIN) that you must enter when using this card.

(3) Your Basic Food benefits are deposited into your EBT account ~~((under time frames))~~ on the day of the month defined in WAC 388-412-0020.

(4) We establish an EBT account for each AU that receives their benefits by EBT.

(5) We cancel your cash and Basic Food ~~((are canceled))~~ benefits when you do not use your EBT ~~((benefits))~~ account for three hundred sixty-five days.

(a) ~~((We cannot replace))~~ Basic Food benefits that were canceled because ~~((they were not used))~~ you did not use them for three hundred sixty-five days cannot be replaced.

(b) Cash benefits that were canceled because you did not use them for three hundred sixty-five days may be replaced.

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You have two years to contact the department of revenue in order to replace your cash benefits. You can contact department of revenue at ((1-800-435-2429)) 1-888-328-9271. After that time, you must contact the state treasurer to claim any canceled funds.

(6) You must use your cash and Basic Food benefits from your EBT account. We do not convert cash or Basic Food benefits to checks.

WSR 05-17-094
PERMANENT RULES
SECRETARY OF STATE

(Elections Division)

[Filed August 15, 2005, 3:47 p.m., effective September 15, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this rule making is to change the form for filing a voter registration challenge. The current voter registration challenge form does not satisfy the requirements for an affidavit because it does not include a space for the challenger to state the place that the affidavit was signed.

The current form also does not require the challenger to state the factual basis for the challenge. Under some circumstances, requiring a county auditor to conduct a voter registration challenge hearing without prima facie evidence that the registration is improper could violate section 2 of the Voting Rights Act, 42 U.S.C. § 1973(a). Concerns in this regard have been expressed to the Office of the Secretary of State by representatives of the United States Department of Justice.

Citation of Existing Rules Affected by this Order: Amending WAC 434-324-115.

Statutory Authority for Adoption: RCW 29A.08.850.

Adopted under notice filed as WSR 05-14-164 on July 6, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 15, 2005.

Steve Excell
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-324-115 Challenge of voter's registration. All county auditors shall maintain a supply of, and furnish to the public on request, forms substantially similar to the sample included below for the purpose of allowing a registered voter to challenge the registration of another voter pursuant to RCW 29A.08.830. A copy of the form shall be sent to the voter, whose voter registration has been challenged and to the challenger pursuant to RCW 29A.08.840. The form shall be substantially similar to the following:

~~((VOTER'S REGISTRATION CHALLENGE FORM~~

~~TO PROPERLY EXECUTE THIS FORM IT IS NECESSARY TO CHECK THE APPROPRIATE SQUARE BELOW. A SUMMARY OF THE ADMINISTRATIVE PROCEDURES WHICH WILL BE FOLLOWED WITH RESPECT TO THIS VOTER REGISTRATION CHALLENGE MAY BE FOUND ON THE REVERSE SIDE OF THIS FORM.~~

~~REASON FOR CHALLENGE~~

- ~~The individual challenged is not a U.S. Citizen~~
- ~~The individual challenged is not at least 18 years old~~
- ~~The individual challenged is currently being denied his or her civil rights~~
- ~~The individual challenged does not reside at the address at which he or she is registered and his or her actual residence is as follows:~~

~~Note: State law (RCW 29A.08.830) requires that challenging party must provide the address at which the challenged party resides in order for a challenge based on residence to be considered.~~

~~PROVISIONS RELATING TO VOTING RESIDENCE~~

~~The State Constitution and state law provide that a voting residence shall not be lost if the voter is absent because of:~~

- ~~A. State or Federal employment, including military service~~
- ~~B. School attendance~~
- ~~C. Business outside the state~~
- ~~D. Confinement in prison~~

~~Note: Persons in the above categories have the legal right to continue to use their former residence for voting purposes and may continue to vote unless additional conditions or circumstances indicate they have forfeited that right in Washington. Any person instituting a voter registration challenge should be sure of the facts BEFORE signing the challenge affidavit.~~

~~AFFIDAVIT OF CHALLENGER~~

~~I,, declare, under penalty of perjury, that I am a registered voter, that I hereby challenge the voter's registration of for the reason indicated above. I also state that I have read the above stated provisions relating to voting residence and that, to the best of my knowledge and belief, the above~~

PERMANENT

named individual does not fall into any of the protected categories:

DATE SIGNATURE OF CHALLENGER

VOTER'S REGISTRATION CHALLENGES
A SUMMARY OF ADMINISTRATIVE PROCEDURES
CHALLENGES FILED THIRTY OR MORE DAYS PRIOR TO A PRIMARY, SPECIAL OR GENERAL ELECTION

State law (RCW 29A.08.840) requires the county auditor to notify, by certified mail, any voter whose registration has been challenged.

The notification must be mailed to the address at which the challenged voter is registered, to any address provided by the challenger as required by RCW 29A.08.830, and to any other address that the auditor could reasonably expect the challenged voter might receive such notification.

Included with the notification must be a request that the voter appear at a hearing to be held within ten days of the mailing of the request, at the place and time specified, in order to assist the auditor in determining the validity of the challenge.

the person making the challenge must be provided with a copy of the notification and request mailed to the challenged voter.

If either the challenger or the challenged voter, or both, are unable to appear in person they may file affidavits, stating under oath the reasons they believe the challenge to be valid or invalid.

The county auditor shall determine the validity of the challenge based on his or her evaluation of the evidence presented by both parties to the challenge. The decision of the auditor is final, subject only to a petition for judicial review under chapter 34.05 RCW.

CHALLENGES FILED WITHIN THIRTY DAYS OF A PRIMARY, SPECIAL OR GENERAL ELECTION

State law (RCW 29A.08.830) provides that in the event the challenge is made within thirty days of an election, the voter and the precinct election officers within the voter's precinct are to be notified.

Both the challenged voter and the precinct election officers are also to be informed that in the event the voter attempts to vote at the ensuing election, he or she will be provided with a challenged ballot.

The validity of the challenge and the disposition of the challenged ballot will be determined by the county canvassing board and both the challenger and the challenged voter may either appear in person or submit affidavits in support of their respective positions.

In the event the challenged voter does not vote at the ensuing election, the challenge shall be processed in the same manner

as challenges made more than thirty days prior to the election:

In the event the challenge is filed more than thirty days prior to a primary or election, the challenge shall be processed in the manner provided by RCW 29A.08.840. If the voter votes and returns his or her absentee ballot prior to the county auditor making his or her determination as to the validity of the challenge, the returned ballot shall be segregated from other absentee ballots and not processed until such a determination is made. In the event the challenge is made within thirty days of a primary or election and prior to the absentee ballots being separated from the return envelopes, the challenge and the returned ballot shall be forwarded to the canvassing board and processed in the manner provided by RCW 29A.08.820. If the challenge is made within thirty days of a primary or election but after the ballots have been separated from the return envelopes, the challenge shall be processed by the county auditor in the manner provided by law for challenges made more than thirty days prior to the primary or election.)

VOTER REGISTRATION CHALLENGE FORM
REASON FOR CHALLENGE

Check the appropriate box below.

- The individual challenged is not a U.S. Citizen.
The individual challenged is not at least eighteen years old.
The individual challenged is currently being denied his or her civil rights by reason of a felony conviction.
The individual challenged has been judicially declared mentally incompetent.
The individual challenged does not reside at the address at which he or she is registered to vote. Under Article VI, section 4, of the Washington State Constitution, a voting residence is not lost if the person is absent due to state or federal employment, military service, school attendance, confinement in prison, or engaged in navigation at sea. State law requires the person filing the challenge to provide the address at which the challenged voter actually resides:

Voter Registration Address Actual Address

Please describe the factual basis for the voter registration challenge:

AFFIDAVIT OF CHALLENGER

I, declare under penalty of perjury under the laws of the State of Washington that I am a registered voter in the State of Washington and that I hereby challenge the voter registration of . I have personal knowledge and belief that this person is not qualified to vote, or does not reside at the address given on his or her voter registration record and is also not protected by the provisions of Article VI, section 4, of the Washington State Constitution.

Signature of Challenger Date and Place Signed

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Address

City, State, Zip

PROCEDURES FOR FILING A VOTER REGISTRATION CHALLENGE
FORM

By statute, any registered voter may challenge the right to vote of any other registered voter, up until the day before an election, by filing the attached affidavit subject to the penalties of perjury. The challenger must declare that, to his or her personal knowledge and belief, the challenged voter is not qualified to vote or does not actually reside at the address given on his or her voter registration record.

If the challenge is based on residence, RCW 29A.08.830 requires the challenger to provide the address at which the challenged voter actually resides. The challenger must also declare that, to his or her personal knowledge and belief, the challenged voter is not protected by the provisions of Article VI, section 4, of the Washington State Constitution. This provision of the Washington State Constitution protects a voter from losing his or her voting residence if the absence is due to state or federal employment, military service, school attendance, confinement in prison, or engaged in navigation at sea.

Challenges may not be based on unsupported allegations or allegations by anonymous third parties.

HEARING

The County Auditor shall notify the challenged voter, by certified mail, that his or her voter registration has been challenged. The notice shall request that the challenged voter appear at a hearing to be held within 10 days, and shall state the date, time, and location of the hearing. The challenger shall be provided a copy of the notice.

If either the challenger or the challenged voter is unable to appear at the hearing, he or she may submit a reply by affidavit stating, under oath, the reasons he or she believes that the voter registration is valid or invalid.

The identity of the challenger, and any third person involved in the challenge, is public record and shall be announced at the time the challenge is made.

A challenged voter may properly transfer or reregister until three days before the election by applying personally to the County Auditor.

If a challenge is filed more than 30 days before an election, the County Auditor presides over the hearing and issues a decision. If the challenge is filed less than 30 days before an election, the County Canvassing Board presides over the hearing and issues a decision.

For more information, please contact your County Auditor.

WSR 05-17-098
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed August 15, 2005, 4:17 p.m., effective September 15, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adopting WAC 232-28-429 2005-06 Migratory waterfowl seasons and regulations; repealing WAC 232-28-428 2004-05 Migratory waterfowl seasons and regulations; and amending WAC 232-12-068 Nontoxic shot requirements, 232-16-050 Byron Game Reserve, 232-16-740 Columbia, Snake, and Yakima River waterfowl, coot, and snipe closures, 232-28-285 2005-2006 Pilot cougar hunting seasons with the aid of dogs, and 232-28-299 Mandatory report of hunting activity.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-428; and amending WAC 232-12-068, 232-16-050, 232-16-740, 232-28-285, and 232-28-299.

Statutory Authority for Adoption: RCW 77.12.047.

Adopted under notice filed as WSR 05-13-197, 05-13-198, 05-13-192, and 05-13-193 on June 22, 2005.

Changes Other than Editing from Proposed to Adopted Version: **WAC 232-28-429 2005-06 Migratory waterfowl seasons and regulations.**

Changes, if any, from the text of the proposed rule and reasons for difference:

Under Ducks, Statewide, the canvasback season was initially adjusted to add language for a closure from Oct. 22 - Dec. 5, 2005, to conform to federal frameworks for a sixty-day canvasback season, while maintaining season dates similar to last year. Subsequent to that adjustment, the department received public input from the Waterfowl Advisory Group, recommending placement of canvasback season days as late as possible. The new language changes the closure period from Oct. 22 - Dec. 5, 2005 to Oct. 15 - Nov. 30, 2005, to shift season days as late as possible.

Under Ducks, Statewide, change the daily bag limit for scaup from 4 to 3 and the possession limit from 8 to 6, to conform to recently announced federal frameworks.

Under Duck Season, Written Authorization to Hunt Sea Ducks:

- Insert the following sentence after the first sentence: "Hunters who held a 2004-05 authorization and returned the harvest report prior to the deadline will be mailed a 2005-06 authorization in early October."
- Revise the next sentence from "Hunters must fill out an application (available at Washington department of fish and wildlife, Olympia and regional offices)" to "Hunters who did not possess a 2004-05 authorization must fill out an application (available at Washington department of fish and wildlife, Olympia and regional offices)."
- Insert the following sentence before the sentence that begins "Immediately after taking a sea duck into possession...": "No applications will be accepted after October 31, 2005."

When the sea duck authorization was established in 2004, the department stated its intent to propose an application deadline for the 2005-06 season. The adjustments estab-

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lish an application deadline and have the application requirements apply to new hunters only, similar to other special waterfowl hunting authorizations in the proposed rule.

Under Goose Management Area 2B and Special Late Canada Goose Season for Goose Management Area 2A:

- Change the possession limit from 2 to 4 for cackling geese, to conform to federal frameworks.
- Under Brant Season:
- Change the words in the first sentence from "and Pacific counties" to "County."
 - Insert the following wording after the above Skagit County brant season dates: "Open in Pacific County only on the following dates: Jan. 7, 8, 10, 12, 14, 2006."

These changes allow better placement of reduced season days for Pacific County considering tidal conditions, following establishment of new brant zones in the recently announced federal framework.

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 5, 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.

Date Adopted: August 5, 2005.

Jeff P. Koenings
for Ron Ozment, Chair
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 03-165, filed 7/29/03, effective 8/29/03)

WAC 232-12-068 Nontoxic shot requirements. It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for waterfowl, coot, or snipe. Nontoxic shot includes steel shot, bismuth-tin shot (97 parts bismuth: 3 parts tin with <1 percent residual lead), tungsten-iron shot (2 types - 40 parts tungsten: 60 parts iron with <1 percent residual lead, and 22 parts tungsten: 78 parts iron with <1 percent residual lead), tungsten-polymer shot (95.5 parts tungsten: 4.5 parts nylon 6 or 11 with <1 percent residual lead), tungsten-matrix shot (95.9 parts tungsten: 4.1 parts polymer with <1 percent residual lead), tungsten-iron-nickel-tin shot (65% tungsten: 10.4% iron: 2.8% nickel: 21.8% tin, with <1 percent residual lead), ~~((ø))~~ tungsten-nickel-iron shot ~~((50))~~ 20-70% tungsten: ((35)) 10-40% nickel: ((15)) 10-70% iron with <1 percent residual lead, tungsten-tin-bismuth shot (49-71% tungsten, 29-51% tin, 0.5-6.5% bismuth with <1 percent residual lead), and tungsten-bronze shot (51.1% tungsten, 44.4% cop-

per. 3.9% tin, 0.6% iron with <1 percent residual lead). The director may adopt additional nontoxic shot types consistent with federal regulations.

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot in the following areas:

- Bridgeport Bar segment of the Well's Wildlife Area
- Cowlitz Wildlife Area
- Lake Terrell Wildlife Area (including Tennant Lake and other segments)
- Shillapoo Wildlife Area
- Skagit Wildlife Area (all segments)
- Snoqualmie Wildlife Area (all segments)
- Sunnyside Wildlife Area
- The Driscoll Island, Hegdahl, and Kline Parcel segments of the Sinlahekin Wildlife Area
- Vancouver Lake Wildlife Area

It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than nontoxic shot when hunting for game birds or game animals in the following areas:

- Chehalis River pheasant release site
- Dungeness Recreation Area
- Hunter Farms pheasant release site
- Raymond Airport pheasant release site
- Two Rivers and Wallula Units of the U.S. Fish and Wildlife Service's McNary National Wildlife Refuge
- ~~((AH))~~ All Whidbey Island ~~((Seaplane Base, OLF Coupeville, and Bayview))~~ pheasant release sites~~((f-))~~

AMENDATORY SECTION (Amending Order, filed 7/29/64)

WAC 232-16-050 Byron Game Reserve. That part of the Byron Ponds segment of the Sunnyside ~~((Game Range))~~ Wildlife Area (department of ~~((game))~~ fish and wildlife lands) east of the Mabton Pressure Pipeline, legally described as ~~((that part of))~~ the W. 1/2 of Section 12 that is north of U.S. Highway No. 410 ~~((and the SW1/4 of the NE1/4 and))~~ except for the NE1/4 of the SE1/4 of the SW1/4; the ((N-1/2)) NW1/4 of the NW1/4 of the SE1/4 of Section 12; ((and)) that part of Section 11 east of the Mabton pressure pipeline and north of U.S. Highway No. 410; and that part of Section 2 that is east of said pipeline; all of the above sections being in Twp. 8N., R.23E.W.M.

AMENDATORY SECTION (Amending Order 04-207, filed 8/11/04, effective 9/11/04)

WAC 232-16-740 Columbia, Snake, and Yakima River waterfowl, coot, and snipe closures. It shall be unlawful to hunt migratory waterfowl, coot and jacksnipe on or within the following described areas:

Section 1. Waters and land below the mean high water mark of Bachelor Island Slough of the Columbia River in Clark County. Bachelor Island Slough is further defined as those waters starting at the south end of the slough at its confluence with the Columbia river, running north along the eastern shore of Bachelor Island to the confluence with Lake River.

Section 2. Klickitat County - the Columbia River and those lands lying within one-quarter mile of the Columbia River upstream from the railroad bridge at Wishram to the grain elevator at Roosevelt.

Section 3. The Columbia River between the mouth of Glade Creek (river channel marker 57) and the old town site of Paterson (river channel marker 67), except the hunting of waterfowl, coot, and snipe is permitted from the main shoreline of the Columbia River in this area.

Section 4. The Columbia River and those lands lying within one-quarter mile of the Columbia River between the old Hanford townsite (Wooden Tower) powerline crossing in Section ((30)) 24, T13N, ((R28E)) R27E, to Vernita Bridge (Highway 24).

Section 5. The Columbia River between the public boat launch at Sunland Estates (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

Section 6. The Snake River and those lands within one-quarter mile of the Snake River, between the U.S. Highway 12 bridge near Burbank, upstream to a line running between shoreline navigation marker((s)) 4 ((and-5)) at Levey ((and Charbonneau Recreation Areas)) Park Recreation Area and the Corps of Engineers windmill at Charbonneau Habitat Management Unit.

Section 7. The Yakima River and those lands lying within one-fourth mile of the Yakima River from the Sunny-side-Mabton Road bridge downstream to the Euclid Road bridge (4 miles).

Section 8. The Yakima River and those lands lying within one-fourth mile of the Yakima River from the Grant Avenue bridge (steel bridge) north of Prosser downstream 2-1/2 miles, to the powerline.

AMENDATORY SECTION (Amending Order 04-284, filed 10/14/04, effective 11/14/04)

WAC 232-28-285 ((2004-2005)) 2005-2006 Pilot cougar hunting seasons with the aid of dogs. As used in this section and in the context of pilot cougar hunting seasons, the following definitions apply:

"Accompany" means the dog handler and permit hunter must be in the physical presence of each other at the time dogs are released from a leash or unrestrained.

"Pursue" or "pursuit" means dogs that are not on a leash or restrained, are in the act of tracking a cougar. Transporting dogs in a motorized vehicle or walking a dog on a leash is not a pursuit.

"Dog owner" means a person that owns and hunts with dogs that are capable of detecting, tracking and treeing a cougar.

"Quota" means the targeted harvest goal. The actual harvest level may exceed the quota.

"Kill permit" allows a hunter to pursue or kill cougar.

"Pursuit permit" allows a hunter to pursue cougar.

(1) The pilot cougar-hunting season will allow use of dogs to hunt cougar. The hunts will consist of pursuit-or-kill seasons and pursuit-only seasons, and are allowed only in Chelan, Okanogan, Ferry, Stevens, and Pend Oreille counties.

(2) Pursuit-or-kill seasons:

Cougar may be pursued or killed with the aid of dogs from December 1, ((2004)) 2005, until the female zone quota has been killed, the total zone quota has been killed, or March 31, ((2005)) 2006, whichever occurs first; EXCEPT GMUs 101 and 204 where cougar may be pursued or killed from January 1, ((2005)) 2006, until the female zone quota has been killed, the total zone quota has been killed, or March 31, ((2005)) 2006, whichever occurs first.

(3) Pursuit-only seasons:

(a) If a zone quota is killed prior to March 31, ((2005)) 2006, cougar may be pursued with dogs in all or portions of that zone until March 31, ((2005)) 2006. Hunters may only pursue cougars in designated pursuit only areas identified on their ((hound)) kill or pursuit-only permit. Hunters may not kill cougar during pursuit-only seasons.

~~((Only))~~ (b) Hunters selected for the pursuit-or-kill season (accompanied by up to three of their identified handlers) may participate in a pursuit-only season. ((Hunters may not kill cougar during pursuit-only seasons.)) Permit hunters that harvest a cougar under a kill permit may continue to pursue cougars until March 31. If a zone quota is killed, the department will also issue pursuit-only permit to hunters drawn at random from the unselected pool of applicants. The director will identify the number of pursuit-only hunters selected.

(4) Hunt areas and kill quotas:

Cougar seasons will be based on a quota system, where permit hunters using dogs may hunt and kill cougar until the allotted numbers of cougar have been killed from each hunt zone or March 31, ((2005)) 2006, whichever occurs first.

(a) Kill quotas start September 1 and will include all cougar killed during seasons with and without the aid of dogs, including cougar seasons under this section, cougar seasons without the aid of dogs authorized under WAC 232-28-272, depredation permits, landowner kill permits, and WDFW depredation authority.

(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, landowner kill permits, and WDFW depredation authority even if these kills result in exceeding a zone quota.

CMU	Hunt Choice	Hunt Zone	Area Description	DRAFT QUOTA	
				Total	Female
East Cascades North	9001	Okanogan	Those portions of GMUs 203, 209, 215, 218, 233, 224, 231, 239, and 242 within Okanogan County	28	11

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CMU	Hunt Choice	Hunt Zone	Area Description	DRAFT QUOTA	
				Total	Female
	9002	Chelan	Those portions of GMUs 243, 244, 245, 246, 247, 249, 250, and 251 within Chelan County	10	4
Northeastern	9003	Ferry-Okanogan	GMUs 101, 204	26	10
	9004	Stevens-Pend Oreille	Those portions of GMUs 105, 108, 111, 113, 117, 121 within Stevens and Pend Oreille counties	38	15

(5) Quota hotline:

Permit hunters participating in a pursuit-or-kill season must call the toll free cougar quota hotline within twenty-four hours prior to each day hunting cougar to determine if the zone quota has been killed and the zone is closed. Hunters who hunt more than one consecutive day must call the quota hotline once daily to determine if the zone quota is killed. Hunters who harvest a cougar with the aid of dogs must notify the department within twenty-four 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, with proof of sex naturally attached, 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.

(6) Kill or pursuit-only permit eligibility:

(a) To apply for a kill or pursuit-only permit under this section, individuals must sign an affidavit provided by the department, certifying under penalty of false swearing under RCW 9A.72.040 that they are a dog owner. The affidavit must be mailed to WDFW by the date and time identified by the director. Individuals not registered as a dog owner will not be issued a permit.

(b) To apply for a kill or pursuit-only permit under this section, individuals must purchase a cougar permit application and submit the application in compliance with WAC 232-28-291 by a date and time identified by the director.

~~((b))~~ (c) To be eligible for a permit, the participant must be a Washington resident ~~((dog hunter as defined in WAC 232-12-243;))~~ who at the time of application for a permit possesses a valid big game license with cougar as a species option. The permit holder must use dogs while participating in a cougar hunt under this section.

~~((e))~~ (d) A permit will not be issued to any person who has been convicted of unlawful use of dogs under RCW 77.15.245 within the five-year period prior to December 1, 2004. Any person issued a permit and who is subsequently convicted of any wildlife offense while participating in a pursuit-or-kill or pursuit-only season, or who violates any condition of the permit, will have the permit revoked and will be ineligible to participate in the remainder of the three-year pilot program.

(7) Permit issuance procedure:

(a) The number of kill permits for a pursuit-or-kill season with the aid of dogs may be established by the director,

but will not exceed two times the total cougar quota for each hunt zone.

(b) The department will issue ~~((hound))~~ kill or pursuit-only permits to the persons whose applications are drawn at random. Individuals selected will be notified by telephone or mail. Individuals selected must ~~((contact))~~ return the signed affidavit to the department's wildlife program in Olympia ~~((and accept the hound permit))~~ within fifteen days of being notified. Failure to ~~((contact))~~ return the completed affidavit to the department will result in forfeit of the permit. Kill and pursuit-only permits may not be sold or reassigned.

(c) If a female zone quota or total zone quota is not killed in a hunt zone by ~~((February 1))~~ January 15 (or sooner as identified by the director), then the department will issue ~~((hound))~~ kill permits to additional hunters. Hunters will be drawn at random from the unselected pool of applicants and must be a resident of one of the five counties.

(8) Qualifications for participation and requirements:

In addition to the provisions applicable to all cougar hunters:

(a) Successful applicants must complete a ~~((hound permit))~~ training program prior to participating in a pursuit-or-kill season or pursuit-only season with the aid of dogs.

(b) Participants must have their ~~((hound))~~ permit issued by the department in ~~((the person's))~~ their possession while hunting cougar.

(c) Individuals selected for a ~~((hound))~~ kill permit may kill and possess two cougar per permit and only the permittee may kill the cougar(s). However, a ~~((hound))~~ kill permit holder may not kill a second cougar in a hunt zone until ~~((February 1))~~ January 15 (or sooner as identified by the director).

(d) Individuals selected for a cougar ~~((pursuit or))~~ kill ~~((season with the aid of dogs))~~ or pursuit-only permit may ~~((identify up to five hound))~~ use dog handlers. However, no more than three ~~((of the five))~~ handlers may accompany the permittee while hunting or pursuing cougar. ~~((The names of the five hound handlers must be provided to the department prior to their participation in the hunt. These names will be listed on the hound permit. Hound handlers not identified on the permit are not allowed to participate.))~~ Dog handlers may not pursue cougar when the permit hunter is not present at the time the dogs are released from a leash or unrestrained. Dog handlers must have a dog handler identification card, issued by the department, in their possession while participating in a pursuit-or-kill season or pursuit-only season.

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(e) ~~((Hound))~~ Dog handlers must be a Washington resident and possess a valid hunting license.

(f) It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(g) Participants must have a vehicle placard issued by the department. The vehicle placard must be placed in the permittee's and ~~((hound))~~ dog handler's vehicles and be visible from outside the vehicles at all times while hunting or pursuing cougar.

(h) ~~((Participants))~~ Kill and pursuit-only permit hunters are required to maintain and return to the department ~~((, upon request,))~~ a pilot cougar hunting season logbook. At the end of each day hunting cougar, the permit hunters must record their hunting activities, including that of their dog handlers, in their logbook. If requested by department staff, permit hunters must provide the logbook for inspection. Logbooks must be mailed to the department at WDFW-Pilot Cougar Hunt, 600 Capitol Way North, Olympia, WA 98501-1091 by April 10, 2006. A violation of this requirement under this subsection is punishable as an infraction under RCW 77.15.160.

(9) The permit belongs to the state of Washington. The permit holder may be required to return to or turn over to the department the permit when, in the judgment of the department, the permit holder violates any conditions of the permit, violates trespass laws while acting under this permit, or violates any other criminal law or hunting regulation of the state while acting under this permit. If the permit holder is required to return to or turn over to the department the permit, the permit holder may request an appeal of that action in accordance with chapter 34.05 RCW. Appeal request shall be filed in writing and returned within twenty days of the date of action and be addressed to WDFW Legal Services Office, 600 Capitol Way North, Olympia, Washington 98501-1091.

AMENDATORY SECTION (Amending Order 02-129, filed 7/8/02, effective 8/8/02)

WAC 232-28-299 Mandatory report of hunting activity. (1) All hunters purchasing a hunting license must report their hunting activity for deer, elk, bear, or turkey.

(a) Hunters must report hunting activity, for each tag acquired, by January 31.

(b) Reports must be made using the department's designated automated telephone hunter reporting system (toll free) or internet hunter reporting system.

(c) Any hunter not reporting, for each tag acquired, by January 31 will be in noncompliance of reporting requirements.

(d) Compliance will be credited for each species for which a transport tag is acquired.

(2) As an incentive for prompt reporting, all successful hunters who report harvest within 10 days of killing an animal and unsuccessful hunters who report by midnight January 10 or within 10 days after the last day of their permit hunt will be entered into a drawing for special deer and elk incentive permits. To be eligible for the drawing, hunters must report their hunting activity for each transport tag acquired.

~~((Special incentive permits for 2002.~~

~~(a) There will be two (2) any elk special incentive permits for western Washington and two (2) for eastern Washington for use in any area open to general or permit hunting seasons except private lands wildlife management areas and GMUs 157, 162, 166, and 485.~~

~~(b) There will be five (5) statewide any deer special incentive permits, for use in any area open to general or permit hunting seasons except private lands wildlife management areas and GMUs 157 and 485.~~

~~(c) Open season: The deer or elk special incentive permit hunter must use archery equipment during archery seasons, muzzleloader equipment during muzzleloader seasons, and any legal weapon at other times if there are no firearm restrictions.~~

~~(d) The dates for the hunts will be September 1 to December 31, 2002.~~

~~(e) Hunters awarded the special incentive permit will be required to send the appropriate license fee to the department of fish and wildlife headquarters in Olympia. The department will issue the license and transport tag and send it to the special incentive permit winner.~~

~~(f) Bag limit: One additional deer or elk.)~~

(3) ~~((Beginning with license year 2002 and there after,))~~ Hunters who have not reported hunting activity by January 31 for ~~((the))~~ deer, elk, bear, or turkey tags acquired the previous year will be required to ~~((complete a hunting report for these species))~~ pay a \$10 penalty before a new license ~~((for))~~ that ~~((species))~~ includes deer, elk, bear, or turkey tags will be issued. A hunter may only be penalized a maximum of \$10 during a license year.

NEW SECTION

WAC 232-28-429 2005-06 Migratory waterfowl seasons and regulations.

DUCKS

Statewide

Oct. 15-19, 2005 and Oct. 22, 2005 - Jan. 29, 2006, except canvasback season closed Oct. 15 - Nov. 30, 2005.

Special youth hunting weekend 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. 17-18, 2005.

Daily bag limit: 7 ducks, to include not more than 2 hen mallard, 1 pintail, 3 scaup, 1 canvasback, 2 redhead, 1 harlequin, 4 scoter, and 4 long-tailed duck.

Possession limit: 14 ducks, to include not more than 4 hen mallard, 2 pintail, 6 scaup, 2 canvasback, 4 redhead, 1 harlequin, 8 scoter, and 8 long-tailed duck.

Season limit: 1 harlequin.

WRITTEN AUTHORIZATION REQUIRED TO HUNT SEA DUCKS.

All persons hunting sea ducks (harlequin, scoter, long-tailed duck) in Western Washington are required to obtain a written authorization and harvest report from the Washington department of fish and wildlife. Hunters who held a 2004-05 autho-

rization and returned the harvest report prior to the deadline will be mailed a 2005-06 authorization in early October. Hunters who did not possess a 2004-05 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 2005-06 authorization before the season starts. No applications will be accepted after October 31, 2005. Immediately after taking a sea duck into possession, hunters must record in ink the information required on the harvest report. Return of the harvest report is mandatory. By February 15, 2006, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2006-07 sea duck season.

COOT (Mudhen)

Same areas, dates (including youth hunting weekend), 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 weekend), and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

GEESE (except Brant and Aleutian geese)

Special youth hunting weekend 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. 17-18, 2005, statewide except Western Washington Goose Management Areas 2A and 2B.

Daily bag limit: 4 Canada geese.

Possession limit: 8 Canada geese.

Western Washington Goose Seasons

Goose Management Area 1

Island, Skagit, Snohomish counties.

Oct. 15, 2005 - Jan. 8, 2006 for snow, Ross', or blue geese.

Oct. 15-27, 2005 and Nov. 5, 2005 - Jan. 29, 2006 for other geese (except Brant and Aleutian geese).

Daily bag limit: 4 geese.

Possession limit: 8 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 2004-05 authorization and returned the harvest report prior to the deadline will be mailed a 2005-06 authorization

in early October. Hunters who did not possess a 2004-05 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 2005-06 authorization before the season starts. No applications will be accepted after October 31, 2005. 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. By February 15, 2006, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2006-07 snow goose season.

Goose Management Area 2A

Cowlitz and Wahkiakum counties, and that part of Clark County north of the Washougal River.

Open in all areas except Ridgefield NWR from 8:00 a.m. to 4:00 p.m. Saturdays, Sundays, and Wednesdays only, Nov. 12-27, 2005 and Dec. 7, 2005 - Jan. 29, 2006, except closed Dec. 25, 2005 and Jan. 1, 2006. Ridgefield NWR open from 8:00 a.m. to 4:00 p.m. Tuesdays, Thursdays, and Saturdays only, Nov. 15-26, 2005 and Dec. 8, 2005 - Jan. 21, 2006, except closed Nov. 24, 2005.

Goose Management Area 2B

Pacific and Grays Harbor counties.

Open from 8:00 a.m. to 4:00 p.m., Saturdays and Wednesdays only, Oct. 15, 2005 - Jan. 14, 2006.

Bag limits for Goose Management Areas 2A and 2B:

Daily bag limit: 4 geese, to include not more than 1 dusky Canada goose and 2 cackling geese.

Possession limit: 8 geese, to include not more than 1 dusky Canada goose and 4 cackling 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. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

Special Provisions for Goose Management Areas 2A and 2B:

The Canada goose season for Goose Management Areas 2A and 2B 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 duskys, 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 except Ridgefield NWR); 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 (Grays Harbor County). Quotas may be shifted to other zones during the

season to optimize use of the statewide quota and minimize depredation.

Hunting is only permitted by written authorization from the Washington department of fish and wildlife. Hunters who maintained a valid 2004-05 written authorization will be mailed a 2005-06 authorization card prior to the 2005-06 season. New hunters and those who did not maintain a valid 2004-05 authorization must review goose identification training materials and score a minimum of 80% on a goose identification test to receive written authorization. Hunters who fail a test must wait 28 days before retesting, and will not be issued a reciprocal authorization until that time. 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 Canada geese in Goose Management Areas 2A and 2B 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 Goose Management Areas 2A and 2B.

Special Late Canada Goose Season for Goose Management Area 2A:

Open to Washington department of fish and wildlife advanced hunter education (AHE) program graduates and youth hunters (15 years of age or under, who are accompanied by an AHE hunter) possessing a valid 2005-06 southwest Washington Canada goose hunting authorization, in areas with goose damage in Goose Management Area 2A on the following days, from 7:00 a.m. to 4:00 p.m.:

Saturdays and Wednesdays only, Feb. 4 - Mar. 8, 2006.

Daily bag limit: 4 Canada geese, to include not more than 1 dusky Canada goose and 2 cackling geese.

Possession limit: 8 Canada geese, to include not more than 1 dusky Canada goose and 4 cackling geese.

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. A cackling goose is defined as a goose with a culmen (bill) length of 32 mm or less.

Hunters qualifying for the season will be placed on a list for participation in this hunt. Washington department of fish and wildlife will assist landowners with contacting qualified hunters to participate in damage control hunts on specific lands incurring goose damage. Participation in this hunt will depend on the level of damage experienced by landowners.

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. All provisions listed above for Goose Management Area 2A regarding written authorization, harvest reporting, and checking requirements also apply to the special late season; except hunters must confirm their participation at least 24 hours in advance by calling the goose hunting hotline (listed on hunting authorization), and hunters must check out by 5:00 p.m. on each hunt day regardless of success. It is unlawful to fail to comply with all provisions listed above for the special late season in Goose Management Area 2A.

Goose Management Area 3

Includes all parts of Western Washington not included in Goose Management Areas 1, 2A, and 2B.

Oct. 15-27, 2005 and Nov. 5, 2005 - Jan. 29, 2006.

Daily bag limit: 4 geese.

Possession limit: 8 geese.

Eastern Washington Goose Seasons

Goose Management Area 4

Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla counties.

Oct. 15-17, 2005, and Saturdays, Sundays, and Wednesdays only during Oct. 22, 2005 - Jan. 22, 2006; Nov. 11, 24, and 25, 2005; Dec. 26, 27, 29, and 30, 2005; and every day Jan. 23-29, 2006.

Goose Management Area 5

Includes all parts of Eastern Washington not included in Goose Management Area 4.

Oct. 15-17, 2005, every day from Oct. 22, 2005 - Jan. 29, 2006.

Bag limits for all Eastern Washington Goose Management Areas:

Daily bag limit: 4 geese.

Possession limit: 8 geese.

BRANT

Open in Skagit County only on the following dates:

Jan. 21, 22, 24, 26, 28, 2006.

If the 2005-06 preseason brant population in Skagit County is below 6,000 (as determined by the early January survey), the brant season in Skagit County will be canceled.

Open in Pacific County only on the following dates:

Jan. 7, 8, 10, 12, 14, 2006.

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 2004-05 authorization and reported harvest prior to the deadline will be mailed a 2005-06 authorization in November.

Hunters who did not possess a 2004-05 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 8, or postmarked on or before November 8, after which applicants will be mailed a 2005-06 authorization. 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. By February 15, 2006, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the 2006-07 brant season.

Bag limits for Skagit and Pacific counties:

Daily bag limit: 2 brant.

Possession limit: 4 brant.

ALEUTIAN GEESE AND SWANS

Season closed statewide.

FALCONRY SEASONS

DUCKS, COOTS, AND SNIPE (Falconry)

(Bag limits include geese and mourning doves.)

Oct. 15-19, 2005 and Oct. 22, 2005 - Jan. 29, 2006 statewide.

Daily bag limit: 3, straight or mixed bag with geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese and mourning doves during established seasons.

GEESE (Falconry)

(Bag limits include ducks, coot, snipe, and mourning doves.)

Goose Management Area 1: Oct. 15, 2005 - Jan. 8, 2006.

Goose Management Area 2A: Saturdays, Sundays, and Wednesdays only, Nov. 12-27, 2005 and Dec. 7, 2005 - Jan. 29, 2006, except closed Dec. 25, 2005 and Jan. 1, 2006; and Feb. 4 - Mar. 8, 2006.

Goose Management Area 2B: Wednesdays and Saturdays only, Oct. 15, 2005 - Jan. 14, 2006.

Goose Management Areas 3, 4, and 5: Oct. 15-17, 2005 and Nov. 5, 2005 - Jan. 29, 2006.

Daily bag limit for all areas: 3 geese (except brant and Aleutian geese), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

Possession limit for all areas: 6 geese (except brant and Aleutian geese), straight or mixed bag with ducks, coots, snipe, and mourning doves during established seasons.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-428

2004-05 Migratory water-fowl seasons and regulations.

WSR 05-17-099

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed August 16, 2005, 8:25 a.m., effective September 16, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: (1) The purpose is to add an additional category of fire sprinkler contractor designed to allow work exclusively on the inspection and testing of water based fire sprinkler systems, and to require a person performing the inspection and testing of water based fire sprinkler systems to be certified at a minimum level of competency by the State Fire Marshal's Office.

(2) Add a section exempting state licensed backflow assembly testers from the requirements of the fire sprinkler contractor law while they are performing inspection, testing, and maintenance of back flow devices.

Citation of Existing Rules Affected by this Order: Amending chapter 212-80 WAC, Fire sprinkler system contractors.

Statutory Authority for Adoption: Chapters 43.43 and 18.160 RCW.

Adopted under notice filed as WSR 05-11-107 on May 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 212-80-175(3), notarized affidavits from the applicant attesting that in the last three years he/she has had a minimum of four thousand hours experience in the installation, inspection, and/or testing of fire sprinkler systems.

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 15, Amended 27, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 15, Amended 27, 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 15, Amended 27, Repealed 0.

Date Adopted: August 15, 2005.

Paul S. Beckley
for John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-010 Definitions. The following definitions shall apply to this regulation:

((1)) "Authority having jurisdiction (AHJ)" means the organization, office, or individual responsible for approving layout drawings, equipment, an installation or a procedure. Usually the AHJ is the building and/or fire official of the city or county in which the job site is located. In certain cases, such as health care facilities, transient accommodations and day care facilities, the AHJ is the city or county building and/or fire official and the chief of the Washington state patrol, through the director of fire protection.

((2)) "Citation" means written notification issued by the chief of the Washington state patrol, through the director of fire protection, pursuant to RCW 18.160.040 to issue a civil penalty for a violation of any provision of chapter 18.160 RCW. A citation may include, but is not limited to, a description of the violation(s) and a notice of civil penalty assessment.

((3)) "Director of fire protection" means the state fire marshal and/or his or her authorized representative.

((4)) "Dry pipe sprinkler system" means a system employing automatic sprinklers attached to a piping system containing air or nitrogen under pressure, the release of which (as from the opening of a sprinkler) allows the water pressure to open a valve known as a dry pipe valve. The water then flows into the piping system and out to the open sprinkler(s).

((5)) "Fire protection sprinkler system" means an assembly of underground and/or overhead piping beginning at the connection to the primary water supply, whether public or private, that conveys water with or without other agents to dispersal openings or devices to extinguish, control, or contain fire or other products of combustion. The fire protection sprinkler system (with the exception of residential combination systems) starts at the point where the last nonfire water use is taken from the supply mains. This is the point just down stream of the last tap for domestic or process water, the last water control valve that is required by a city or other authority, or the point where the water can be considered nonflowing.

((6)) "Fire pump" means a listed pump supplying water at the flow and pressure required by water based fire protection systems.

((7)) "~~(For design only)~~ **FOR DESIGN ONLY**" means a certificate of competency holder only allowed to perform the design of a fire protection sprinkler system consistent with the level of certification he or she holds. In the case of a "State Level U certification," "~~(for design only)~~ **FOR DESIGN ONLY**" ~~(just)~~ **merely** allows the individual to maintain their certification.

((8)) "Formal hearing" means a hearing before a hearings officer where laws, rules, and evidence are presented, considered, and a decision is rendered.

((9)) "Hazard" means a condition which could result in injury or death to a person and/or damage to property.

((10)) "Hearings request" means the written request for a formal hearing to contest a civil penalty.

((11)) "Inspection" means a visual examination of a fire protection sprinkler system, or portion of the system, to verify that the system appears to be in operating condition, is free from physical damage, and complies with the applicable statutes and regulations adopted by the state.

((12)) "Instance" means the number of times a person has been cited for a violation of chapter 18.160 RCW or this chapter. These will be identified as 1st, 2nd, and 3rd instances.

((13)) "Maintenance" means work performed on a fire suppression sprinkler system to keep the equipment operable, or to make repairs.

((14)) "NFPA" means the National Fire Protection Association.

((15)) "NFPA 13D" means, in addition to the definition contained in chapter 18.160 RCW, the inclusion of minor accessory uses such as garages normally found in residential occupancies.

((16)) "NFPA 13R" means whatever standard that is used by the National Fire Protection Association for the installation and design of fire suppression sprinkler systems in residential occupancies up to and including four stories in height.

((17)) "NFPA 13" means whatever standard that is used by the National Fire Protection Association for the installation and design of fire suppression sprinkler systems in commercial or high occupancy facilities.

((18)) "NFPA 20" means whatever standard that is used by the National Fire Protection Association for the selection and installation of pumps, both centrifugal and positive displacement, that supply liquid for a private fire protection system.

((19)) "NFPA 24" means whatever standard that is used by the National Fire Protection Association for the installation of the dedicated underground fire service main of a water based fire protection system.

((20)) "NFPA 25" means whatever standard that is used by the National Fire Protection Association for the inspection, testing, and maintenance of water based fire protection systems.

((21)) "NICET" means the National Institute for Certification in Engineering Technologies.

((22)) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of individuals and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations.

((23)) "Preaction system" means a sprinkler system employing automatic sprinklers attached to a piping system containing air, which may or may not be under pressure, with a supplemental detection system installed in the same areas as the sprinklers.

((24)) "Qualified" shall mean an individual who has demonstrated through education, training, examination, and/or national certifications the competency, skill, and ability necessary to perform any work covered and/or defined by this chapter and chapter 18.160 RCW to the satisfaction of a relevant jurisdiction. In matters of compliance with the licensing and certification requirements of this chapter and

chapter 18.160 RCW, the relevant jurisdiction shall be the chief of the Washington state patrol, through the director of fire protection.

((25)) "Revoke" means the chief of the Washington state patrol, through the director of fire protection, shall rescind a company's license or an individual's certification from them. Such action causes said company or individual to cease any and all work in the sprinkler field in Washington state until such time as the chief of the Washington state patrol, through the director of fire protection, is satisfied with the resolution of the issue which caused the license or certification to be revoked.

((26)) "State fire marshal" means the director of fire protection or his/her authorized representative.

((27)) "State Level I certification" means a certificate of competency holder who is qualified to prepare layout drawings, install, inspect, test, maintain, or service an NFPA 13D fire protection sprinkler system or any part of such a system.

((28)) "State Level I licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the design, installation, service, maintenance, and/or inspection of a NFPA 13D fire protection sprinkler system or any part of such a system.

((29)) "State Level II certification" means a certificate of competency holder who is qualified to prepare layout drawings, install, inspect, test, maintain, or service an NFPA 13D and/or an NFPA 13R fire protection sprinkler system or any part of such a system.

((30)) "State Level II licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the design, installation, service, maintenance, and/or inspection of a NFPA 13D and/or a NFPA 13R fire protection sprinkler system or any part of such a system.

((31)) "State Level III certification" means a certificate of competency holder who is qualified to prepare layout drawings, install, inspect, maintain, or service an NFPA 13D, NFPA 13R, NFPA 13, or all other systems per the definition of fire protection sprinkler system in chapter 18.160 RCW.

((32)) "State Level III licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the design, installation, service, maintenance, and/or inspection of a NFPA 13D, NFPA 13R, NFPA 13, or all other systems per the definition of a fire protection sprinkler system in chapter 18.160 RCW.

((33)) "State certified fire sprinkler system inspection and testing technician" ("ITT") means a state certificate-holder who is qualified to inspect and/or test NFPA 13D, 13R, or 13, wet and dry pipe fire protection systems per the definition of fire protection sprinkler system in this chapter. However, testing of other fire protection systems such as preaction, deluge, foam, or fire pump and maintenance of any type of system defined under this chapter or chapter 18.160 RCW shall be performed only by contractors who are also qualified and licensed to design and install that type of system or fire pump.

"State level inspection and testing contractor licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the inspection or testing of a wet or dry pipe NFPA 13 - D, NFPA 13 - R, NFPA 13, or other systems per the definition of a fire protection sprinkler system in chapter 18.160 RCW. However, the testing and maintenance of fire protection systems such as preaction, deluge, foam, or fire pumps, shall be performed only by contractors who are also qualified and licensed to design and install that type of system or fire pump being tested or maintained.

"State Level U certification" means a certificate of competency holder who is qualified to certify the installation of the underground portions of fire protection sprinkler systems in conformance with recognized standards adopted by the director of fire protection.

((34)) "State Level U licensing" means a sprinkler contracting company licensed by the chief of the Washington state patrol, through the director of fire protection, to contract and/or offer to bid on the installation of the underground portions of fire protection sprinkler systems in conformance with the recognized standards adopted by the chief of the Washington state patrol, through the director of fire protection.

((35)) "Suspend" means the chief of the Washington state patrol, through the director of fire protection, holds a license or certificate inactive until such time as the chief of the Washington state patrol, through the director of fire protection, feels confident that the company or individual is in compliance with the requirements of this chapter and chapter 18.160 RCW.

((36)) "Testing" means a procedure used to determine the status of a system as intended by conducting periodic physical checks on water-based fire protection systems such as waterflow tests, fire pump tests, alarm tests, and trip tests of dry pipe, deluge, or preaction valves. These tests follow up on the original acceptance test at intervals specified in the appropriate chapter of NFPA 25.

((37)) "Type" means the classification of violation as minimal, moderate, and severe. These are identified as Types I, II, and III respectively.

((38)) "Violation" means ~~((a specific or general))~~ any action, general or specific, inconsistent with the intent and letter of chapter 18.160 RCW and this chapter and shall be further defined as:

(a) "Minimal violation" means a Type I violation which poses a minor hazard or threat to life and property in the event of a fire.

(b) "Moderate violation" means a Type II violation which poses a significant hazard or threat to life or property in the event of a fire.

(c) "Severe violation" means a Type III violation which poses a substantial hazard or threat to life or property in the event of a fire.

((39)) "Wet pipe sprinkler system" means a sprinkler system employing automatic sprinklers attached to a piping system containing water and connected to a water supply so that water discharges immediately when any sprinkler is opened by heat from a fire.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-015 Compliance. All fire sprinkler system contractors, certificate of competency holders, and persons installing, inspecting, maintaining, or servicing fire protection sprinkler systems or any part of such a system shall comply with the provisions of this regulation.

EXCEPTIONS:

(1) Federal, state, and local government employees, or insurance inspectors when acting in their official capacities.

(2) A person or organization acting under court order.

(3) A person or organization that sells or supplies products or materials to a licensed fire protection sprinkler system contractor.

(4) A registered professional engineer acting solely in a professional capacity.

(5) A properly qualified and/or trained employee of a licensed fire protection sprinkler system contractor performing duties for the contractor. Said qualifications and/or training to be consistent with the level of work performed by the licensed fire protection sprinkler system contractor.

(6) An owner/occupier of a single-family residence performing his or her own installation in that residence. It is the intent of this subsection that builders or contractors will not install their own sprinkler systems in single-family residences under their ownership which they plan to sell, lease, or rent.

(7) An employee of a facility or owner who is qualified to the satisfaction of the local authority having jurisdiction to perform inspection and testing of fire protection sprinkler systems in said facility.

(8) An employee of a licensed electrical contractor installing or testing only the electronic signaling devices of a fire sprinkler system.

(9) A person, licensed by the Washington state department of health, under chapter 246-292 WAC, as a certified backflow assembly tester, performing testing and maintenance of backflow assemblies.

(10) A person licensed by the Washington state department of health, under chapter 246-292 WAC, as a certified backflow assembly tester, and also licensed by the Washington state department of labor and industries, under chapter 18.106 RCW, as a backflow specialty plumber performing repairs of backflow assemblies in accordance with chapter 246-290 WAC.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-018 License and certification requirements. Only a company or individual licensed as a fire protection sprinkler systems contractor, who has at least one designer on staff certified by the chief of the Washington state patrol, through the director of fire protection, can bid, offer to bid, contract, or perform the designing, installation, inspection, testing, maintenance, and/or servicing of a fire protection sprinkler system.

EXCEPTION: A company or individual licensed as an inspection and testing contractor, whose staff performing the work of inspection and/or testing of a fire protection

sprinkler system have all been certified by the chief of the Washington state patrol, through the director of fire protection, as described in this chapter, can bid, offer to bid, contract, or perform only the testing and inspection of a fire protection sprinkler system - excluding preaction, deluge, or foam systems or systems with fire pumps.

AMENDATORY SECTION (Amending Order 91-06, filed 7/1/91, effective 8/1/91)

WAC 212-80-020 Right of appeal. Any person who is aggrieved by the chief of the Washington state patrol, through the director of fire protection suspending or revoking the privilege of a licensed fire protection sprinkler system contractor or the certificate of a certificate of competency holder to engage in fire protection sprinkler system business, may appeal to the director within thirty days of the date of the order.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-028' License and certificate posting. Each license and certification issued under this regulation must be posted in a conspicuous place in the fire protection sprinkler system contractor's place of business. The wallet card issued to a certificate of competency holder and/or an inspection and testing technician under this chapter will be maintained with the certified individual it was issued to and available for review at any time.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-038 Municipality, county, or state regulations. (1) Nothing in this regulation limits the power of a municipality, county, or state to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which are designed to assure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

(2) Nothing in this regulation limits the power of the municipality, county, or the state to adopt any system of permits requiring submission to and approval by the municipality, county, or the state of layout drawings and specifications for work to be performed by contractors before commencement of the work.

(3) The official authorized to issue building or other related permits shall ascertain that the fire protection sprinkler system contractor is duly licensed by requiring evidence of a valid fire protection sprinkler system contractor's license and a valid certificate of competency stamp consistent with the contractor's license.

(4) This regulation applies to any fire protection sprinkler system contractor performing work for any municipality, county, or the state.

(5) Officials of any municipality, county, or the state are required to determine compliance with this regulation before awarding any contracts for the installation, inspection, testing, maintenance, repair, service, alteration, fabrication, or

addition(~~(-or inspection))~~) of a fire protection sprinkler system.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-043 Qualifications for preparation of layout drawings, installations, inspections, testing, maintenance, or servicing. (1) Only licensed fire protection sprinkler system contractors shall execute contracts for the installation, inspection, testing, maintenance, or servicing of fire protection sprinkler systems or any part of such a system in the state of Washington.

Exception: A company or individual licensed as an inspection and testing contractor, whose staff performing the work of inspection and testing of a fire protection sprinkler system have all been certified by the chief of the Washington state patrol, through the director of fire protection, as described in this chapter, can bid, offer to bid, contract, or perform only the testing and inspection of a fire protection sprinkler system - excluding preaction, deluge, or foam systems or systems with fire pumps.

(2) Only licensed contractors who have achieved at least State Level U licensure shall execute contracts for the installation, inspection, maintenance and/or servicing of the underground portions of fire protection sprinkler systems in the state of Washington.

(3) Only licensed fire protection sprinkler contractors who have achieved at least State Level I licensure shall execute contracts for the installation, inspection, testing, maintenance and/or servicing of NFPA 13D fire protection sprinkler systems or any part of such a system in the state of Washington.

(4) Only licensed fire protection sprinkler contractors who have achieved at least State Level II licensure shall execute contracts for the installation, inspection, testing, maintenance and/or servicing of NFPA 13D or NFPA 13R fire protection sprinkler systems or any part of such a system in the state of Washington.

(5) Only licensed fire protection sprinkler contractors who have achieved at least State Level III licensure shall execute contracts for the installation, inspection, testing, maintenance and/or servicing of NFPA 13D, NFPA 13R, NFPA 13, and all other systems per the definition of fire protection sprinkler system in chapter 18.160 RCW or any part of such a system in the state of Washington.

(6) Only those certificate of competency holders who have achieved State Level U certification shall supervise and/or certify the installation of underground supplies to fire protection sprinkler systems. To achieve State Level U certification, persons shall satisfactorily complete an examination administered by the chief of the Washington state patrol, through the director of fire protection.

(7) Only those certificate of competency holders who have achieved at least State Level I certification shall supervise and/or certify the preparation of layout drawings, installation, inspection, testing, maintenance, servicing, or the installation of NFPA 13D fire protection sprinkler systems or any part thereof. To achieve State Level I certification, persons shall hold a current NICET Level 2 classification or sat-

isfactorily complete an examination administered by the chief of the Washington state patrol, through the director of fire protection.

(8) Only those certificate of competency holders who have achieved at least State Level II certification shall supervise and/or certify the preparation of layout drawings, installation, inspection, testing, maintenance, servicing, or the installation of NFPA 13D and NFPA 13R fire protection sprinkler systems or any part thereof. To achieve State Level II certification, persons shall hold a current NICET Level 2 classification.

(9) Only those certificate of competency holders who have achieved at least State Level III certification shall supervise and/or certify the preparation of layout drawings, installation, inspection, testing, maintenance, servicing, or the installation of NFPA 13D, NFPA 13R, NFPA 13, and all other systems per the definition of fire protection sprinkler system in chapter 18.160 RCW or any part thereof. To achieve State Level III certification, persons shall hold a current NICET Level 3 or 4.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-053 Licensed fire protection sprinkler system contractor. To become a licensed fire protection sprinkler system contractor under this regulation, a person or firm must comply with the following:

(1) Must be or have in his or her full-time employ a holder of a valid certificate of competency whose level is consistent with the license level.

(2) Make application to the director of fire protection on forms provided and pay the fees required.

(3) Meet the bonding requirements of WAC (~~212-80-125~~) 212-80-078.

(4) Be licensed as a contracting company in the state of Washington by the department of labor and industries and possess the twelve digit alphanumeric business license number assigned by that agency.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-078 Contractor surety bonds. (1) The chief of the Washington state patrol, through the director of fire protection shall not issue a license under this regulation unless:

(a) The fire protection sprinkler system contractor, to be licensed as a Level III or Level "U" fire protection sprinkler system contractor, files with the chief of the Washington state patrol, through the director of fire protection a surety bond executed by a surety company authorized to do business in the state of Washington, in the sum of ten thousand dollars, conditioned to compensate third-party losses caused by the acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this regulation; or

(b) The fire protection sprinkler system contractor, to be licensed for Level I and/or Level II systems or a contractor to be licensed as an inspection and testing contractor, files with the chief of the Washington state patrol, through the director

of fire protection a surety bond executed by a surety company authorized to do business in the state of Washington, in the sum of six thousand dollars, conditioned to compensate third-party losses caused by the acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this regulation.

(2) Upon approval by the chief of the Washington state patrol, through the director of fire protection, property or cash may substitute for a surety bond provided the value matches the appropriate level of bonding required for the level of work to be performed. The value of property shall be determined by an appraiser selected by the chief of the Washington state patrol, through the director of fire protection. All appraisal fees shall be paid by the fire protection sprinkler system contractor.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-083 Stamps for NFPA 13D, 13R, and 13 systems. (1) Sprinkler system plans, calculations, and contractors' materials and test certificates submitted to the authority having jurisdiction shall be stamped pursuant to subsection (3) of this section.

(2) At least one set of approved plans and calculations, containing information as specified in subsection (3) of this section, (~~and calculations~~) shall be maintained on the job site while the work is being performed.

(3) Stamps shall be issued by the chief of the Washington state patrol, through the director of fire protection and shall contain the name and certification number of the certificate of competency holder, name and license number of the holder's employer, the expiration date of the current certificate, a place for the signature of the certificate of competency holder and the date of the signature. On all plans the stamp shall be easily recognizable and visible.

(4) An original stamp and signature shall appear on each page of plans, on the cover sheet of hydraulic calculations and on all test certificates for fire protection sprinkler systems submitted to the authority having jurisdiction.

(5) Plans and calculations for "underground only" portions of fire protection sprinkler systems submitted to the authority having jurisdiction by a State Level U licensed fire protection sprinkler contractor shall be stamped by either a licensed professional engineer registered in the state of Washington or the appropriate level certificate of competency holder and the State Level U certificate of competency holder employed by the submitting contractor.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-093 Certificate of competency certification. To become a certificate of competency holder under this regulation, an applicant must either:

(1) For State Level 1 certification, have satisfactorily passed with a final score of eighty percent or better an examination administered by the chief of the Washington state patrol, through the director of fire protection or show evidence of passing the National Institute for Certification in

Engineering Technologies element requirements for Level 2 certification in fire protection system layout design.

(2) For State Level U certification, have satisfactorily passed with a final score of eighty percent or better an examination administered by the chief of the Washington state patrol, through the director of fire protection.

(3) Be a registered professional engineer acting solely in a professional capacity. Such engineer shall comply with all other requirements of this regulation including payment of fees, completion of the application process, and supplying the director of fire protection with proof that the applicant holds a current, valid state of Washington registration as a professional engineer. Upon completion of the above requirements, the engineer will be granted an equivalency certificate to that of State Level III; or

(4) Present a copy of a current certificate from the National Institute for Certification in Engineering Technologies showing that the applicant has achieved the classification. State Level 2 certification requires a minimum certification from the National Institute for Certification in Engineering Technologies of Level 2 in the field of fire protection automatic sprinkler system layout or better. State Level 3 certification requires either Engineering Technician, Level 3 or Senior Engineering Technician, Level 4 in the field of fire protection automatic sprinkler system layout.

(5) The chief of the Washington state patrol, through the director of fire protection may accept equivalent proof of qualification in lieu of the examination requirements.

(6) Proof of competency to the satisfaction of the chief of the Washington state patrol, through the director of fire protection (~~are~~) is mandatory.

(7) Every applicant for a certificate of competency shall fulfill the requirements established by the chief of the Washington state patrol, through the director of fire protection under chapter 18.160 RCW.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-113 Certificate of competency employment. (1) In no case shall a certificate of competency holder be employed full time by more than one fire protection sprinkler system contractor at the same time.

(2) If the certificate of competency holder should leave the employment of the fire protection sprinkler system contractor, he or she shall notify the chief of the Washington state patrol, through the director of fire protection within thirty days of (~~the~~) his or her last day of employment.

(3) Should any individual who meets the criteria to be a certificate of competency holder as defined by this chapter and chapter 18.160 RCW wish to be certified to perform design work only, he or she may request to work as a "FOR DESIGN ONLY" certificate of competency holder. This certification can also be utilized to maintain state certification, as in the case of the State Level U certification.

FIRE PROTECTION SYSTEMS INSPECTION AND TESTING CONTRACTOR

NEW SECTION

WAC 212-80-133 Sprinkler system inspection and testing contractor. To become a licensed sprinkler system inspection and testing contractor under this regulation, a person or firm must comply with the following:

(1) Make application to the chief of the Washington state patrol, through the director of fire protection, on forms provided and pay the fees required.

(2) Meet the bonding requirements of WAC 212-80-125.

(3) Be licensed as a contracting company in the state of Washington by the department of labor and industries and provide the twelve digit alphanumeric business license number to the state fire marshal or his or her designee.

(4) Have each individual working as an inspection and testing technician certified as "qualified" by the chief of the Washington state patrol, through the director of fire protection, as defined by this chapter.

NEW SECTION

WAC 212-80-138 Sprinkler system inspection and testing contractor—Work allowed by this license. Any company that becomes licensed as a sprinkler system inspection and testing contractor is allowed to contract for or offer to bid for the inspection and testing of water based fire protection systems as defined by chapter 18.160 RCW and this chapter. However, the inspection and testing of any fire pump system, deluge, preaction, foam, or chemical based fire protection system is not allowed by this license, nor is any sprinkler system inspection and testing contractor allowed to perform any maintenance on a water or chemical based fire protection system.

NEW SECTION

WAC 212-80-140 Inspection and testing license not transferable. A license issued under this regulation is not transferable.

EXCEPTION: Should a currently licensed inspection and testing contractor merge or form another company, that license can be reissued to the newly formed/incorporated company provided:

(1) The principal officers of the licensed company remain the same;

(2) Continues, takes over, or otherwise reestablishes the bond required by chapter 18.160 RCW for licensing;

(3) Continues to perform inspection and testing contractor work as defined by chapter 212-80 WAC;

(4) Employs at least one full-time inspection and testing technician; and

(5) Meets the criteria necessary for licensing as an inspection and testing contracting company as defined by chapter 212-80 WAC.

NEW SECTION

WAC 212-80-145 Sprinkler system inspection and testing contractor responsibilities. (1) Any employee of a

sprinkler system inspection and testing contractor who physically performs inspection and testing of water based fire protection systems shall be certified by the chief of the Washington state patrol, through the director of fire protection, as an inspection and testing technician as defined in WAC 212-80-170. Under no condition can a sprinkler system inspection and testing contractor perform any inspection and testing of water based fire protection systems without at least one employee on staff certified by the chief of the Washington state patrol, through the director of fire protection, as a qualified inspection and testing technician, to physically perform any such work.

(2) If a sprinkler system inspection and testing contractor should at any time lose all inspection and testing technicians certified by the chief of the Washington state patrol, through the director of fire protection, that company is no longer able to perform work in Washington state as a sprinkler system inspection and testing contractor. Further, all work currently being performed by this contractor will be halted until such time as the company is able to employ full time at least one state certified inspection and testing technician to personally complete any existing physical work.

NEW SECTION

WAC 212-80-150 Inspection and testing contractor license renewals. (1) All licensed sprinkler system inspection and testing contractors desiring to continue to be licensed shall secure from the chief of the Washington state patrol, through the director of fire protection, prior to January 1 of each year, a renewal license upon payment of the fee as prescribed by the chief of the Washington state patrol, through the director of fire protection.

(2) Application for renewal shall be upon a form prescribed by the chief of the Washington state patrol, through the director of fire protection, and the license holder shall furnish the information required by the chief of the Washington state patrol, through the director of fire protection.

(3) Failure of any license holder to secure his or her renewal license within sixty days after the due date shall constitute sufficient cause for the chief of the Washington state patrol, through the director of fire protection, to suspend the license.

(4) The chief of the Washington state patrol, through the director of fire protection, may restore a license that has been suspended. In addition to other provisions of this regulation, any of the following will constitute cause for the chief of the Washington state patrol, through the director of fire protection, not to restore a license that has been suspended:

(a) Nonreceipt of payment of all delinquent fees;

(b) Nonreceipt of a late charge and/or application fee;

(c) Any evidence or complaint which verifies that employees of the sprinkler system inspection and testing contractor have performed inspection and testing technician work without being certified by the chief of the Washington state patrol, through the director of fire protection;

(d) Failure to comply with the bonding requirements of chapter 18.160 RCW; and

PERMANENT

(e) Failure to obtain or show evidence of having at least one full-time certified sprinkler system inspection and testing technician.

NEW SECTION

WAC 212-80-155 Sprinkler system inspection and testing contractor—Prorated fees. The initial license fee shall be prorated based upon the portion of the year such license is in effect. This is allowed only once in the history of the company.

EXCEPTION: Any sprinkler system inspection and testing contracting company who is required to be licensed as a sprinkler system inspection and testing contractor with the chief of the Washington state patrol, through the director of fire protection, after performing work covered by this chapter and chapter 18.160 RCW shall be required to pay the full annual licensing fee, in addition to any penalties assessed by the chief of the Washington state patrol, through the director of fire protection, for unlicensed operation(s).

NEW SECTION

WAC 212-80-160 Sprinkler system inspection and testing contractor—Surety bonds. (1) The chief of the Washington state patrol, through the director of fire protection, shall not issue a license under this regulation unless the sprinkler system inspection and testing contractor has in their possession and files with the chief of the Washington state patrol, through the director of fire protection, a surety bond executed by a surety company authorized to do business in the state of Washington in the sum of six thousand dollars, conditioned to compensate third-party losses caused by the acts of the principal or the principal's servant, officer, agent, or employee in conducting the business registered or licensed under this regulation.

(2) Upon approval by the chief of the Washington state patrol, through the director of fire protection, property or cash may substitute for a surety bond provided the value is at least six thousand dollars and the property or cash is not otherwise encumbered. The value of property shall be determined by an appraiser selected by the chief of the Washington state patrol, through the director of fire protection. All appraisal fees shall be paid by the sprinkler system inspection and testing contractor.

INSPECTION AND TESTING TECHNICIAN

NEW SECTION

WAC 212-80-165 Inspection and testing of water based fire protection systems. (1) All inspection and testing certificates, documentation, and/or other such records of work shall have affixed to them the inspection and testing technician number as provided by the chief of the Washington state patrol, through the director of fire protection, and shall possess the signature of the inspection and testing technician and the date of signature.

(2) Under no condition shall any employee working for a sprinkler system inspection and testing contractor perform any inspection and testing work on a water based fire protec-

tion system unless they possess certification as a competent inspection and testing technician by the chief of the Washington state patrol, through the director of fire protection.

(3) Wallet cards shall be issued by the chief of the Washington state patrol, through the director of fire protection, and shall contain the name and technician number of the inspection and testing technician, the expiration date of the current certification, a place for the signature of the inspection and testing technician, and the date of the signature.

(4) An original signature shall appear on each page of documentation for all inspection and testing certificates for water based fire protection sprinkler systems conducted by the inspection and testing technician.

NEW SECTION

WAC 212-80-170 Inspection and testing technicians—Work allowed by this certification. (1) Possessing certification as an inspection and testing technician from the chief of the Washington state patrol, through the director of fire protection, shall allow an individual to perform only inspection and testing of water based fire protection systems, with the exception of preaction, deluge, or systems with fire pumps.

(2) All inspection and testing certificates shall be signed by an inspection and testing technician possessing the proper certification by the chief of the Washington state patrol, through the director of fire protection.

NEW SECTION

WAC 212-80-175 Inspection and testing technician—Certification. To become an inspection and testing technician under this regulation, an applicant must:

(1) Possess a National Institute for Certification in Engineering Technologies Inspection, Testing and Maintenance Level 2 or Level 3 certification; or

(2) Demonstrate satisfactory completion of educational elements as specified by the chief of the Washington state patrol, through the director of fire protection, through the National Institute for Certification in Engineering Technologies.

(3) Provided the application for the inspection and testing technician certification is made prior to ninety days after final adoption of this rule, the chief of the Washington state patrol, through the director of fire protection, may in lieu of the examination requirements for an inspection and testing technician, issue a temporary inspection and testing technician certification. The terms for this temporary certification shall be as follows:

(a) The employer of each applicant must provide notarized affidavits and proper documentation attesting that in the last three years the applicant has had a minimum of four thousand hours experience in the installation, inspection, and/or testing of fire sprinkler systems. Each application will be reviewed by the chief of the Washington state patrol, through the director of fire protection, and those found satisfactory shall be appointed a base time of one certification year as a temporary inspection and testing technician.

(b) Before the renewal of any temporary inspection and testing technician certification, the individual shall submit to

the chief of the Washington state patrol, through the director of fire protection, sufficient evidence of a good faith effort in attaining certification as an inspection and testing technician as described in subsection (1) or (2) of this section. Such evidence shall qualify the temporary inspection and testing technician for an extension as a temporary inspection and testing technician for not more than a single-certification-year.

(c) No temporary inspection and testing technician shall be allowed more than one base certification year. No temporary inspection and testing technician shall be allowed more than two single-certification-year extensions as a temporary inspection and testing technician. No single-certification-year extension will be issued without first providing evidence of a good faith effort in attempting to attain certification as an inspection and testing technician as described in subsection (1) or (2) of this section. No individual shall possess temporary inspection and testing technician certification for a period of more than three certification-years in the life of the individual, which must be consecutive in nature.

(d) At the end of the base year or any extensions, the temporary inspection and testing technician may provide to the chief of the Washington state patrol, through the director of fire protection, satisfactory evidence of attaining certification as an inspection and testing technician as described in subsection (1) or (2) of this section. Such evidence shall qualify the individual to become an inspection and testing technician.

(e) Any temporary inspection and testing technician who fails to meet the qualifications described in subsection (1) or (2) of this section after the expiration of either their temporary status, or who does not show satisfactory evidence qualifying them for any of two one-certification-year extensions as described in (c) of this subsection, shall not be renewed as a temporary inspection and testing technician and not allowed to continue performing such work until such time as they meet the qualification requirements described in subsection (1) or (2) of this section.

NEW SECTION

WAC 212-80-180 Application/fees for inspection and testing technician certification. Every applicant for certification as an inspection and testing technician shall apply to the chief of the Washington state patrol, through the director of fire protection, on application forms provided and pay the fees required.

NEW SECTION

WAC 212-80-185 Inspection and testing technician certification not transferable. An inspection and testing technician certification issued under this regulation is not transferable. This certification can, however, follow the inspection and testing technician to another employer provided that employer is currently licensed by this office for work covered by this certification.

NEW SECTION

WAC 212-80-188 Inspection and testing technician employment. (1) In no case shall an inspection and testing

technician be employed full time by more than one fire protection sprinkler system contractor at the same time.

(2) If the inspection and testing technician should leave the employment of the fire protection sprinkler system contractor, he or she shall notify the chief of the Washington state patrol, through the director of fire protection, within thirty days of the last day of employment.

NEW SECTION

WAC 212-80-190 Inspection and testing technician renewal certificates. (1) All inspection and testing technicians who desire to maintain a current certificate shall, prior to January 1 of each year, apply for renewal to the chief of the Washington state patrol, through the director of fire protection, on the appropriate form along with the required fees as prescribed by the chief of the Washington state patrol, through the director of fire protection.

(2) Application for renewal forms shall be provided by the chief of the Washington state patrol, through the director of fire protection, upon request, and the technician shall furnish the information required by the chief of the Washington state patrol, through the director of fire protection.

(3) The chief of the Washington state patrol, through the director of fire protection, may suspend the inspection and testing technician certification for failure to apply for a renewal of their technician certificate within sixty days after the expiration date.

(4) The chief of the Washington state patrol, through the director of fire protection, upon receipt of payment for all delinquent fees and a late charge may restore an inspection and testing technician certification that had been suspended.

NEW SECTION

WAC 212-80-195 Inspection and testing technician—Prorated fees. The initial inspection and testing technician fee shall be prorated based upon the portion of the year such certification is in effect, prior to renewal on January 1.

EXCEPTION: Any individual who attempts to certify with the chief of the Washington state patrol, through the director of fire protection, as an inspection and testing technician after performing work covered by this chapter and chapter 18.160 RCW shall be required to pay the full annual certification fees, in addition to any penalties assessed by the chief of the Washington state patrol, through the director of fire protection, for uncertified operation(s).

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-200 Suspension or revocation of licenses. (1) The chief of the Washington state patrol, through the director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a licensed fire protection sprinkler system contractor or the license of an inspection and testing contractor to engage in the fire protection sprinkler system business or may establish penalties as prescribed by Washington state law for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of layout drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems.

(b) Conviction of a felony.

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler systems business.

(d) Use of false evidence or misrepresentation in an application for a license.

(e) Permitting his or her license to be used in connection with the installation of any system when such installation is not under his or her supervision, or in violation of this regulation.

(f) Knowingly violating any provisions of this regulation or chapter 18.160 RCW.

(2) The chief of the Washington state patrol, through the director of fire protection shall revoke the license of a licensed fire protection sprinkler system contractor or an inspection and testing contractor who engages in the fire protection sprinkler system business while the license is suspended.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-205 Suspension or revocation of certificates. (1) The chief of the Washington state patrol, through the director of fire protection may refuse to issue or renew or may suspend or revoke the privilege of a certificate of competency holder as defined in RCW 18.160.101(1) or of a state certified fire sprinkler system inspection and testing technician, as defined in WAC 212-80-010, to engage in the fire protection sprinkler system business or may establish penalties as prescribed by Washington state law for any of the following reasons:

(a) Gross incompetency or gross negligence in the preparation of layout drawings, installation, repair, alteration, maintenance, inspection, service, or addition to fire protection sprinkler systems.

(b) Conviction of a felony.

(c) Fraudulent or dishonest practices while engaging in the fire protection sprinkler systems business.

(d) Use of false evidence or misrepresentation in an application for a certificate of competency.

(e) Permitting his or her certificate to be used in connection with the preparation of any layout drawings, installation, maintenance, inspection, service or certification of any system when such activity is not under his or her supervision, or in violation of this regulation.

(f) Knowingly violating any provisions of this regulation or chapter 18.160 RCW.

(2) The chief of the Washington state patrol, through the director of fire protection shall revoke the certificate of a certificate of competency holder or a state certified fire sprinkler inspection and testing technician who engages in the fire protection sprinkler system business while the certificate of competency is suspended.

AMENDATORY SECTION (Amending WSR 05-05-006, filed 2/4/05, effective 3/7/05)

WAC 212-80-265 Type III (serious) violations. (1) Type III violations are subject to penalties ranging from five hundred dollars to five thousand dollars a day depending on instance and in accordance with chapter 212-80 WAC.

(2) Examples of Type III violations include, but are not limited to:

(a) Demonstrating gross incompetency or gross negligence in the preparation of technical drawings, the installation, inspection, testing, maintenance, repair, alteration, ~~((maintenance, inspection,))~~ service, and/or addition to a fire sprinkler system.

(b) Allowing an employee to demonstrate gross incompetency or gross negligence in the installation, inspection, testing, maintenance, repair, alteration, ~~((maintenance, inspection,))~~ service and/or addition to a fire sprinkler system.

(c) Charging a customer for fire sprinkler work not performed.

(d) Offering to contract for fire sprinkler work without a certificate of competency holder, as described in RCW 18.160.040.

(e) Allowing an employee to falsify any fire sprinkler tags, labels, or inspection reports.

(f) Working without a certified full-time certificate of competency holder on staff, or, in the case of an inspection and testing contractor, allowing any employee not certified by the chief of the Washington state patrol, through the director of fire protection, as an inspection and testing technician.

(g) Falsifying an application or document submitted to the chief of the Washington state patrol, through the director of fire protection, to obtain a sprinkler contractor license or certificate of competency.

(h) Committing three or more Level II offenses within a three year period either as a company, through an employee of the company, through an employee acting as a certificate of competency holder for the company, and/or any combination thereof.

(i) Permitting his or her license to be used in connection with the stamping of any test certificates for work performed by someone other than his or her full-time employees.

WSR 05-17-105
PERMANENT RULES
PARKS AND RECREATION
COMMISSION

[Filed August 16, 2005, 11:03 a.m., effective September 16, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The harvest of nonmarine edible plants and edible fruiting bodies in state parks has become damaging to the natural resources of the parks and potentially threatening to park visitors. The nature of the harvest has prompted the commission to amend chapter 352-28 WAC by: (1) Prohibiting commercial harvest of edibles; (2) establishing a daily limit on the quantity of edibles a person could harvest in a park for personal use; (3) revising procedures for the harvest-

PERMANENT

ing of nonmarine edible plants and edible fruiting bodies, including fungi; (4) prohibiting raking and other potentially damaging harvest techniques in order to protect park resources; and (5) expanding the director/designee's authority to allow for harvest closures for the protection of public health, safety, and welfare.

Citation of Existing Rules Affected by this Order: Amending chapter 352-28 WAC, Tree, plant and fungi cutting, removal and/or disposal.

Statutory Authority for Adoption: RCW 79A.05.030, 79A.05.035, 79A.05.055, 79A.05.070, and 79A.05.075.

Adopted under notice filed as WSR 05-10-071 on May 3, 2005, and under notice of continuance filed as WSR 05-11-114 on May 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: After reviewing testimony at the public hearing on August 4, 2005, the commission added the following new section WAC 352-28-030(1): This rule is not intended to limit federally reserved tribal rights, including treaty rights.

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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, 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 1, Amended 1, Repealed 0.

Date Adopted: August 15, 2005.

Jim French
Administrator of Statewide
Recreation Programs

AMENDATORY SECTION (Amending WSR 96-01-078, filed 12/18/95, effective 1/18/96)

WAC 352-28-010 Cutting and removal criteria. (1) Significant trees:

(a) Significant trees in any area under the jurisdiction and/or management of the commission shall, except in fire, weather, or other natural emergencies, be cut or removed only upon the written approval of the director or the assistant directors of the operations and resources development divisions when so designated by the director. Except in emergencies and when feasible, significant trees shall be removed only after they have been marked or appraised by a professional forester. Significant trees include all old-growth trees, mature trees, and all other younger trees of ten inches or greater in diameter at four and one-half feet in height. In case of fire, weather, or other natural emergencies, the director or the designee of the director may declare that an emergency exists and thereby authorize the cutting or removal of dam-

aged or down significant trees that are an imminent threat to persons and/or property.

(b) The cutting or removal of any significant trees in a natural area, natural forest area or a natural area preserve shall, except in emergencies as defined in subsection (1)(a) of this section, be approved only by the director and only after consultation with the Washington department of fish and wildlife and the department of natural resources Washington natural heritage program, the preparation of a mitigation plan for affected resources, and a public hearing on each such proposed cutting or removal conducted in the county/counties in which the cutting or removal is to take place as determined by the director. Prior notice of a hearing shall be published in a newspaper of general circulation in the county/counties in which the park is located. Any person who requests notification of such proposed cutting or removal shall be sent prior notice of a hearing by mail. A summary of the testimony presented at a hearing or received in writing shall be presented to the director.

(2) **Protected species:** The cutting or removal of trees, other plants, or dead organic matter in any area known to be inhabited by endangered, threatened, or sensitive species shall, except in emergencies as defined in subsection (1)(a) of this section, follow requirements of the department of fish and wildlife for animals and of the department of natural resources for plants and be approved only by the director after consultation with those agencies, and the preparation of a mitigation plan for affected species.

(3) **Land classification criteria:** Trees or other plants may be cut and/or removed from the areas listed below for the following reasons only:

(a) Natural area preserves:

(i) Maintenance or construction of service roads, boundary fences, or trails, or modification of conditions only as may be required to maintain a native plant community, species population, or ecological process as specified in a natural area preserve management plan prepared in consultation with the department of natural resources Washington natural heritage program.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities on or adjacent to park land.

(iii) Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur, after consultation with the natural heritage program and other agencies and groups with expertise in forest health as deemed appropriate by the director.

(iv) Prevent the deterioration or loss of historical/cultural resources.

(v) Maintenance or construction of fire lanes for abatement of fires.

(b) Natural areas and natural forest areas:

(i) Maintenance or construction of trails, trail structures, trail head facilities, interpretive sites, or service roads.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities on or adjacent to park land.

(iii) Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur, after consultation with the natural heritage program

and other agencies and groups with expertise in forest health as deemed appropriate by the director.

(iv) Prevent the deterioration or loss of historical/cultural resources.

(v) Maintenance or construction of service roads for abatement of fires.

(vi) Modification of conditions only as may be required to maintain or restore a native plant community, species population, or ecological process.

(c) Recreation areas, resource recreation areas, and heritage areas:

(i) Area clearing necessary for park maintenance, and/or park development projects for day use and overnight recreation facilities, road and utility easements, and administrative facilities.

(ii) Correction of conditions hazardous to persons, properties, and/or facilities on or adjacent to park land.

(iii) Cleanup of trees fallen, tipped, or damaged by the weather, fire, or other natural causes.

(iv) Creation of diversity of tree size, age, and species to achieve visual aspects that resemble a formal landscape, natural or historical setting, or to improve wildlife habitat.

(v) Daylighting as appropriate to the site.

(vi) Maintenance or creation of a regenerating natural environment that will sustain low ground cover, shrubs, and understory and overstory trees to provide screening, wind, and sun protection.

(vii) Control of forest diseases and insect infestations where adjacent forests are severely jeopardized or where a drastic alteration of the natural environment is expected to occur.

(viii) Prevent the deterioration or loss of historical/cultural resources.

(ix) Maintenance or construction of service roads for abatement of fires.

(x) Modification of conditions to maintain or restore a desired plant community, species population, or ecological process.

(xi) Grazing, hay removal, or other similar activities when performed under authority of a permit from the commission or director.

(4) ~~((Harvest of edibles: Nonmarine edible plants and edible fruiting bodies, including fungi, shall be managed in accordance with subsections (1) through (3) of this section, except as follows and solely for the purpose of personal consumption or scientific or educational purposes:~~

~~(a) Within a natural area preserve, no harvesting of edible plants or edible fruiting bodies, including fungi, is permitted, other than for scientific or educational purposes.~~

~~(b) Within a recreation area, resource recreation area, natural area, natural forest area, or heritage area harvesting of edible plants and edible fruiting bodies, including mushrooms, berries and nuts is permitted. Provided, That the director or designee may close, temporarily close or condition such harvesting upon a finding that the activity is degrading or threatens to degrade the park's natural or cultural resources.~~

~~(c) Prior to enforcement of any harvest restrictions pursuant to this subsection, state park areas so restricted shall be conspicuously posted with appropriate signs.~~

~~(5))~~ **Hazard tree review:** At least two persons, one being a qualified professional in forestry or arboriculture, shall examine potentially hazardous trees and rate such trees in accordance with department of natural resources, report number 42, detection and correction of hazard trees in Washington's recreation areas. The rating of each tree examined shall be recorded on a hazard tree form by each of the two persons who examine such trees. For trees identified as hazardous and when feasible, action such as, but not limited to, pruning, topping, crown reduction, and relocation of a target facility, shall be taken prior to tree cutting or removal.

~~((6))~~ **(5) Tree cutting and removal operations:** Tree cutting or removal shall be done by park personnel, unless the personnel lack necessary expertise. If tree cutting or removal work is done by a contractor, park personnel shall provide daily on-site supervision to ensure that work and safety standards are met to prevent harm or damage to persons, trees, shrubbery, soils, and other park resources. When feasible, trees shall be felled in sections with the tops and limbs lowered first by guy wires and ropes in order to protect adjacent old-growth trees and the integrity of the remaining stand. Only skid trails premarked by park personnel may be used and equipment shall be kept on existing roads and parking areas to the fullest extent possible. When feasible, all trees damaged during cutting or removal shall be repaired.

~~((7))~~ **(6) Use of fallen trees:** Except where they may create safety hazards and/or interfere with the normal operation of a park, fallen trees shall be left on the ground when deemed environmentally beneficial or used for park purposes such as, but not limited to, approved building projects, trail mulching, and firewood. In natural forest areas and natural areas first consideration shall be given to leaving trees on the ground for natural purposes.

NEW SECTION

WAC 352-28-030 Harvest of edibles. Nonmarine edible plants and edible fruiting bodies, including mushrooms, shall be managed by the agency in accordance with WAC 352-28-010. The commercial harvest of edibles is not allowed on park lands. The harvest of edibles for personal consumption, or scientific or educational projects, is subject to the following conditions:

(1) Personal consumption: The recreational harvest, possession, or transport of edible plants and edible fruiting bodies including, but not limited to, mushrooms, berries, and nuts, is allowed up to an amount of two gallons per person per day, unless otherwise posted at the park. The harvest amount may be comprised of one or more species. The harvest may occur within the following park classification areas: Recreation, resource recreation, natural, natural forest, heritage, or in parks not yet classified. No harvest of edible plants or edible fruiting bodies, including mushrooms, is allowed within a natural area preserve. This rule is not intended to limit federally reserved tribal rights, including treaty rights.

(2) Scientific or educational projects: The harvest of edible plants and/or edible fruiting bodies, including mushrooms, for scientific or educational projects is subject to the prior written approval of the director or designee. The approval shall specify a harvest amount not to exceed the

minimum quantity necessary for the purposes of the project. The harvest may occur within all park classification areas.

(3) Harvest techniques that involve raking or other techniques that have the potential to degrade park natural or cultural resources are prohibited.

(4) The director or designee may close, temporarily close, or condition public access to certain park areas for recreational harvesting of edibles upon finding that the activity degrades or threatens to degrade the park's natural or cultural resources, or to protect public health, safety, and welfare. Such closure shall be posted at the entrance to the park area affected and at the park office.

WSR 05-17-106

PERMANENT RULES

GAMBLING COMMISSION

[Order 449—Filed August 16, 2005, 2:28 p.m., effective September 16, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule repeals the problem gambling fee the commission passed last November, which was to be effective June 30, 2005. During the 2005 legislative session, a law was adopted to fund problem gambling treatment, education, and awareness (ESHB 1031). The law transfers state lottery revenue and creates a new business and occupation (B&O) tax on gambling businesses (Gambling Commission licensees and live horse racing tracks) that have annual gross income over \$50,000. The B&O tax will be 0.1% of gross income (after prizes) through June 30, 2006, and 0.13% thereafter. The bill takes effect July 1, 2005. As written, in the commission's original rule and the new law, the commission's problem gambling fee would not take effect. However, in the interest of being clear, this rule is being repealed.

Citation of Existing Rules Affected by this Order: Amending WAC 230-04-208.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 05-14-163 on July 6, 2005, with a published date of August 9 [July 20], 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 12, 2005.

Susan Arland
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-04-208

Problem gambling awareness and training fee.

WSR 05-17-107

PERMANENT RULES

GAMBLING COMMISSION

[Order 448—Filed August 16, 2005, 2:29 p.m., effective September 16, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: A recreational gaming activity (RGA) is not a gambling activity and its purpose is purely entertainment. Organizations must be in existence for at least six months before sponsoring an event. Sponsoring organizations may hire a licensed fund-raising event equipment provider to bring in professional gambling tables, and/or staff to operate the games; or, they can get a permit from the commission to possess gambling equipment during the event. Currently, poker is not allowed at these events. At the request of the industry poker will now be allowed at these events and organizations that haven't been in existence for six months or more may offer an RGA. Furthermore, staff added language to: (1) Clarify that each organization, association, or business, or department thereof, may offer two RGAs each year; (2) Require distributors to notify us of events they put on; and (3) require distributors to ask the sponsoring business how many RGAs they have sponsored during the past year.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-505.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 05-13-117 on June 20, 2005, with a published date of July 6, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 12, 2005.

Susan Arland
Rules Coordinator

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AMENDATORY SECTION (Amending Order 224, filed 7/17/91, effective 8/17/91)

WAC 230-02-505 Recreational gaming activity—
Defined. A recreational gaming activity is a nongambling activity (~~(utilizing)~~) using poker tables and/or gambling devices authorized for use in fund-raising events, conducted no more than two times per calendar year, by or on behalf of an organization ((that has been in existence for at least six months)), business, or association, or department thereof. Only members and guests of the sponsoring organization, business, or association, or department thereof, may participate and ~~((such))~~ the activity ((shall be)) is subject to the requirements of WAC 230-25-330.

If a licensed distributor contracts with an organization, business, or association, or department thereof, to organize and conduct the recreational gaming activity on their behalf, the licensed distributor must send the commission a monthly schedule of activities for which they have contracted. This schedule must include the name of the organization, business, or association, or department thereof, and the date, location, and time of the activity. The schedule must identify any prior recreational gaming activities conducted by all licensed distributors on behalf of the organization, business, or association, or department thereof, within the last calendar year.

WSR 05-17-120
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed August 17, 2005, 4:41 p.m., effective September 17, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rule restructures the commercial shellfish operations fee schedule, which was originally implemented August 16, 2002, under the 2002 Supplemental Operating Budget, section 220, chapter 371, Laws of 2002. The fees within the schedule are paid by commercial shellfish operations for paralytic shellfish poison (PSP) testing of commercially harvested shellfish. Both the geoduck PSP fees and intertidal PSP fees are set for the purpose of recovering 100% of the cost of PSP testing performed at the Washington State Public Health Lab in Seattle. The lab requires \$126,000 per year to cover the costs of commercial PSP testing. The proposed rule has two elements: (1) It reinstates fees to the revenue target level of \$126,000 that was originally implemented in 2002, and (2) it realigns geoduck PSP fees to reflect each operation's use of PSP testing for the previous year. The proposed rule will increase fees over the 2006 fiscal growth factor for some operators. During the 2005 legislative session, the legislature authorized the department to increase fees beyond the fiscal growth factor in ESSB 6090 (chapter 518, Laws of 2005).

Citation of Existing Rules Affected by this Order: Amending WAC 246-282-990.

Statutory Authority for Adoption: RCW 43.70.250.

Adopted under notice filed as WSR 05-14-158 on July 6, 2005.

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.

Date Adopted: August 17, 2005.

M. C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 04-15-154, filed 7/21/04, effective 8/21/04)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	\$250.
Shellstock Shipper	
0 - 49 Acres	\$282.
50 or greater Acres	\$452.
Scallop Shellstock Shipper	\$282
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$514.
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$622.
Plants with floor space > 5000 sq. ft.	\$1,147.

(2) The fee for each export certificate is \$10.30.

(3) Annual PSP testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category	Type of Operation	Number of Harvest Sites	Fee
Harvester		≤ 2	\$(133)) <u>173</u>
		3 or more	\$(199)) <u>259</u>
Shellstock Shipper	0 - 49 acres	≤ 2	\$(150)) <u>195</u>
		3 or more	\$(225)) <u>292</u>
Shellstock Shipper	0 - 49 acres	N/A	\$(360)) <u>468</u>
		50 or greater acres	

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Fee Category	Number of Harvest Sites	Fee
Type of Operation		
Shucker-Packer	≤ 2	\$(273) <u>354</u>
(plants < 2000 ft ²)		
Shucker-Packer	3 or more	\$(410) <u>533</u>
(plants < 2000 ft ²)		
Shucker-Packer	≤ 2	\$(330) <u>429</u>
(plants 2000-5000 ft ²)		
Shucker-Packer	3 or more	\$(496) <u>644</u>
(plants 2000-5000 ft ²)		
Shucker-Packer	N/A	\$(916) <u>1,189</u>
(plants > 5000 ft ²)		

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shell-stock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting geoduck are as follows:

Harvester	Fee
Department of natural resources (quota tracts harvested by DNR contract holders)	\$(6,393) <u>13,216</u>
Jamestown S'Klallam Tribe	\$(3,324) <u>3,377</u>
Lower Elwah Klallam Tribe	\$(1,449) <u>5,139</u>
Lummi Nation	\$(341) <u>0</u>
Nisqually Indian Tribe	\$(2,216) <u>1,762</u>
Port Gamble S'Klallam Tribe	\$(3,324) <u>11,306</u>
Puyallup Tribe of Indians	\$(3,239) <u>4,992</u>
Skokomish Indian Tribe	\$(171) <u>441</u>
Squaxin Island Tribe	\$(2,898) <u>5,286</u>
Squamish Tribe	\$(8,610) <u>8,663</u>

Harvester	Fee
Swinomish Tribe	\$(256) <u>294</u>
Tulalip Tribe	\$(1,449) <u>1,615</u>
Discovery Bay Shellfish	\$(171) <u>1,175</u>
Seattle Shellfish	\$(5,285) <u>734</u>
Taylor Shellfish Company, Inc. (Shelton)	\$(2,728) <u>0</u>
Washington Shell Fish, Inc.	\$(2,898) <u>0</u>

(5) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

WSR 05-17-123

PERMANENT RULES

HORSE RACING COMMISSION

[Filed August 18, 2005, 8:50 a.m., effective September 18, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To adopt a new section, WAC 260-70-675 Bicarbonate testing, to prohibit the administration of any bicarbonate or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a racehorse on race day.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 05-14-139 on July 5, 2005.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made from the proposed rule filed with the code reviser:

1. Split samples to be taken on all horses when bicarbonate testing is done;
2. All split samples shall be tested at laboratories designated by the commission; and
3. The cost of the split sample testing is the responsibility of the commission.

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.

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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.

Date Adopted: August 11, 2005.

R. M. Leichner
Executive Secretary

NEW SECTION

WAC 260-70-675 Bicarbonate testing. No bicarbonate-containing substance or alkalinizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a horse shall be administered to a horse within twenty-four hours of post time of the race in which the horse is entered.

The official veterinarian, the board of stewards or the executive secretary acting on behalf of the commission may at their discretion and at any time order the collection of test samples from any horses present either in the horse's stall or within the receiving or test barn to determine the serum or plasma pH or concentration of bicarbonate, total carbon dioxide, or electrolytes.

Test samples shall not exceed 37.0 millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum or plasma total carbon dioxide level exceeding this value shall constitute a violation of this rule. Penalties shall be assessed as a Class 4 violation as provided in WAC 260-84-110.

Split samples will be taken from all horses entered to run in a race when bicarbonate testing is to be done. When split samples are taken, they shall be shipped as soon as practical to the commission-approved laboratories for total carbon dioxide split sample testing. The commission shall be responsible for the cost of shipping and testing of split samples taken under this section.

WSR 05-17-132
PERMANENT RULES
HEALTH CARE AUTHORITY
(Public Employees' Benefits Board)

[Order 04-04—Filed August 19, 2005, 11:45 a.m., effective September 2, 2005]

Effective Date of Rule: September 2, 2005.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: There is a finding under RCW 34.05.380 (3)(a). The emergency rule that addresses career seasonal/instructional year employee eligibility, as directed by the *Mader v. HCA* settlement agreement expires on September 2, 2005.

Purpose: The Health Care Authority (HCA) amended WAC 182-12-115 to address career seasonal/instructional year employee eligibility, as directed by the *Mader v. HCA* settlement agreement. The amended rule extends the content of the emergency rule filed on May 3, 2005, through April 2006, allowing the agency additional time to conduct a thorough and principled review of similarly situated employees of the state prior to adopting a permanent rule.

Citation of Existing Rules Affected by this Order: Amending WAC 182-12-115.

Statutory Authority for Adoption: RCW 41.05.160.

Adopted under notice filed as WSR 05-14-151 on July 6, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 16, 2005.

Cyndi Presnell
Assistant Rules Coordinator

AMENDATORY SECTION (Amending Order 02-07, filed 8/14/03, effective 9/14/03)

WAC 182-12-115 Eligible employees. The following employees of state government, higher education, K-12 school districts, educational service districts, political subdivisions and employee organizations representing state civil service workers are eligible to apply for PEBB insurance coverage. For purposes of defining eligible employees of school districts and educational service districts, a collective bargaining agreement will supersede all definitions provided under this chapter 182-12 WAC only if approved by the HCA.

(1) "Permanent employees." Those who work at least half-time per month and are expected to be employed for more than six months. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of a month, coverage begins on the date of employment.

(2) "Nonpermanent employees." Those who work at least half-time and are expected to be employed for no more than six months. Coverage begins on the first day of the seventh month following the date of employment.

(3) "Seasonal employees." Those who work at least half-time per month during a designated season for a minimum of three months but less than nine months per year and who have an understanding of continued employment season after season. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of a month, coverage begins on the date of employment. However, seasonal employees are not eligible for the employer contribution during the break between seasons of employment but may be eligible to continue coverage by self-paying premiums.

(4) "Career seasonal/instructional year employees." Employees who work half-time or more on an instructional year (school year) or equivalent nine-month seasonal basis. Coverage begins on the first day of the month following the date of employment. If the date of employment is the first working day of the month, coverage begins on the date of employment. These employees are eligible to receive the employer contribution for insurance during the off-season following each period of seasonal employment.

(5)(a) "Part-time faculty" and "part-time academic employees." (~~Faculty~~) Employees who are employed on a quarter/semester to quarter/semester basis are eligible to apply for coverage beginning with the second consecutive quarter/semester of half-time or more employment at one or more state institutions of higher education including one or more college districts. Coverage begins on the first day of the month following the beginning of the second quarter/semester of half-time or more employment. If the first day of the second consecutive quarter/semester is the first working day of the month, coverage begins at the beginning of the second consecutive quarter/semester.

For the purpose of determining eligibility for part-time faculty and part-time academic employees, employers ((~~of part-time faculty~~)) must:

((~~a~~)) (i) Consider spring and fall as consecutive quarters/semesters when determining eligibility; and

((~~b~~)) (ii) Determine "half-time or more employment" based on each institution's definition of "full-time"; and

((~~c~~)) (iii) At the beginning of each quarter/semester notify, in writing, all current and newly hired part-time faculty and part-time academic employees of their potential right to benefits under this section.

((~~d~~)) (iv) Part-time faculty (~~(members)~~) and part-time academic employees employed at more than one institution are responsible for notifying each employer quarterly, in writing, of the employee's multiple employment. In no case will retroactive coverage be permitted or employer contribution paid to HCA if (~~(a part-time faculty member)~~) an employee fails to inform all of his/her employing institutions about employment at all institutions within the current quarter; and

((~~e~~)) (v) Where concurrent employment at more than one state higher education institution is used to determine total (~~(part-time faculty)~~) employment of half-time or more, the employing institutions will arrange to prorate the cost of the employer insurance contribution based on the employment at each institution. However, if the (~~(part-time faculty member)~~) employee would be eligible by virtue of employment at one institution, that institution will pay the entire cost of the employer contribution regardless of other higher education employment. In cases where the cost of the contribution is prorated between institutions, one institution will forward the entire contribution monthly to HCA; and

((~~f~~)) (vi) Once enrolled, if a part-time faculty (~~(member)~~) or part-time academic employee does not work at least a total of half-time in one or more state institutions of higher education, eligibility for the employer contribution ceases.

(b) Part-time academic employees of community and technical colleges—eligibility for summer or off season benefits when the employee has a reasonable expectation of con-

tinued employment at a single college district or multiple college districts.

Effective May 1, 2005, through April 2006.

(i) Part-time academic employees who work half-time or more in each instructional year quarter or equivalent nine-month season for one or more academic years in a single college district or multiple college districts as determined from the payroll records of the employing community or technical college district(s), are eligible for the employer contribution for health benefits during the quarter or off season period immediately following the end of one academic year or equivalent nine-month season. Eligibility for summer or off season health benefits continues each summer quarter or off season thereafter following employment in an instructional year or equivalent nine-month period of employment in a single college district or multiple college districts.

(ii) For purposes of this section:

(A) "Academic employee" has the meaning set forth in RCW 28B.50.489(3).

(B) "Academic year" means fall, winter, and spring quarters in a community or technical college, as determined from the payroll records of the employing college district or college districts.

(C) "Equivalent nine-month seasonal basis" means a nine consecutive month period of employment at half-time or more by a single college district or multiple college districts, as determined from the payroll records of the employing college district(s).

(D) "Health benefits" means the particular medical and/or dental coverage in place at the end of the academic year or equivalent nine-month season. Changes to health benefits may be made only as set forth in chapter 182-08 WAC or during an annual open enrollment period.

(6) "Appointed and elected officials." Legislators are eligible to apply for coverage on the date their term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible to apply for coverage on the date their term begins or they take the oath of office, whichever occurs first. Coverage for legislators begins on the first day of the month following the date their term begins. If the term begins on the first working day of the month, coverage begins on the first day of their term. Coverage begins for all other elected and full-time appointed officials of the legislative and executive branches of state government on the first day of the month following the date their term begins, or the first day of the month following the date they take the oath of office, whichever occurs first. If the term begins, or oath of office is taken, on the first working day of the month, coverage begins on the date the term begins, or the oath of office is taken.

(7) "Judges." Justices of the supreme court and judges of courts of appeals and the superior courts become eligible to apply for coverage on the date they take the oath of office. Coverage begins on the first day of the month following the date their term begins, or the first day of the month following the date they take oath of office, whichever occurs first. If the term begins, or oath of office is taken, on the first working day of a month, coverage begins on the date the term begins, or the oath of office is taken.

WSR 05-17-135
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 19, 2005, 4:06 p.m., effective September 19, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Division of Developmental Disabilities has received approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replaced the community alternatives program (CAP) waiver.

These rules establish provider qualifications and clarify client appeal rights. When effective, these rules replace emergency rules filed as WSR 05-15-046.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-825-170, 388-825-180, 388-825-190, 388-825-260, 388-825-262, 388-825-264, 388-825-266, 388-825-268, 388-825-270, 388-825-272, 388-825-276, 388-825-278, 388-825-280, 388-825-282 and 388-825-284; and amending WAC 388-825-120.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Adopted under notice filed as WSR 05-13-041 on June 7, 2005.

Changes Other than Editing from Proposed to Adopted Version: In WAC 388-825-130, the reference is changed from "chapter 388-458 WAC" to "WAC 388-458-0040 (1), (2) and (3)" for specificity; WAC 388-825-145(4), the wording is changed to read "...you may have to pay back continued benefits" to reflect the fact that collection is not pursued in all cases; WAC 388-825-150(2), cross references are added for the definition of "expiration" and for the consequences of not reapplying before the eligibility expiration date; WAC 388-825-150(3), this section is changed to clarify that it applies to state-only funded services; WAC 388-825-150(4), this section is changed to read: "The state-only funded service no longer exists, the Medicaid state plan has been amended, or the HCBS waiver agreement with the federal Centers for Medicare and Medicaid has been amended" to clarify that the promulgation of rules ending a program applies to state-only funded services; and WAC 388-825-160, this section is changed to comply with federal Medicaid rules.

A final cost-benefit analysis is available by contacting Steve Brink, P.O. Box 5310, Olympia, WA 98507-5310, phone (360) 725-3416, fax (360) 407-0955, e-mail brinksc@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 32, Amended 1, Repealed 15; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 32, Amended 1, Repealed 15.

Date Adopted: August 16, 2005.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-18 issue of the Register.

WSR 05-17-145
PERMANENT RULES
SECRETARY OF STATE
 (Elections Division)

[Filed August 19, 2005, 4:31 p.m., effective September 19, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Significant election legislation passed during the 2005 legislative session. The rules implement this legislation. Some rules are also reorganized into chronological order of the election process.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-238-010, 434-238-020, 434-238-025, 434-238-030, 434-238-055, 434-238-060, 434-238-070, 434-238-080, 434-238-090, 434-238-100, 434-238-110, 434-238-120, 434-238-140, 434-238-160, 434-238-170, 434-238-180, 434-238-200, 434-240-005, 434-240-010, 434-240-020, 434-240-027, 434-240-030, 434-240-040, 434-240-050, 434-240-060, 434-240-080, 434-240-090, 434-240-100, 434-240-110, 434-240-120, 434-240-130, 434-240-150, 434-240-180, 434-240-190, 434-240-200, 434-240-205, 434-240-225, 434-240-230, 434-240-235, 434-240-240, 434-240-245, 434-240-250, 434-240-260, 434-240-270, 434-240-290, 434-240-300, 434-240-320, 434-253-040, 434-253-043, 434-253-060, 434-253-180, 434-253-190, 434-253-210, 434-253-260, 434-261-080, 434-261-085, 434-261-090, 434-262-005, 434-262-035, 434-262-045, 434-262-150, 434-262-170, 434-262-180 and 434-262-190; and amending WAC 434-215-070, 434-215-080, 434-215-090, 434-215-110, 434-253-010, 434-253-020, 434-253-045, 434-253-047, 434-253-048, 434-253-049, 434-253-160, 434-253-165, 434-253-170, 434-253-200, 434-253-230, 434-253-240, 434-253-300, 434-257-030, 434-260-020, 434-260-030, 434-260-040, 434-260-050, 434-260-140, 434-260-145, 434-260-150, 434-260-310, 434-261-005, 434-261-070, 434-261-075, 434-261-100, 434-261-105, 434-261-110, 434-262-010, 434-262-015, 434-262-020, 434-262-025, 434-262-030, 434-262-050, 434-262-080, 434-262-090, 434-262-100, 434-262-110, 434-262-120, 434-262-203, and 434-262-204.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 05-14-172 on July 6, 2005.

Changes Other than Editing from Proposed to Adopted Version: WAC 434-250-060 is clarified to exclude the participants of the address confidentiality program from the prepaid UOCAVA service envelopes paid by the United States government. A sentence is added to the warning in WAC 434-250-070. WAC 434-250-100, is clarified regarding unmanned deposit sites. WAC 434-250-130, clarifies that

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the county auditor must document the seal numbers. The ID requirement is clarified in WAC 434-250-330. The prohibition in WAC 434-253-010 on the use of information contained in the poll books is removed. In WAC 434-253-160 and 434-253-165, a sentence is added to the instructions of the ballot accountability form. In WAC 434-253-165, "optical scan" is removed from the description of provisional ballot. WAC 434-253-290, is removed from the rule making and left in WAC as it currently exists. WAC 434-260-310, is clarified that the forms are also for maintenance of the certification. The punchcard provisions of WAC 434-261-070 are changed to prohibit altering the ballot. In WAC 434-262-030, a duplicative sentence is repealed.

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 31, Amended 44, Repealed 61.

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 31, Amended 44, Repealed 61; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 19, 2005.

Sam Reed
Secretary of State

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

~~WAC 434-215-070 ((Definition and standards for systems to file declarations of candidacy electronically.))~~ **Electronic filing—Standards.** An electronic system to file declarations of candidacy shall be an online system accessible to candidates on the world wide web that records the information specified in RCW ((29-15-010)) 29A.24.031 (1) through (4) and WAC 434-215-090. At a minimum, the system shall perform the following functions:

- (1) Verify the candidate's voter registration status;
- (2) Check the candidate's name against the name returned by the electronic transfer of funds process;
- (3) Allow the filing officer to verify filings before filing information is made public;
- (4) Accept electronic transfer of funds for the payment of filing fees ((required by RCW 29-15-050)), except that a candidate submitting a ((nominating)) filing fee petition in the place of a filing fee may not file the declaration of candidacy electronically;
- (5) Inform, and require the candidate to acknowledge, that submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitution and laws of the United States and the state of Washington, and that he or she agrees to electronic

payment of the filing fee ((established in RCW 29-15-050)); and

(6) Inform the candidate that knowingly providing false information on a declaration of candidacy is a class C felony as provided by RCW ((29-85-100)) 29A.84.311.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

~~WAC 434-215-080 ((Jurisdictions eligible to accept electronically filed declarations of candidacy.))~~ **Electronic filing—Eligible jurisdictions.** (1) The secretary of state and county auditors may accept electronically filed declarations of candidacy for any office for which they are authorized to accept filings ((provided by RCW 29-15-030)). Any system designed to accept electronically filed declarations of candidacy must comply with the requirements of WAC 434-215-070.

(2) Pursuant to RCW 29A.24.070(2), a candidate for the legislature, the court of appeals, or superior court in a jurisdiction that is within one county may file the declaration of candidacy with either the secretary of state or the county auditor. If the secretary of state or county auditor receives a declaration of candidacy from such a candidate, the candidacy information must be exchanged with the other filing officer as soon as possible, and within one business day at the latest. All candidacy information must be exchanged with the other filing officer immediately after the close of business on the last day for filings.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

~~WAC 434-215-090 ((Information requirements for electronically filed declarations of candidacy beyond those required in RCW 29-15-010.))~~ **Electronic filing—Required information.** At a minimum, electronically filed declarations of candidacy shall provide:

- (1) The month and day of the candidate's date of birth;
- (2) An electronic mail address, phone number, residential address, and mailing address where the candidate may be contacted.

AMENDATORY SECTION (Amending WSR 02-15-156, filed 7/23/02, effective 8/23/02)

~~WAC 434-215-110 ((Interlocal agreements to provide electronic filing services.))~~ **Electronic filing—Interlocal agreements.** The secretary of state may enter into interlocal agreements with county auditors to provide services ((in order that)) to allow county auditors ((may)) to accept electronic filings. Nothing in an agreement shall contravene RCW ((29-15-030)) 29A.24.070, determining where candidates file for office.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-238-010 Authority and purpose.

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WAC 434-238-020	Definitions.	WAC 434-240-110	Special absentee ballot— Time application received.
WAC 434-238-025	Mail ballot precincts.	WAC 434-240-120	Health care facility absentee ballot application form.
WAC 434-238-030	Request for mail ballot elec- tion.	WAC 434-240-130	Incomplete application from elector.
WAC 434-238-055	Odd numbered year prima- ries by mail.	WAC 434-240-150	Verification of absentee bal- lot application.
WAC 434-238-060	Notice of election.	WAC 434-240-180	Service and overseas vot- ers—Material and postage.
WAC 434-238-070	Delivery of ballot to voter.	WAC 434-240-190	Absentee ballot envelopes.
WAC 434-238-080	Envelope specifications.	WAC 434-240-200	Absentee ballot—Instruc- tions to voters.
WAC 434-238-090	Instructions to voters.	WAC 434-240-205	Replacement absentee bal- lots.
WAC 434-238-100	Depositing of ballots.	WAC 434-240-225	Definitions regarding absen- tee ballots.
WAC 434-238-110	Obtaining replacement bal- lots.	WAC 434-240-230	Processing of absentee bal- lots.
WAC 434-238-120	Unsigned affidavit.	WAC 434-240-235	Unsigned affidavit.
WAC 434-238-140	Verification of signatures— Process.	WAC 434-240-240	Verification of the signature and postmark on absentee ballots.
WAC 434-238-160	Master list of voters.	WAC 434-240-245	Procedure for signatures that don't match.
WAC 434-238-170	Logic and accuracy test.	WAC 434-240-250	Absentee voter attempting to vote at the polls.
WAC 434-238-180	Tallying of ballots.	WAC 434-240-260	Absentee ballots returned after the poll lists have been marked.
WAC 434-238-200	Maintenance of records.	WAC 434-240-270	Maintenance of an audit trail on absentee ballots.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 434-240-005	Authority and purpose.	WAC 434-240-290	Security of absentee ballots.
WAC 434-240-010	Definitions.	WAC 434-240-300	Absentee ballot process to be expedited.
WAC 434-240-020	Applications for single absentee ballots.	WAC 434-240-320	Mail ballot precincts.
WAC 434-240-027	Requesting absentee ballot for family member.		
WAC 434-240-030	Application form for a regu- lar absentee ballot.		
WAC 434-240-040	Absentee ballot application forms originating outside the state of Washington.		
WAC 434-240-050	Ongoing absentee ballot application.		
WAC 434-240-060	Termination of ongoing absentee voter status.		
WAC 434-240-080	Special absentee ballot.		
WAC 434-240-090	Special absentee ballot appli- cation form.		
WAC 434-240-100	Special absentee ballot— Material to be included.		

Chapter 434-250 WAC

VOTING BY MAIL

NEW SECTION

WAC 434-250-010 Purpose. This chapter implements the various methods for voting by mail and conducting elections by mail.

(1) These rules establish standards and procedures for the issuance of:

(a) Ongoing absentee ballots, as authorized by RCW 29A.40.040;

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(b) Single absentee ballots, as authorized by RCW 29A.40.020; and

(c) Special absentee ballots, as authorized by RCW 29A.40.050.

(2) These rules also establish standards and procedures for the following methods of conducting elections by mail:

(a) Counties designated as mail ballot counties, as authorized by RCW 29A.48.010(1);

(b) Precincts designated as mail ballot precincts, as authorized by RCW 29A.48.010(2);

(c) Special elections conducted by mail, as authorized by RCW 29A.48.020; and

(d) Odd year primary elections conducted by mail, as authorized by RCW 29A.48.030.

NEW SECTION

WAC 434-250-020 Definitions. As used in this chapter:

(1) "Absentee ballot" includes:

(a) An ongoing absentee ballot issued to a voter who has requested status as an ongoing absentee voter, as authorized by RCW 29A.40.040;

(b) A single absentee ballot issued to a voter who has requested an absentee ballot for a single election, as authorized by RCW 29A.40.020;

(c) A special absentee ballot issued to a voter who has indicated that he or she will be unable to vote and return a regular absentee ballot timely, as authorized by RCW 29A.40.050; and

(d) A hospital absentee ballot issued to a voter confined to a health care facility on the day of a primary or election, as authorized by RCW 29A.40.080.

(2) "Final processing" means the reading of ballots by an electronic vote tallying system, but does not include tabulation.

(3) "Initial processing" means all steps taken to prepare absentee ballots for tabulation, except for the reading of ballots by an electronic vote tallying system. Initial processing includes, but is not limited to: Verification of the signature and postmark on the return envelope, removal of the security envelope from the return envelope; removal of the ballot from the security envelope; manual inspection for damage, write-in votes, and incorrect or incomplete marks; duplication of damaged and write-in ballots; and other preparation of ballots for final processing.

(4) "Mail ballot" means a ballot used in an election conducted by mail, as authorized by RCW 29A.48.010, 29A.48.020, or 29A.48.030. Unless specified otherwise, mail ballots must be prepared and processed in the same manner as absentee ballots.

(5) "Tabulation" means the production of returns of votes cast for candidates or ballot measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals.

BALLOTS

NEW SECTION

WAC 434-250-030 Applications. (1) As authorized by RCW 29A.40.040, requests for status as an ongoing absentee

voter must be made in writing. A voter may request status as an ongoing absentee voter by indicating such on a standard voter registration form.

(2) As authorized by RCW 29A.40.020 and 29A.40.030, requests for a single absentee ballot may be made in person, by telephone, electronically, or in writing, and may be made by a family member. Each county auditor must provide applications for requests made in writing. The form must include, but not be limited to, the following:

(a) A space for the voter to print his or her name and the address at which he or she is registered to vote;

(b) The address to which the ballot is to be mailed;

(c) A space for the voter to indicate for which election or elections the application is made; and

(d) A space for the voter to sign and date the application.

(3) As authorized by RCW 29A.40.050, requests for a special absentee ballot must be made in writing and each county auditor must provide the applications. In addition to the requirements for a single absentee ballot, as provided in subsection (2) of this section, the form must include:

(a) A space for an out-of-state, overseas, or service voter not registered to vote in Washington to indicate his or her last residential address in Washington;

(b) A checkbox requesting that a single absentee ballot be forwarded as soon as possible; and

(c) The declaration required in WAC 434-250-050.

The county auditor shall honor any application for a special absentee ballot that is in substantial compliance with the provisions of this section. Any application for a special absentee ballot received more than ninety days prior to a primary or general election may be either returned to the applicant with the explanation that the request is premature or held by the auditor until the appropriate time and then processed.

(4) As authorized by RCW 29A.40.080, requests for an absentee ballot may be made by a resident of a health care facility, as defined by RCW 70.37.020(3). Each county shall provide an application form for such a registered voter to apply for a single absentee ballot by messenger on election day. The messenger may pick up the voter's absentee ballot and deliver it to the voter and return it to the county auditor's office.

(5) If an application for an absentee ballot does not contain sufficient information to enable the auditor to issue the correct absentee ballot, the auditor shall notify the person and explain why the application is not accepted. If, in the judgment of the county auditor, enough time exists to correct the application, the county auditor must request the proper information from the voter in order to facilitate the application. If, in the judgment of the county auditor, insufficient time exists to correct the application, the auditor must issue the absentee ballot as if the voter had listed the county auditor's office as his or her residence. Upon its return, the ballot must be referred to the county canvassing board, and the only offices or issues that may be tabulated are those common to the entire county and those for which it can be conclusively determined the voter is qualified to vote.

NEW SECTION

WAC 434-250-040 Instructions to voters. (1) In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include:

- (a) How to correct a ballot;
- (b) How to complete and sign the affidavit on the return envelope;
- (c) How to make a mark, witnessed by two other people, if unable to sign the affidavit;
- (d) How to place the ballot in the security envelope and place the security envelope in the return envelope;
- (e) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;
- (f) Notice that postage is required, if applicable; and
- (g) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated place no later than election day, and providing the location, dates, and times for depositing the ballot as an alternative to mailing the ballot.

(2) Instructions that accompany a special absentee ballot must also include:

- (a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and
- (b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.

NEW SECTION

WAC 434-250-050 Ballot materials. In addition to the instructions and in addition to materials required by chapters 29A.36 and 29A.40 RCW, each absentee ballot must be accompanied by the following:

- (1) A security envelope, which may not identify the voter and must have a hole punched in a manner that will reveal whether a ballot is inside;
- (2) A return envelope, which must be addressed to the county auditor and have a hole punched in a manner that will reveal whether the security envelope is inside. The return envelope must display the words "OFFICIAL BALLOT - DO NOT DELAY" prominently on the front, the words "POSTAGE REQUIRED" or "POSTAGE PAID" in the upper right-hand corner, and the following oath with a place for the voter to sign, date, and write his or her daytime phone number:

I do solemnly swear or affirm under penalty of perjury that:

- I am a legal resident of the state of Washington;
- I am entitled to vote in this election;
- I have not already voted in this election;
- It is illegal to vote if I am not a United States citizen;
- It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;

It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law; and

Attempting to vote when not entitled, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature _____ Date _____

The return envelope must conform to postal department regulations.

County auditors may use existing stock of absentee envelopes until January 1, 2006.

NEW SECTION

WAC 434-250-060 Service and overseas voters—Material and postage. Pursuant to RCW 29A.40.150, the secretary of state must furnish envelopes and instructions for out-of-state, overseas, and service voters. For purposes of RCW 29A.40.150, out-of-state voters are limited to voters who are spouses or dependents of service voters, and service voters do not include participants of the address confidentiality program established in chapter 40.24 RCW. All absentee ballots to voters in these categories will be sent postage-free, pursuant to the provisions of federal law, and the return envelopes must be marked as to indicate that they may be returned free of postage.

NEW SECTION

WAC 434-250-070 Forwarding ballots. If the county auditor chooses to forward absentee ballots, as authorized by RCW 29A.40.091, the auditor must include with the ballot an explanation that is substantially similar to the following:

For each jurisdiction listed on the ballot, you must reside in the jurisdiction in order to vote for that office or issue. If you have any questions about your eligibility to vote in this election, please contact your county auditor.

This explanation may be provided on the ballot envelope, on an enclosed insert, or on the ballot itself. The county auditor must utilize postal service endorsements that allow the ballots to be forwarded, allow the county auditor to receive from the post office the addresses to which ballots were forwarded, and allow the return of ballots that were not capable of being forwarded. If the above explanation is not provided to the voter, the return envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.

NEW SECTION

WAC 434-250-080 Replacement ballots. The county auditor may issue a replacement ballot, as authorized by RCW 29A.40.061, if the request is received prior to 8:00 p.m. on election day.

Replacement ballots or the original ballot, whichever is received first, shall be credited to the voter's registration file and tabulated if the ballot meets all requirements for tabula-

tion. If the auditor receives additional ballots from a voter, as indicated by the fact that the voter is already credited with voting, the additional ballots shall not be counted and shall be forwarded to the county canvassing board for rejection.

NEW SECTION

WAC 434-250-090 Absentee ballots issued after the poll lists have been marked. Absentee ballots which are issued and returned to the county auditor after the poll lists have been marked shall be segregated from other absentee ballots, and shall not be tabulated until the poll lists have been examined following the election to ensure that those persons did not vote at the polls on election day.

NEW SECTION

WAC 434-250-100 Depositing of ballots. Ballots may be deposited in the auditor's office during normal business hours prior to the day of the election, and from 7:00 a.m. to 8:00 p.m. on the day of the election. Other places of deposit may be staffed or unstaffed.

(1) Staffed sites must be staffed by at least two persons appointed by the auditor. Whenever possible, the persons appointed shall be representatives of each major political party. Deposit site staff may not be an employee of the jurisdiction for whom the election is conducted and shall subscribe to an oath regarding the discharge of the duties, administered by the county auditor. Staffed deposit sites must be open from 7:00 a.m. until 8:00 p.m. on the day of the election and may be open prior to the election on dates and times established by the county auditor. Staffed deposit sites must have a secure ballot box that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the deposit site staff. If a ballot envelope is returned after 8:00 p.m. on election day, deposit site staff must note the time and place of deposit on the ballot envelope, and such ballots must be referred to the canvassing board for consideration of whether special circumstances warrant consideration, as documented by the deposit site staff.

(2) Unstaffed sites may be used if the ballot drop box is either:

(a) Constructed and secured according to the same requirements as United States Postal Service postal drop boxes; or

(b) Secured and located indoors.

Ballot boxes must be locked and sealed at all times, with seal logs that document each time the box is opened, by whom, and the number of ballots removed. From eighteen days prior to election day until 8:00 p.m. on election day, two county auditor staff members must empty each ballot drop box with sufficient frequency to prevent damage or unauthorized access to the ballots. Ballots must be placed into sealed transport carriers and returned to the county auditor's office or another designated location. On election day, ballot drop boxes must be emptied at exactly 8:00 p.m. to ensure that all ballots meet the 8:00 p.m. delivery deadline.

NEW SECTION

WAC 434-250-110 Processing of absentee ballots. (1) Prior to initial processing of ballots, the county auditor shall notify the county chair of each major political party of the time and date on which absentee processing shall begin, and shall request that each major political party appoint official observers to observe the processing and tabulation of absentee ballots. If any major political party has appointed observers, such observers may be present for initial processing, final processing, or tabulation, if they so choose, but failure to appoint or attend shall not preclude the processing or tabulation of absentee ballots.

(2) In counties tabulating absentee ballots on an electronic vote tallying system, the canvassing board or its representatives may perform initial processing of absentee ballots upon their return. In counties tabulating absentee ballots by hand, the inner security envelope may not be opened until after 8:00 p.m. on election day. Following initial processing, all absentee ballots must be kept in secure storage until final processing. Secure storage must employ the use of numbered seals and logs, or other security measures which will detect any inappropriate or unauthorized access to the secured ballot materials when they are not being prepared or processed by authorized personnel. The county auditor must ensure that all security envelopes and return envelopes are empty, either by a visual inspection of the punched hole to confirm that no ballots or other materials are still in the envelopes, or by storing the envelopes with a tie, string, or other object through the holes.

(3) Final processing may begin after 7:00 a.m. on the day of the election.

(4) Tabulation may begin after 8:00 p.m. on the day of the election.

(5) In counties tabulating ballots on an optical scan vote tallying system, the vote tallying system must reject all overvotes and blank ballots.

(a) All rejected ballots shall be outstacked for additional manual inspection.

(b) The outstacked ballots shall be inspected in a manner similar to the original inspection with special attention given to stray marks, erasures, and other conditions that may have caused the vote-tallying device to misread and reject the ballot.

(c) If inspection reveals that a ballot must be duplicated in order to be read correctly by the vote tallying system, the ballot must be duplicated.

NEW SECTION

WAC 434-250-120 Verification of the signature and postmark on ballots. A ballot shall be counted only if:

(1) It is returned in the return envelope, or a similar envelope if it contains the same information and signed affidavit and is approved by the auditor;

(2) The affidavit is signed with a valid signature in the place afforded for the signature on the envelope;

(3) The signature has been verified pursuant to WAC 434-379-020, or if the voter is unable to sign his or her name, two other persons have witnessed the voter's mark;

(4) It is postmarked not later than the day of the election or deposited in the auditor's office, a polling location, or a designated deposit site not later than 8:00 p.m. on election day; and

(5) The ballot is received prior to certification of the election.

The signature on the return envelope, or on a copy of the return envelope, must be compared with the signature as it appears on the voter's voter registration application, as described in WAC 434-379-020. The canvassing board may designate in writing representatives to perform this function. All personnel assigned to the duty of signature verification shall subscribe to an oath administered by the county auditor regarding the discharge of his or her duties. Personnel shall be instructed in the signature verification process prior to actually canvassing any signatures. Local law enforcement officials may instruct those employees in techniques used to identify forgeries.

The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

NEW SECTION

WAC 434-250-130 Maintenance of an audit trail. Each county auditor shall maintain an audit trail with respect to the processing of absentee ballots, which shall include, but not be limited to, the following:

(1) A record of the date each absentee ballot application was received, the date the ballot was mailed or issued, and the date the ballot was received;

(2) The number of absentee ballots issued and returned, by legislative and congressional district, for each primary and general election;

(3) A record of the disposition of each request for an absentee ballot that was not honored;

(4) A record of the disposition of each returned absentee ballot that was not counted;

(5) A record of the time and place each time the county canvassing board met to process absentee ballots;

(6) A documentation of the security procedures undertaken to protect the integrity of all ballots after receipt, including the seal numbers used to secure the ballots during all facets of the absentee ballot process; and

(7) A reconciliation that all absentee ballots counted plus all absentee ballots rejected is equal to the total number of absentee ballots received.

NEW SECTION

WAC 434-250-140 Ballot process to be expedited. All election officials charged with any duties or responsibilities with respect to absentee ballots shall ensure that those duties are performed in an expeditious manner, in order to maximize the opportunity for voters to receive, vote, and return the ballots in time to be counted.

ELECTIONS BY MAIL

NEW SECTION

WAC 434-250-300 Elections by mail. Elections may be conducted either partially or entirely by mail, as authorized by RCW 29A.48.010, 29A.48.020, or 29A.48.030. If every precinct in a county has been designated a mail ballot precinct, as authorized by RCW 29A.48.010(2), the county is considered a mail ballot county, as authorized by RCW 29A.48.010(1). Separate absentee ballots need not be provided in an election conducted by mail. Unless specified otherwise, mail ballots must be prepared and processed in the same manner as absentee ballots.

NEW SECTION

WAC 434-250-310 Notice of elections by mail. (1) A jurisdiction requesting that a special election be conducted entirely by mail, as authorized by RCW 29A.48.020, may include the request in the resolution calling for the special election, or may make the request by a separate resolution. Not less than forty days prior to the date for which a mail ballot special election has been requested, the county auditor shall inform the requesting jurisdiction, in writing, whether the request is granted and, if not granted, the reasons why.

(2) In the event that a primary is to be conducted by mail, the auditor must notify the jurisdiction involved not later than forty-five days before the primary date.

(3) In addition to the information required in the notice of election published pursuant to RCW 29A.52.351, a county auditor conducting an election by mail, whether for a single jurisdiction or the entire county, must also state:

(a) That the election will be conducted by mail and regular polling places will not be open;

(b) The precincts that are voting by mail if it is only specific precincts rather than the entire county;

(c) The location where voters may obtain replacement ballots;

(d) The amount of postage required on the return envelope;

(e) The dates, times and locations of designated deposit sites and sites for voting devices that are accessible to the visually impaired.

NEW SECTION

WAC 434-250-320 Deposit sites. A county auditor conducting a county-wide election entirely by mail must provide at least one site for the deposit of ballots in addition to the county auditor's office. All deposit sites must meet the requirements of WAC 434-250-100.

NEW SECTION

WAC 434-250-330 County auditor's office as a polling place. For elections conducted entirely by mail, services that would have been provided at the polling place must, at a minimum, be provided at the county auditor's office, including provisional ballots and, after January 1, 2006, voting devices that are accessible to the visually impaired. Identifi-

cation must be provided in compliance with RCW 29A.44-205 and WAC 434-253-055, except in the case of replacement ballots as authorized by RCW 29A.48.040.

Such services must be provided beginning the date that ballots are mailed to voters.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-010 Polling place—Activities prohibited (~~(within the polling place)~~). The county auditor shall ensure that all precinct election officers receive instruction regarding activities that are not permitted within the polling place, including electioneering, circulation of campaign material, soliciting petition signatures, ~~((or))~~ impeding the voting process, or get-out-the-vote campaigns. Whenever it is necessary to maintain order within the polling place and the surrounding environs, the inspector may, if circumstances warrant and if the means to do so are available, contact the county auditor, who shall determine the corrective action required. Such corrective action may include contacting a law enforcement agency for their assistance.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-020 Polling place—Election supplies (~~(—Polling place)~~). Polling places shall be provided, at a minimum, with the following supplies at every election:

- (1) Precinct list of registered voters or a poll book, which shall include suitable means to record the signature and address of the voter. Voters issued absentee ballots must either be noted as absentee or not listed in the poll book;
- (2) Inspector's poll book;
- (3) Required oaths/certificates for inspectors and judges;
- (4) Sufficient number of ballots as determined by election officer;
- (5) Ballot containers;
- (6) United States flag;
- (7) Voting instruction signs ((for voters));
- (8) Challenge((/special)) and provisional ballots and envelopes;
- (9) Cancellation cards due to death;
- (10) Voting equipment instructions;
- (11) Procedure guidelines for inspectors and judges and/or precinct election officer guidebooks;
- (12) Keys and/or extra seals;
- (13) Pay voucher;
- (14) Ballots stub envelope;
- (15) Emergency plan of action;
- (16) Either sample ballots or voters' pamphlets;
- (17) HAVA voter information poster; and
- (18) Voter registration forms.

NEW SECTION

WAC 434-253-025 Polling place—Items to be posted. The following items must be posted or displayed at each polling place while it is open:

- (1) United States flag;
- (2) HAVA voter information poster;

(3) Voting instructions printed in at least 16 point bold type;

(4) Either sample ballots or voters' pamphlets;

(5) Voter registration forms;

(6) Election materials in alternative languages if so required by the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

(7) Any other items the county auditor deems necessary.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-045 Provisional ballots—Required information. At a minimum, the following information ~~((will be))~~ is required to be printed on the outer provisional ballot envelope:

(1) Name ~~((and signature))~~ of voter.

(2) Voter's registered address both present and former if applicable.

(3) Voter's date of birth.

(4) Reason for the provisional ballot.

(5) ~~((Precinct and))~~ Polling place and precinct number, if applicable, at which voter ((has)) voted.

(6) Sufficient space to list disposition of the ballot after review by the county auditor.

~~((Each provisional ballot voter shall be required to sign an oath as required by the Help America Vote Act of 2002, Section 302. The oath may be located on the provisional ballot envelope or in the poll book. The voter must attest that they are:~~

~~(a) A registered voter in the jurisdiction in which the voter desires to vote; and~~

~~(b) Eligible to vote in that election.~~

~~No provisional ballot shall be rejected for lack of the information described in this section as long as the voter provides a valid signature and sufficient information to determine eligibility.))~~ (7) The following oath with a place for the voter to sign and date:

I do solemnly swear or affirm under penalty of perjury that:

I am a legal resident of the state of Washington;

I am entitled to vote in this election;

I have not already voted in this election;

It is illegal to vote if I am not a United States citizen;

It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;

It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law; and

Attempting to vote when not entitled, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature _____

Date _____

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-047 Provisional ballots—Disposition.

Upon receipt of the provisional ballot, including provisional ballots from other counties or states, the auditor must investigate the circumstances surrounding the provisional ballot prior to certification of the primary or election.

A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record.

Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the provisional ballot ~~((with))~~ is not ((be)) counted.

(2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration ~~((with))~~ must be immediately restored and the provisional ballot counted.

(3) If the voter was previously registered and later canceled and the auditor determines that the cancellation was not in error, the voter ~~((shall))~~ must be ~~((afforded))~~ offered the opportunity to reregister~~((;))~~ and the provisional ballot ~~((with))~~ is not ((be)) counted.

(4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received ~~((at his or her designated polling place))~~ for his or her precinct, the auditor must ensure that only those votes for the positions ~~((or))~~ and measures for which the voter was eligible to vote are counted.

(5) If the voter is a registered voter in another county ~~((or state))~~, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted ~~((including rotation if applicable, within five working days after election day)),~~ to the supervisor of elections for the ~~((county for which the voter is resident. If the provisional ballot envelope is not signed by the voter, a copy of the poll book page shall be included))~~ jurisdiction in which the voter is registered. The ballot must be forwarded within seven calendar days after a primary or special election and fifteen calendar days after a general election, and as soon as possible if past that date. ((If the county is not known, it shall be forwarded to the secretary of state, or counterpart, for the state in which the voter is resident.))

(6) If ~~((the auditor finds that))~~ an absentee voter who voted a provisional ballot at the polls has ~~((also voted an))~~ already returned a voted absentee ballot ((in that primary or election)), the provisional ballot ~~((with))~~ is not ((be)) counted. If the absentee voter who voted a provisional ballot at the polls has not returned a voted absentee ballot, the provisional ballot is counted. If a voted absentee ballot is returned after the provisional ballot has been counted, the absentee ballot is not counted.

(7) If the voter voted a provisional ballot ((was voted)) because ((a voter)) he or she failed to produce ((required)) identification as required by RCW 29A.44.205, the ballot ((shall be)) is counted if the ((voter is otherwise eligible)) signature on the envelope matches the signature in the voter registration record.

(8) Provisional ballots voted for reasons not covered by this section ~~((shall))~~ or state statute must be determined by the county canvassing board. ~~((The auditor will prepare a tally displaying the number of provisional ballots received, the number found valid and counted, the number rejected and not counted, and the reason for not counting the ballots, as part of the canvassing process and presented to the canvassing board prior to the certification of the primary or election.))~~

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-048 Provisional ballots—Free access system. (1) Each county shall establish a free access system, as ~~((described))~~ required by the Help America Vote Act, 42 USC sec. 15482 (a)(5), and RCW 29A.60.195 for provisional ballot voters. ~~((The system shall include the following:~~

~~(1) The voter may determine if their provisional ballot counted and, if not, why not. This information shall be without cost to the voter. Examples of a free access system include a toll free telephone number, a web site, or a letter sent to every provisional ballot voter.~~

~~(2) At the time of voting, provisional voters are given written information that states how information on their ballot will be made available to them. In the case of absentee provisional ballots, notification may be sent to the voter promptly after the county auditor determines that the ballot will be treated as a provisional ballot.~~

~~(3))~~ (2) The free access system ((shall)) must employ measures to ensure ~~((the system))~~ that access is free of cost to the voter and restricted to the individual who cast the ballot, and that the voter's personal information is secure and confidential.

~~((4))~~ (3) For provisional ballots sent to other counties in the state, the free access system must provide the voter with information as to where the ballot was sent and how to find out if ~~((their))~~ the ballot was counted in ~~((the voter's home county shall be available without cost to the voter))~~ that county.

~~((5))~~ (4) For ballots received from another county, ~~((a provisional ballot voter shall be able to determine if their))~~ the free access system must provide the voter with information as to whether the ballot was counted and, if not, why ~~((not, shall be available without cost to the voter)). ((If needed;))~~ The county may send instructions to the voter on how to access the information.

~~((6))~~ (5) Provisional ballot disposition information ~~((shall))~~ must be available on a county's free access system ~~((within))~~ no later than one week following ~~((the))~~ certification of ~~((a primary or))~~ the election.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-049 Provisional ballots—Processing. When the disposition of the ballot determines that the ballot is to be counted, the ballot shall be processed in a manner similar to an absentee ballot ~~((as provided in chapter 434-240 WAC))~~ except the outer provisional ballot envelopes must be retained separately from the absentee ballot return envelopes.

~~((The manual inspection of the ballots as required in WAC 434-261-070 must also be carried out.)) Ballots, including those ballots that are rejected, must be kept in secure storage when not being processed.~~

NEW SECTION

WAC 434-253-055 Identification. A voter must provide photo identification to the precinct election officer before signing the poll book. If the voter cannot provide photo identification, he or she may satisfy the requirements of RCW 29A.44.205 by providing a voter registration card issued by the county auditor or a copy of a current utility bill, bank statement, paycheck, government check, or other government document. If the voter cannot provide any identification, the voter must be issued a provisional ballot rather than a regular ballot.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-160 Ballot accountability form—Pollsites without direct recording devices. Precinct election officials shall maintain accountability for all ballots issued for each precinct. The county auditor shall provide a ballot accountability sheet with each list of registered voters for each precinct or combination of precincts, upon which shall be recorded, at a minimum, the following information:

- (1) Identification of the precinct or combination of precincts;
- (2) The number of ~~((ballots issued;~~
- (3) ~~The number of signatures in the poll book;~~
- (4) ~~The number of issued ballots which are provisional or challenged;~~
- (5) ~~The number of issued ballots that are spoiled;~~
- (6) ~~The number of unused ballots;~~
- (7) ~~The number of absentees accepted at the poll site.~~
- A*) regular ballots delivered to the poll site;
- (3) The number of provisional ballots delivered to the poll site;
- (4) The number of signatures in the poll book;
- (5) The number of regular ballots issued;
- (6) The number of provisional ballots issued;
- (7) The number of ballots that are challenged;
- (8) The total number of ballots voted;
- (9) The difference between the number of signatures in the poll book and the total number of ballots voted;
- (10) The number of regular ballots spoiled;
- (11) The number of provisional ballots spoiled;
- (12) The number of regular ballots not used;
- (13) The number of provisional ballots not used;
- (14) The number of absentee ballots accepted at the poll site;
- (15) The total number of ballots returned to the county auditor; and
- (16) The total number of ballots accounted for.

Before the opening of the polls, the information enumerated in subsections (1) through (3) of this section must be recorded on the ballot accountability sheet. If additional ballots are delivered to the poll site during the day, the precinct election officials must reflect the number of ballots delivered

in subsections (2) and (3) of this section. After the closing of the polls, the ~~((ballots of each category))~~ information enumerated in subsections ~~((1))~~ (4) through ~~((7))~~ (16) of this section ~~((shall))~~ must be ~~((counted and))~~ recorded on the ballot accountability sheet. Discrepancies must be reported and explained by the precinct election officers.

~~((The accountability sheet shall be maintained with the precinct list.))~~ The precinct election officers shall attest to the accuracy of the ballot accountability sheet by each signing in the spaces provided. The ballot accountability sheet and the precinct list~~((;))~~ shall be placed in the appropriate container for return to the counting center or auditor's office. The inspector shall remove and retain a copy of the list of participating voters as the "inspector's copy" for the statutorily required retention period.

Whenever anything occurs at a polling place that the precinct election officers feel may create a discrepancy in accounting for all of the ballots, the election officers shall note such events. The auditor may direct that such comments be included with the ballot accountability form or may be included on a separate comments sheet. If a separate sheet is used, it shall be signed by the precinct election officers.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-253-165 Ballot accountability form—Precincts with direct recording devices. Precinct election officials shall maintain accountability for all ballots issued for each precinct. The county auditor shall provide a ballot accountability sheet with each list of registered voters for each precinct or combination of precincts, upon which shall be recorded, at a minimum, the following information:

- (1) Identification of the precinct or combination of precincts~~((;))~~;
- (2) The number of ~~((signatures in the poll book.~~
- (3) ~~The number of optical scan ballots issued, if applicable.~~
- ~~(4) The number of ballots listed on each of the individual direct recording devices. The number of optical scan ballots plus the total number of ballots from the direct recording devices should match the number of signatures in the poll book.~~
- ~~(5) The number of provisional and challenged ballots issued.~~
- ~~(6) The number of absentees accepted at the poll site.~~
- ~~(7) The number of unused optical scan ballots.~~
- ~~(8) The number of spoiled ballots.~~
- ~~(9) List any other irregularities noted throughout election day for each direct recording device.~~
- A*) regular optical scan ballots delivered to the poll site;
- (3) The number of provisional ballots delivered to the poll site;
- (4) The number of signatures in the poll book;
- (5) The number of regular optical scan ballots issued;
- (6) The number of provisional ballots issued;
- (7) The number of ballots listed on each direct recording device;
- (8) The number of regular optical scan ballots that are challenged;

PERMANENT

(9) The total number of ballots voted;

(10) The difference between the number of signatures in the poll book and the total number of ballots voted;

(11) The number of regular optical scan ballots spoiled;

(12) The number of provisional ballots spoiled;

(13) The number of regular optical scan ballots not used;

(14) The number of provisional ballots not used;

(15) The number of absentee ballots accepted at the poll site;

(16) The total number of ballots returned to the county auditor; and

(17) The total number of ballots accounted for.

Before the opening of the polls, the information enumerated in subsections (1) through (3) of this section must be recorded on the ballot accountability sheet. If additional ballots are delivered to the poll site during the day, the precinct election officials must reflect the number of ballots delivered in subsections (2) and (3) of this section. After the closing of the polls, the ~~((ballots of each category))~~ information enumerated in subsections ~~((4))~~ (4) through ~~((9))~~ (17) of this section ~~((shall))~~ must be recorded on the ballot accountability sheet. Discrepancies must be reported and explained by the precinct election officers.

~~((The accountability sheet shall be maintained with the precinct list.))~~ The precinct election officers shall attest to the accuracy of the ballot accountability sheet by each signing in the spaces provided. The ballot accountability sheet and the precinct list shall be placed in the appropriate container for return to the counting center or auditor's office. The inspector shall remove and retain a copy of the list of participating voters as the "inspector's copy" for the statutorily required retention period.

Whenever anything occurs at a polling place that the precinct election officers feel may create a discrepancy in accounting for all of the ballots, the election officers shall note such events. The auditor may direct that such comments be included with the ballot accountability form or may be included on a separate comments sheet. If a separate sheet is used, it shall be signed by the precinct election officers.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-170 ~~((Audit trail for unused ballots.))~~ **Securing provisional, challenged, spoiled, unused, and absentee ballots.** After the polls have closed, and before the container holding the voted ballots is opened, the unwrapped unvoted regular and provisional ballots shall be rendered unusable. ~~((The unusable ballots shall then be placed in an envelope or container marked "unused ballots," the envelope or container shall be sealed, and placed into the container provided for the return of voting materials to the counting center or auditor's office. The unused ballots must not be placed in the same container as the regular voted ballots.))~~ Provisional, challenged, spoiled, unused, and absentee ballots must be placed in containers that are marked and sealed. These containers must then be placed in the transfer case provided for the return of voting materials to the counting center or auditor's office.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-200 **Count of regular voted ballots.** After the ~~((irregular-voted))~~ provisional, challenged, spoiled, unused, and absentee ballots have been sorted, counted and secured, the regular voted ballots shall be removed from the ballot box and counted, and the number recorded on the ballot accountability sheet. ~~((County auditors may require additional procedures to permit the segregation of various types of voted ballots.))~~ The voted ballots must be placed in a sealed container marked with the transmittal sheet listing the precincts, the number of ballots, and the seal number. The inspector and one judge from each political party must sign the transmittal sheet. The container must then be placed in the transfer case provided for the return of voting materials to the counting center or auditor's office.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-230 **Sealing the ballot pages appearing in punchcard voting devices.** In polling places where punchcard voting devices are used, the county auditor shall ensure that adequate procedures are in place to permit the ballot pages within the voting device to be sealed following the election. This shall be done in such a way so that the ballot pages cannot be altered or otherwise tampered with, and in a manner that will provide an audit trail from ballot to precinct. This may be accomplished by securing the entire device by means of an external seal, or by securing and sealing the ballot pages themselves.

If a unique numbered seal is used, a certificate shall be placed inside the device signed by the precinct election officials recording the serial number of the seal. If some other means of sealing is used, a certificate, signed by the election officials, shall be provided to identify the seal by some appropriate means. The certificate, if not secured inside, shall be returned to and retained by the county auditor.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-240 **Return of election supplies and materials.** Supplies and voting materials, including ~~((spoiled))~~ voted, provisional, challenged, spoiled, unused, and absentee ballots and ballot stubs~~((, irregularly voted ballots, and unused ballots shall))~~ must be secured and returned to the counting center, the county auditor's office, or any other location designated by the auditor.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-300 **Paper ballots—Count continuous—When duties completed.** In a paper ballot precinct, the ballot container shall not be removed from the polls nor shall the counting of the votes be discontinued until all are counted ~~((except as provided in WAC 434-253-260)).~~ The duties of the precinct election officers counting ballots in such precincts shall not be complete until it is determined that:

(1) A recheck of the tally marks accurately reflect the total vote credited to each candidate and the total vote credited for and against each proposition;

(2) The total number of votes cast for all candidates for a single position to be filled does not exceed the number of voters who have signed the poll book;

(3) The records of the votes in each tally book are the same.

WAC 434-253-260

Counting and tabulation prior to closing of the polls—
Secrecy of the returns.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-257-030 Standards for accessible polling places. The Americans with Disabilities Act Checklist for Polling Places shall be used when determining the accessibility of a polling place ((is accessible if the standards of the state building code council are met or exceeded)).

If the standards ((cannot be)) are not met, temporary or permanent modifications shall be made to make the polling place accessible. Alternative accommodations may be permitted under RCW 29A.16.020. ((The following survey form may be used to determine if a polling place is accessible and meets or exceeds the standards of the state building code council.)) A poll site is fully accessible if all responses in each category are ((either)) "YES" or "N/A." A poll site is considered accessible but inconvenient if all "NO" responses in each category are only in shaded boxes and all responses in the unshaded boxes are either "YES" or "N/A)."

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 434-253-040 Verification of voter's name.
- WAC 434-253-043 Provisional ballots—When issued.
- WAC 434-253-060 Credit for voting.
- WAC 434-253-180 Recording of spoiled ballots.
- WAC 434-253-190 Disposition of irregularly voted ballots.
- WAC 434-253-210 Preparing voted ballots for transfer.

~~((STRICKEN GRAPHIC))~~

**CATEGORY I:
PARKING**

	YES	NO	N/A
1. Are there off-street parking spaces either permanently or temporarily designated for the people with disabilities?			
2. With regard to off-street parking:			
a. Are such parking spaces at least 96 inches wide with a 60 inch aisle? (One van accessible space 96 inches width with 96 inch aisle.)			
b. Are such parking spaces on level ground (with a slope no greater than a rise of 1 inch in 48 inches)?			
c. Is the parking area firm, stable, smooth and slip resistant?			
d. Are the parking spaces within the shortest possible accessible route of travel?			
e. Is there a curb-cut to connect these parking spaces to an accessible walk or to the building entrance?			
f. Are these parking spaces designated by post-mounted signs bearing the symbol of accessibility?			
3. Is there a relatively level passenger drop-off zone at least 8 feet wide with a curb-cut connecting it to an accessible walk or to the building entrance?			

~~STRICKEN GRAPHIC))~~

PERMANENT

((STRICKEN GRAPHIC))

**CATEGORY II:
WALKWAYS OR PATHWAYS TO THE BUILDING**

YES NO N/A

1. Is the walkway or pathway to the building paved (concrete, asphalt, macadam, etc.)?			
2. Is the walkway or pathway to the building at least 44 inches wide?			
3. Are all curbs along the pathway to the building cut or ramped with at least 44 inch clear width and with slopes of no more than a 1 inch rise in 20 inches?			
4. Are all stairs or steps along the walkway or pathway to the building either ramped (with a slope of no more than a 1 inch rise in 12 feet) or else provided with a suitable alternative means of access?			
5. Do stair steps along the walkway or pathway to the building have nonslip surfaces and handrails?			
6. Is the walkway or pathway to the building entrance: a. Free of protrusions (such as fire hydrants, tree trunks, or other obstacles) which narrow the passage to less than 44 inches? b. Free of any abrupt edges or breaks in the surface where the difference is over 1/2 inch in height (such as where it crosses a driveway, parking lot, or another walkway, etc.)?			

PERMANENT

(STRICKEN GRAPHIC))

((STRICKEN GRAPHIC))

**CATEGORY II:
WALKWAYS OR PATHWAYS TO THE BUILDING (cont'd)**

YES NO N/A

c. Free of any overhanging objects (such as tree branches, signs, etc.) which hang lower than 79 inches?			
d. Free of any slopes or inclines greater than a 1 inch rise to 20 inches?			
e. Free of any grating with openings of over 1/2 inch wide?			
7. Are walkways always well lighted?			
8. Are provisions made to ensure that walkways are free of such hazards as ice, snow, leaves, or other debris on the day of election?			
9. Are there signs which identify the accessible route of travel if that route is different from the primary route of travel to the building?			

(STRICKEN GRAPHIC))

~~((STRICKEN GRAPHIC))~~

**CATEGORY III:
RAMPS AND ELEVATORS ENTERING OR INSIDE THE BUILDING**

YES NO N/A

1. Are building stairs or steps which are over 30 inches high (either at the entrance or between the entrance and the voting area) provided either with a ramp, with an elevator, or with an alternative means of unassisted passage (such as a chair lift or an alternative route of travel)?			
2. With regard to ramps:			
a. Do all ramps have a slope no greater than a rise of 1 inch high for 20 inches of ramp?			
b. Are ramps provided with non-slip surfaces?			
c. For any ramp rising more than 6 inches or longer than 72 inches, is a hand rail provided? (Note: Any ramp with a slope of 1:20 does not need rails.)			
d. Are handrails 34 inches to 38 inches above the ramp surface?			
e. Can handrails be gripped (should be approx. 1 1/2 inch from wall, but are not more than 2 inches)?			
f. Are ramps and landing areas with drop-offs provided with a least a 2 inch curb at the side to prevent slipping off the ramps?			
g. If there is a door at the top of the ramp, is there a level space of at least 5 feet by 5 feet where a wheelchair can rest while the door is opened?			

PERMANENT

~~STRICKEN GRAPHIC))~~

~~((STRICKEN GRAPHIC))~~

**CATEGORY III:
RAMPS AND ELEVATORS ENTERING OR INSIDE THE BUILDING (Con't)**

YES NO N/A

3. With regard to elevators (if elevators are the only accessible route):			
a. Is the elevator cab at least 54 inches by 68 inches wide?			
b. Do elevator doors provide at least 32 inches clear width?			
c. Are elevator controls less than 54 inches high (i.e. can a person in a chair operate the controls)?			
d. Are control panels marked with raised lettering?			
e. Is the elevator in close proximity to the entrance of the building?			

~~STRICKEN GRAPHIC))~~

~~((STRICKEN GRAPHIC~~

**CATEGORY IV:
OTHER ARCHITECTURAL FEATURES**

	YES	NO	N/A
1. With regard to doors along the route of travel:			
a. Do all doors have an opening which clears at least 32 inches wide?			
b. Are all door thresholds less than ½ inch high?			
c. Are all doors equipped with arch or lever-type handles, push plates, or automatic openers (so that twisting a doorknob is not required)?			
d. Where automatic doors are used, does the door remain open at least 3 seconds?			
f. Are glass doors marked with safety seals?			
2. With regard to stairs along the route:			
a. Do stairs have a non-slip surface?			
b. Do stairs have handrails 34 to 38 inches above step level?			
e. Can handrails be gripped?			
c. Do all steps have risers (the little vertical walls at the back of each step)?			
e. Do all steps have tread areas at least 11 inches deep?			
g. Are all steps less than 7 inches in height?			

PERMANENT

~~STRICKEN GRAPHIC))~~

((STRICKEN GRAPHIC _____))

**CATEGORY IV:
OTHER ARCHITECTURAL FEATURES (cont'd)**

YES NO N/A

g. Are stairs well lit?			
h. Are stairs free of obstacles?			
3. With regard to corridors along the route: a. Is the corridor at least 44 inches wide?			
b. Is the corridor free of obstacles or protrusions (such as boxes, water fountains, etc.) which extend more than 4 inches from the wall and higher than 17 inches? If so put a box or planter under obstacle so a person with a visual impairment can identify it with a cane.			
c. Is there sufficient lighting at all points along the route?			
d. Does the corridor have a non-slip surface?			
e. Are all rugs and mats securely fastened? If not try to remove them.			

_____ (STRICKEN GRAPHIC))

((STRICKEN GRAPHIC _____))

**CATEGORY V:
FEATURES WITHIN THE VOTING AREA**

YES NO N/A

1. Are instructions for voting printed in 12 point or larger type in simple language, and plainly displayed? Is Braille or larger print available upon request?			
2. Is there sufficient unobstructed space for the reasonable movement of voters in wheelchairs that still provides privacy?			
3. Can all necessary parts of the voting equipment be reached by a person seated in a chair or, at least, is an alternative means of casting a ballot provided?			
4. Are magnifying devices available for those who request them?			
5. Is there adequate lighting in the voting area?			
6. Is seating available for elderly or handicapped voters awaiting their turn to vote?			

_____ (STRICKEN GRAPHIC))

PERMANENT

((STRICKEN GRAPHIC))

SUMMARY OF ACCESSIBILITY BY CATEGORIES

Please review the responses within each category on the previous pages and indicate below whether each category is:

- **INACCESSIBLE** (If there is a "NO" response in *any* unshaded box in the category.)
- **ACCESSIBLE BUT INCONVENIENT** (If all "NO" responses in the category are only in *shaded* boxes and all the responses in the *unshaded* boxes are either "YES" or "N/A".)
- **FULLY ACCESSIBLE** (If *all* responses in the category are either "YES" or "N/A".)

Category	Inaccessible	Accessible But Inconvenient	Fully Accessible
I. Parking			
II. Walkways or pathways to building			
III. Ramps and elevators entering or inside of the building			
IV. Other architectural features			
V. Voting area			
VI. Other			

PERMANENT

OVERALL DETERMINATION OF POLLING PLACE ACCESSIBILITY

(mark one box only)

- If one or more of the categories above is marked "INACCESSIBLE", then the polling place isINACCESSIBLE
- If no category is marked "INACCESSIBLE", but one or more is marked "ACCESSIBLE BUT INCONVENIENT", then the polling place isACCESSIBLE BUT INCONVENIENT
- If *all* categories above are marked "FULLY ACCESSIBLE", then the polling place isFULLY ACCESSIBLE

DISPOSITION OF INACCESSIBLE POLLING PLACE

- If the polling place is INACCESSIBLE:
- | | | |
|---|--------------------------|--------------------------|
| | Yes | No |
| a. Has an alternative accessible facility been sought? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Are permanent or temporary alterations planned to render the polling place accessible in the coming elections? | <input type="checkbox"/> | <input type="checkbox"/> |

((STRICKEN GRAPHIC))

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-260-020 Definitions. As used in this chapter:

(1) "Election review" means the process of examining all or a part of a county's election policies and procedures and includes the review of any documentation of those procedures;

(2) "Election review staff" means the person or persons employed by the secretary of state for the purpose of conducting election reviews;

(3) "Special election review" means an election review conducted in a county or counties whenever the unofficial returns of a primary or election indicate that a mandatory recount is likely in a race for the state legislature, congress, or statewide office;

(4) "Preliminary review report of findings and recommendations" means that draft report made by the election review staff to the county auditor and which contains any recommendations made by the review staff and a preliminary conclusion regarding the county's election procedures;

(5) "Draft election review report" means that report made by the election review staff to the county auditor and the designated members of the county canvassing board. The auditor and/or county canvassing board ~~((may))~~ **must** respond to the draft election review report in writing ~~((and/or))~~ **and** may appeal the report to the election administration and certification board;

(6) "Final election review report" means that report made by the election review staff which contains a copy of the recommendations made by the review staff, ~~((any))~~ **the** response to those recommendations made by the county auditor or the county canvassing board, and a conclusion written by the staff;

(7) "Special review recommendations" means recommendations made by the review staff to the county auditor and the county canvassing board following the conduct of any special review;

(8) "County auditor designee" is that person designated by the county auditor to participate in the review process, pursuant to the provisions of RCW 29A.04.580. Such a designee must be certified as required by chapter 29A.04 RCW.

(9) "Election administrator" means the person or persons appointed by the county auditor to election management positions as required by RCW 36.22.220 and the state director of elections, assistant directors of elections, certification and training program staff members, and any other secretary of state election division employees designated by the director of elections;

(10) "Assistant election administrator" means any person involved in the administration of elections at the state or county level who has been designated as an assistant election administrator by the state director of elections or the county auditor as applicable;

(11) "County canvassing board members" means those officers designated as such pursuant to the provision of chapter 29A.60 RCW;

(12) "Election observers" means those persons designated by the county political party central committee chair person to observe the counting of ballots and related elections procedures;

(13) "Election administration and certification board" means that board created pursuant to the provisions of RCW 29A.04.510;

(14) "Creditable training hours" means each creditable training hour contemplated in WAC 434-260-230 and shall consist of a minimum of fifty minutes of instructional activity programmed for the purpose of mastering information beneficial to the performance of the duties of administering elections.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-030 Scheduled reviews—Auditor request. Not later than ~~((July))~~ **June 1**, any county auditor may request that the secretary of state designate his or her county for an election review. The secretary of state shall, whenever practical, honor that request.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-260-040 Election reviews—Secretary of state to designate. Not later than ~~((August 1))~~ **June 15** the secretary of state shall notify, in writing, the counties selected for an election review and the chairs of the state committees of any major political party. The notification ~~((may))~~ **shall** include ~~((tentative))~~ **the date**~~((s for))~~ **and time** ~~((conduct of the))~~ **review**~~((s))~~ **is scheduled to begin.** Whenever possible, election reviews shall be conducted on dates that are mutually agreeable to the secretary and to the county auditor, except that those parts of the review process dealing with the actual conduct and canvassing of the election itself must be conducted between election day and the certification of the election returns. In designating counties to be reviewed, the secretary shall take into consideration any complaints filed with his or her office pursuant to the provisions of RCW 29A.04.570 (1)(b).

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-050 Notice of special review. ~~((When ever any election review is to be held in a county, the secretary of state shall provide written notice to the county auditor and to the chairs of the state committees of any major political party of the date and time the review is scheduled to begin. Notice for scheduled reviews shall be provided at least thirty days in advance of the review.))~~ Notice of a special review shall be provided to the county auditor and the political party chairs, by telephone ~~((or))~~ **and** by electronic facsimile transmission, not later than twenty-four hours after the determination has been made to conduct the special review.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-260-140 Draft election review report. As soon as practicable, but in any event not later than thirty days after the issuance of the preliminary report of findings and recommendations, the review staff shall issue a draft of the

election review report to the county auditor and the designated members of the county canvassing board as provided in chapter 29A.60 RCW, and shall include, but not be limited to, the following:

- (1) A narrative description of recommendations made by the review staff;
- (2) Any other information the review staff deems pertinent;
- (3) A preliminary conclusion/evaluation of the county's election procedures.

~~((The draft election review report is exempt from public inspection and copying, as provided by RCW 42.17.310:))~~

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-145 Response to draft election review report. The county auditor and/or county canvassing board ~~((shall have the right to))~~ must respond, in writing, to the draft election review report, listing the steps that will be taken to correct any problems listed in the report. Such response shall be submitted to the review staff not later than ten days following the issuance of the draft election review report.

Nothing in this section shall prevent the review staff from modifying or amending its recommendations, based on the response received from the county auditor or canvassing board. ~~((In the event the review recommendations are modified or amended, only the final recommendations and any response by the county shall be made available for inspection and copying.))~~

Any county auditor or other member of the county canvassing board may appeal the recommendations or the conclusion of any draft election review report to the election administration and certification board. Any appeal must be in writing, must detail specific exceptions made to the draft election review report, and must be filed with the board not later than thirty days following the issuance of the report.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-150 Final election review report. As soon as practicable, but in any event not later than forty-five days after the issuance of the draft election review report, the review staff shall issue a final election review report. The final election review report shall be available for public inspection and copying. The report shall be made to the county canvassing board, and shall include, but not be limited to, the following:

- (1) A narrative description of any general observations by the review staff;
- (2) A narrative description of any recommendations made by the review staff;
- (3) A response by the county auditor or the county canvassing board ~~((, if any))~~;
- (4) A conclusion by the review staff. A copy of the final review report shall be provided to the chairperson of the election administration and certification board and a copy shall also be kept on file by the secretary of state.

NEW SECTION

WAC 434-260-155 County review follow-up. Following the final review report, the secretary of state shall visit the county before the next state primary or general election to verify that the county has taken the steps listed in the response to correct the problems noted in the report. If steps have not been taken, the secretary of state shall send a letter to the county canvassing board listing the areas needing correction. The letter shall be made a part of the county's review report.

AMENDATORY SECTION (Amending WSR 99-12-004, filed 5/19/99, effective 6/19/99)

WAC 434-260-310 Application for initial certification and maintenance of certification. The secretary of state shall ~~((, not later than July 1 of each year, distribute))~~ make available certification application and maintenance forms to the county auditors. The county auditor in each county shall, not later than ~~((December))~~ January 1 of each year, submit an application for certification for each employee for whom certification and maintenance is requested.

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot ~~((upon))~~. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system ~~((to blank ballots of the same type and style, or as directed by the canvassing board))~~. Ballots may be duplicated on blank ballots or by making changes on an electronic facsimile of the ballot. The original ballot may not be altered in any way;

(3) ~~(("Ballot enhancement" is the process of adding or covering marks or punches on an optical scan ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board;~~

(4)) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title. In the case of punch cards, this means all voting response positions are cleanly punched and removed from the card;

~~((5))~~ (4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks or punches, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

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~~((6))~~ (5) "Valid signature" is the ~~(verified)~~ signature of a registered voter eligible to vote in the ~~(primary-or)~~ election as ~~(contained-in)~~ verified against the voter registration files ~~(of the county)~~. On an absentee ballot, a mark with two witnesses (on an absentee ballot, a mail ballot precinct ballot, or a vote by mail ballot shall be considered) is a valid signature.

NEW SECTION

WAC 434-261-050 Unsigned oath or mismatched signatures. If a voter neglects to sign the oath on an absentee or provisional ballot envelope, or the signature on the envelope does not match the signature on the voter registration file, the auditor shall notify the voter by phone, as required by RCW 29A.60.165, if the voter has provided the auditor with a phone number. Leaving a message for the voter is not sufficient. If, at least one week prior to the certification of the election, the county auditor still has not been able to contact the voter by phone, the county auditor shall send a first class letter to the voter. If the ballot is received within one week of certification, the county auditor shall both send a letter and telephone the voter. The voter must sign the oath that appeared on the envelope.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-261-070 Manual inspection of ballots. (1) Upon receiving absentee ballots and upon breaking the seals and opening the ballot containers from the precincts, all voting positions on voted ballots shall be manually inspected on both sides of the ballot ~~((and every voting position for unreadable ballots))~~ to determine whether the ballot will be readable by the vote tabulating system. ~~((The same manual inspection process shall apply to absentee ballots, mail ballot precinct ballots, and vote by mail ballots.))~~ This manual inspection ~~((shall include examining each voter response position, and))~~ is a required part of processing ballots ~~((used with all electronic vote tabulating systems)).~~

(2) The inspection of ballots tabulated at the poll site is not required provided that the poll site ballot programming provisions of RCW 29A.44.340 are ~~((being complied with))~~ in effect.

(3) If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or ~~((that contain))~~ marks or punches that differ from those specified in the voting instructions ~~((contained on or with the ballot)),~~ but the marks clearly form a discernible and consistent pattern on the ballot to the extent that the voter's intent can be clearly determined, the county auditor may either:

- (a) Refer the ballots to the county canvassing board; or
- (b) Duplicate the ballots if authorized by the county canvassing board ~~((as per WAC 434-261-090; or~~
- (c) ~~Enhance the ballots if authorized by the county canvassing board and enhancement can be accomplished without permanently obscuring the original marks or punches of the voters as per WAC 434-261-080 and 434-261-085)).~~

If the voter's intent is not clear, the ballot must be referred to the county canvassing board.

(4) In the case of punch card ballots, if two or more corners or attachment points are detached in a punch position, the vote is valid and the ~~((had must be removed))~~ ballot may be duplicated without ~~((duplication, enhancement, or reference))~~ referral to the county canvassing board. ~~((If less than two corners are detached, then subsection (3) of this section shall apply.))~~

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-261-075 Manual inspection of ballot—Acceptability of marks or punches. (1) If the voter returns voting responses by mail on any form other than the ballot sent, the votes thereon shall be acceptable and tallied provided that:

- (a) Only votes for offices or measures for which the voter is eligible are counted.
- (b) The candidate or measure response position for which the voter is voting can be clearly identified.
- (c) The ballot issued is not returned, or if returned, contains no marks or punches indicating an attempt to vote it.
- (d) A valid signature on an absentee oath is on file with the county auditor.

The votes accepted must then be duplicated to a ballot that can be read by the electronic voting equipment ~~((as prescribed in WAC 434-261-090)).~~

(2) Corrected absentee ballots shall be counted in the following manner:

(a) If a voter follows the instructions for correcting a vote, either the written instructions or other ~~((s))~~ instructions given to the voter by the county auditor, the correction shall be made ~~((and the corrected vote tabulated. The county auditor may enhance or duplicate the ballot))~~ by duplicating the ballot and then tabulating the duplicated ballot.

(b) If a voter appears to have corrected ~~((their))~~ the ballot in a manner other than as instructed, the vote for that candidate or issue shall not be tabulated unless the voter provides written instructions directing how the vote should be counted or has clearly attempted to erase a mark.

(3) ~~((Where))~~ If a voter has indicated a write-in vote on ~~((their))~~ the ballot which duplicates the name of a candidate who already appears on the ballot for the same office, the ballot shall be ~~((enhanced or))~~ duplicated to count one vote for the candidate indicated. Such a vote shall ~~((not be considered an overvote or a write-in vote))~~ be counted pursuant to RCW 29A.60.021.

(4) ~~((An absentee ballot, a mail ballot precinct ballot, and a vote by mail ballot shall not be counted))~~ If a voter signs the oath with a mark and does not have two witnesses attest to the signature, the envelope must be treated as if it were unsigned.

(5) If a ballot contains marks or punches that differ from those specified in the voting instructions, those marks or punches shall not be counted as valid votes unless there is a discernible and consistent pattern, to the extent that the voter's intent can clearly be determined. If there is such a pattern, the ballot shall be ~~((enhanced or))~~ duplicated to reflect the voter's intent.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-100 (~~Written~~) **Ballot duplication procedures.** Written procedures shall be established detailing the situations in which ballots may be (~~enhanced or~~) duplicated. These procedures shall be included as a part of the county canvassing board manual.

NEW SECTION

WAC 434-261-105 Tabulation of ballots to be continuous—Exception. The tabulation of ballots on the day of a primary or election at a polling place or counting center shall proceed without interruption or adjournment until all the ballots cast at the polls at that primary or election have been tabulated except as follows:

(1) Ballots that have been found defective and not capable of being processed by the automated system may, at the discretion of the county auditor, be held over until the working day following the election or primary, duplicated, and the duplicates then tallied no later than the day before the certification of the primary or election;

(2) If the system should become inoperative, the tally may be interrupted until the system is repaired, and if necessary, resumed the day following the election using the repaired system or an alternative method if necessary. If the election or primary includes offices or issues which the secretary of state is required by law to canvass, the auditor shall notify the secretary of state at the time of interruption, its cause and best estimate for resumption, along with the status of the tally, at the first practical opportunity. The public shall be informed of the situation as soon as possible after the interruption if it is evident the tally will not be resumed the same day.

NEW SECTION

WAC 434-261-107 Daily canvassing. Pursuant to RCW 29A.60.160, if a county auditor is in possession of more than twenty-five ballots that have yet to be canvassed, the county auditor in a county with a population of seventy-five thousand people or more must process and canvass the absentee ballots on a daily basis, and the county auditor in a county with a population of less than seventy-five thousand people must process and canvass the absentee ballots at least every third day. Legal holidays, as defined in RCW 1.16.050, and Sundays are exempt. The population of the county is based on the last federal census. For purposes of daily processing, the county auditor must produce a report of cumulative results. If the mail is not delivered to the county auditor's office each day that the county auditor must process ballots, the county auditor must make reasonable efforts to retrieve the mail from the post office.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-261-110 Election results (~~reconciliation~~) anomalies. (~~Immediately following the last ballots counted on election day,)~~ Precinct results, showing overvotes and

undervotes, (~~shall be printed for poll site votes. The results~~) shall be inspected by the county canvassing board, or their designees, for anomalies that may indicate problems with the hardware or programming used to tabulate the votes. Anomalies may include, but are not limited to, an abnormal number of overvotes, undervotes, vote distribution, and voter turnout in any precinct, race, or jurisdiction. This inspection shall be completed within two days of the election.

Additionally, these results shall be used in the reconciliation process required in (~~chapter 434-253~~) WAC 434-253-165 and RCW 29A.60.235.

NEW SECTION

WAC 434-261-120 Referral of ballots to canvassing board. Whenever a precinct election officer in a precinct where ballots are being tabulated, or counting center personnel in a county where ballots are being centrally tabulated, has a question about the validity of a ballot or the votes contained on the ballot that they are unable to resolve, the ballot shall be placed in a special envelope marked "for canvassing board." The following information must be provided on the outside of the envelope:

(1) Identification of the precinct from which the ballot originated;

(2) The facts giving rise to the question of validity including, if applicable, the office or issue on the ballot which is affected by the question;

(3) An identification number by which the envelope containing the ballot may be tracked.

If the question arises at a polling place, the precinct inspector shall annotate the ballot accountability sheet in a manner similar to recording other irregularly voted ballots, shall seal the envelope and transfer it to the elections office in the special envelope for irregularly voted ballots.

If the question arises in the counting center, the counting center supervisor shall record the ballot on an irregularly voted ballot log sheet.

Ballots being held for determination of validity or voter's intent shall be provided the same security as regular voted ballots and shall be kept in a secure area when not being processed. As long as they are in the sealed envelope it is not necessary to seal them in other containers within the counting center provided they are otherwise safeguarded. Once the issue of validity has been determined, the ballots must be tabulated, if applicable, stored, and retained the same as regular voted ballots.

When the determination of validity is made, the disposition of the ballot shall be entered on the envelope and the ballot accountability sheet or the irregularly voted ballot log sheet.

NEW SECTION

WAC 434-261-130 Opening ballot container. Whenever it is determined there is a need to open all containers to conduct a mandatory or requested recount, or when such action is directed by court order, the containers shall be opened and the security of the ballots verified only by those persons designated to do so, in writing, by the canvassing board.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-261-080	Ballot enhancement—Optical scan systems.
WAC 434-261-085	Ballot enhancement—Punch card systems.
WAC 434-261-090	Ballot duplication.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-010 Definitions. As used in these regulations:

(1) "Canvassing" is that process of examining in detail a ballot, groups of ballots, election subtotals, or grand totals, in order to determine the final official returns of a primary, special, or general election, and to safeguard the integrity of the election process.

(2) "County canvassing board" is that body charged by law with the duty of canvassing ((absentee)) ballots, of ruling on the validity of questioned or challenged ballots, of the verifying all unofficial returns as listed in the auditor's abstract of votes, and the producing of the official county canvass report; it shall be composed of the county auditor, prosecuting attorney, and chairman of the board of the county legislative authority, or their designated representatives.

(3) "Auditor's abstract of votes" is that report prepared by the county auditor which lists the number of registered voters, votes cast, all of the vote totals by precinct, or by combination of precincts if applicable, ((and which includes)) absentee ballot totals, legislative district subtotals, if any, and county-wide totals. The auditor's abstract of votes must also include the reconciliation report required by RCW 29A.60.-235(1). Vote totals in the auditor's abstract of votes shall be unofficial until verified and certified by the county canvassing board.

(4) "County canvass report" is the auditor's abstract of votes after verification by the county canvassing board and shall contain a certificate which shall include the oath as specified in RCW 29A.60.200, the original signatures of each member of the county canvassing board, the county seal, and all other material pertinent to the election.

(5) "Certified copy of the county canvass report" is that report transmitted by the county auditor to the secretary of state which contains registered voters and votes cast by precinct, or combination of precincts if applicable, votes cast for and against state measures, and votes cast for candidates for federal and statewide offices and for any office whose jurisdiction encompasses more than one county, absentee ballot totals for those measures and candidates, subtotals if applicable, and county-wide totals. It shall also include a certificate, bearing original signatures and an original county seal, identical to that included in the official county canvass report, and any other material which may be pertinent to the canvass of the election.

NEW SECTION

WAC 434-262-013 Crediting voters. Voters shall be credited for voting after each special, primary and general election.

(1) A voter may not be credited for voting if the ballot was voted after election day, was received after certification of the election, or will otherwise not be counted.

(2) If an election was conducted entirely by mail, the crediting of voters must be completed prior to the certification of the election. If an election was conducted using polling places, the crediting of voters must be completed as soon after the election as possible, and prior to the certification of the election when possible.

(3) The reconciliation of voters credited with ballots counted shall be completed within thirty days following certification of a primary or election. The certification must include, but is not limited to, information indicating that the number of ballots counted equals the number of voters credited. If these numbers do not match, the county auditor must take steps to reconcile the numbers and any discrepancies. If the county auditor cannot reconcile the numbers, documentation of steps taken to reconcile and any other applicable information must be included with the official reconciliation.

(4) Changes to the list of registered voters, such as new registrations, transfers, or cancellations, may not be made following a general election until the crediting reconciliation is complete. Correction of errors is allowed.

(5) The county auditor shall make an electronic or paper copy of the list of registered voters immediately following this reconciliation. Using this data, the county auditor shall also produce validation statistics for each minor taxing district in the county. Once the list is copied and the validation statistics are complete, changes to the data base may be made.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-015 Canvassing board—Delegation of authority. The county auditor, prosecuting attorney, and chair of the county legislative authority, or designees as per chapter 29A.60 RCW, shall be responsible for the performance of all duties of the county canvassing board, as set forth in chapters 29A.40 and 29A.60 RCW, and the rules on canvassing adopted by the secretary of state. These duties shall be performed by the members of the board, or they may delegate in writing representatives to perform these duties. This written delegation of authority shall be filed with the county auditor prior to any person undertaking any action on behalf of the board. In no instance may the members of the county canvassing board delegate the responsibility of certifying the returns of any primary or election, of determining the validity of any challenged ballots, or of ~~((determining the validity of any special ballots referred to them by the county auditor, to anyone other than a person authorized by law to act on their behalf))~~ rejecting ballots. When considering the validity or rejection of ballots, the canvassing board may review the ballots individually, in batches, or as part of a report of ballots presented to the board. In the event the canvassing board determines that the signature on an absentee or provisional ballot was not made by the voter to whom the bal-

lot was issued or that a voter attempted to vote more than once, the board must direct the county auditor to refer the ballot and any relevant material to the county prosecuting attorney.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-020 Preliminary abstract of votes.

Following the election and prior to the official canvass, the county auditor shall prepare a preliminary abstract of votes, listing the number of registered voters and votes cast. The preliminary abstract of votes must ~~((also))~~ list separately ~~((for))~~ votes cast by absentee ballot and ~~((those cast))~~ at the polls, votes cast for and against measures, votes cast for candidates, overvotes and undervotes, by precinct or groups of precincts in the event that precincts have been combined in accordance with RCW 29A.16.060, for canvassing purposes. The county auditor shall inspect the preliminary abstract of votes for errors or anomalies that may affect the results of the election. Correction of any errors or anomalies discovered must be made prior to the official canvass.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-025 Canvassing board—Notice of open public meeting.

All activities of the canvassing board shall be open to the public, although ~~((they))~~ the board may limit the number of persons observing any aspect of the process whenever, in ~~((their))~~ the judgment of the board, it is necessary to do so to preserve order and to safeguard the integrity of the process. The canvassing board may adopt and promulgate rules and regulations, not inconsistent with the provisions of this section, to ensure that the process is open to the public and that the procedures themselves are performed by the board free of any outside interference. The auditor shall publish notice of the meetings of the canvassing board. Such notice or notices shall be in substantially the following form:

OPEN PUBLIC MEETING NOTICE

The canvassing board of (Name of County) County, pursuant to chapter 29A.60 RCW, will hold public meetings at (Time of Meetings), (Dates), at (Locations), to (Purpose of Meetings). These meetings of the canvassing board are open, public meetings, and shall be continued until the activity for which the meetings are held has been completed.

A record of the proceedings of the county canvassing board shall be made and maintained in the county auditor's office, and shall be available for public inspection and copying. The record shall be retained for the same time period required by law for the retention of absentee ballots.

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-262-030 Auditor's abstract of votes.

No later than the tenth day following any primary or special election and the ~~((fifteenth))~~ twenty-first day following any general election the county canvassing board shall meet and can-

vass all ~~((absentee ballots not previously processed under the provisions of chapter 29A.40 RCW, together with all special and challenged))~~ ballots. Upon completion of this canvass, the board shall direct the county auditor to include all ~~((absentee ballot totals and all challenged and special))~~ ballot totals, or legislative or congressional district subtotals if applicable, and the reconciliation report in the preliminary abstract of votes prepared pursuant to WAC 434-262-020. ~~((The county auditor shall then add these totals to the existing precinct totals.))~~ The ensuing report, containing a count of all ballots cast in the election, subtotal reports by legislative district, and county-wide totals shall constitute the auditor's abstract of votes.

NEW SECTION

WAC 434-262-031 Rejection of ballots or parts of ballots. Ballots or parts of ballots shall be rejected by the canvassing board in the following instances:

- (1) Where two ballots are found folded together, or where a voter has voted more than one ballot;
- (2) Where two ballots are contained within a returned mail ballot envelope containing only one valid signature under the affidavit, unless both ballots are voted identically, in which case one ballot will be counted. If there are two valid signatures under the affidavit, both ballots must be counted;
- (3) Where a ballot or parts of a ballot are marked in such a way that it is not possible to determine the voter's intent;
- (4) Where the voter has voted for candidates or issues for whom he or she is not entitled to vote;
- (5) Where the voter has voted for more candidates for an office than are permissible;
- (6) Where the voter has incorrectly attempted to correct a vote on the ballot contrary to the instructions provided pursuant to WAC 434-250-040 unless the voter provides written instructions directing how the vote should be counted.

Additionally, the canvassing board shall reject any ballot cast by a voter not qualified to vote, and shall reject absentee ballots where such rejection is required by law or administrative rule.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-050 Errors or discrepancies discovered during the verification of the auditor's abstract of votes. In the event that the county canvassing board, during the verifications process, discovers that errors exist in the auditor's abstract of votes or that discrepancies exist between that abstract and the manual or adding machine totals for registered voters and votes cast produced pursuant to WAC ~~((434-62-040))~~ 434-262-040, the board shall investigate those errors and discrepancies. They shall be empowered to take whatever corrective steps a majority of the board deems necessary, including changing or modifying the auditor's abstract of votes if the error or discrepancy is discovered in that document. The canvassing board may then proceed to verify votes cast on measures or for candidates if a majority of the board believes that the nature of the errors or discrepancies discovered warrant such further action on their part.

AMENDATORY SECTION (Amending WSR 00-10-010, filed 4/21/00, effective 5/22/00)

WAC 434-262-080 (~~(Auditor's abstract of votes— Secretary of state to receive certified copy—)~~ Transmittal of certified copy of county canvass report to the secretary of state. ~~((No later than the next business day))~~ Immediately following the certification of the returns of any primary, special, or general election ~~((at which votes were cast for or against state measures or for candidates for federal and state-wide office or for state legislative and judicial offices whose jurisdiction encompasses more than one county.))~~ in which state measures, federal or state offices, or legislative or judicial offices whose jurisdiction encompasses more than one county appeared on the ballot, the county auditor must transmit those returns to the secretary of state by fax, e-mail, or other electronic means. No later than the next business day, the county auditor ((shall)) must send a certified copy of that part of the ((auditor's abstract of votes)) county canvass report covering those issues and offices to the secretary of state. ((This copy must be no larger than eleven inches by fourteen inches and have a certificate identical to that accompanying the official county canvass report, bearing the county seal and original signatures of the officers required to sign that document attached or affixed thereto.)) A copy of the written narrative documenting errors and discrepancies discovered and corrective action taken shall accompany the abstract if applicable. Copies of the adding machine tapes used during the verification process need not be sent to the secretary of state.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-090 Receipt of certified copy of ((auditor's abstract of votes)) county canvass report by secretary of state. The secretary of state shall ensure that all material required to be submitted pursuant to state law and these regulations has been included in the certified copy of the ~~((auditor's abstract of votes))~~ county canvass report transmitted to his or her office. In the event the secretary of state determines that the ~~((certified copy of the auditor's abstract of votes))~~ report is incomplete, he or she shall notify the county auditor of that fact and shall request that the missing part ~~((of the abstract))~~ be forwarded immediately. No county's certified copy of the ~~((abstract of votes))~~ county canvass report shall be considered ~~((as))~~ complete for acceptance by the secretary of state until all of the material required by statute and regulation has been received by the secretary of state. In the event the certified copy of the ~~((official abstract))~~ county canvass report is illegible or in improper form, the secretary of state shall return ~~((that abstract))~~ it and require an immediate resubmission of the ~~((abstract))~~ report in proper or legible form.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-262-100 Canvass of returns by the secretary of state—Powers and duties. Upon receipt of a complete certified copy of the ~~((auditor's abstract of votes))~~

county canvass report from a county auditor, the secretary of state shall proceed to include the results from that abstract in the official canvass of the primary, special, or general election ~~((prepared by that office)).~~ This shall be ~~((done))~~ accomplished by adding the certified returns from each ~~((completed))~~ county abstract of votes in order to determine the final results for those offices and issues he or she is required by law to certify. The secretary of state shall accept the certified copy of the official abstract of votes from each county as being full, true, and correct in all respects. The secretary of state may include in the official canvass, a narrative which details or describes any apparent discrepancies discovered during the canvassing procedure, and may notify the county or counties involved of such discrepancies.

AMENDATORY SECTION (Amending WSR 00-10-010, filed 4/21/00, effective 5/22/00)

WAC 434-262-110 Certification of primary returns by the secretary of state. Pursuant to RCW 29A.60.240, upon completion of the canvass of each county's certified copy of the auditor's abstract of votes and no later than the third Tuesday following the primary, the secretary of state shall certify to the appropriate county auditors the returns for all ~~((candidates for))~~ state ballot measures, federal and state-wide offices, ~~((for))~~ and those ~~((state))~~ legislative and judicial offices whose jurisdiction encompasses more than one county ~~((, and the ballot titles for all state measures)).~~ In the event the secretary of state is unable to certify all or part of a primary election by the third Tuesday following that primary because he or she has not received ~~((completed certified copies of the auditor's abstract of votes))~~ a certified copy of a county canvass report from one or more counties, he or she shall certify the state ballot measures and ~~((those))~~ candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the county auditors, those reasons which render him or her unable to certify the entire primary. The certification of the remainder of the primary shall take place when all outstanding certified copies of ~~((official abstracts))~~ county canvass reports have been received and filed.

AMENDATORY SECTION (Amending WSR 00-10-010, filed 4/21/00, effective 5/22/00)

WAC 434-262-120 Certification of general election returns by the secretary of state. Pursuant to RCW 29A.60.250, upon completion of the canvass of each county's certified copy of the auditor's abstract of votes and no later than the thirtieth day following a general election, the secretary of state shall certify to the governor, president of the senate, and speaker of the house of representatives the returns for all ~~((candidates for))~~ state ballot measures, federal and state-wide offices, ~~((for))~~ and those ~~((state))~~ legislative and judicial offices whose jurisdiction encompasses more than one county ~~((, and for all state ballot measures)).~~ In the event the secretary of state is unable to certify all or part of a general election by the thirtieth day following that election because he or she has not received ~~((completed certified copies of the auditor's abstract of votes))~~ a certified copy of a county canvass report from one or more counties, he or she shall certify

((those)) the state ballot measures and candidates for which completed abstracts have been received. The secretary of state shall also set forth, by letter to the governor, president of the senate, and speaker of the house of representatives those reasons which render him or her unable to certify the entire election. The certification of the remainder of the election shall take place when all outstanding ((certified copies of official abstracts)) county canvass reports have been received.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-262-203 Poll-site ballot reconciliation—Central count optical scan and punchcard. Using the poll-site ballot accountability forms, the poll books, and election night precinct results, poll-site ballots shall be reconciled in the following manner:

(1) Reconciliation must begin as soon as practical after the election.

(2) Each precinct's results shall be reconciled with the precinct's ballot accountability form. The number of ballots issued should equal the number of ballots counted plus any ballots not counted. Ballots not counted may include, but not be limited to: Provisional ballots, ballots referred to the canvassing board, ballots to be ((enhanced or)) duplicated, ballots with write-in votes, spoiled ballots.

(3) Any discrepancies must be investigated. At a minimum, the following areas must be checked until the discrepancy is resolved:

- (a) Check the accuracy of the ballot accountability form.
- (b) Recount the signatures in the poll book.
- (c) Check the spoiled ballots.
- (d) Check the provisional ballots.
- (e) Count the ballot stubs.
- (f) Check the poll-site supplies for ballots.
- (g) Manually count the number of ballots.
- (h) Call the poll workers.

(4) All steps to reconcile each precinct shall be documented, including any discrepancies that cannot be resolved. Reconciliation of all precincts shall be completed and presented to the county canvassing board before the election can be certified.

AMENDATORY SECTION (Amending WSR 05-06-035 and 05-08-065, filed 2/25/05, effective 3/28/05)

WAC 434-262-204 Poll-site ballot reconciliation—Precinct count optical scan and direct recording devices. Poll-site ballots shall be reconciled in the following manner:

(1) Compare the total number of votes cast from each counter at the poll-site and the number of signatures in the poll book(s).

(2) The number of ballots issued should equal the number of ballots counted plus any ballots not counted. Ballots not counted may include, but not be limited to: Provisional ballots, ballots referred to the canvassing board, ballots to be ((enhanced or)) duplicated, ballots with write-in votes, any out-sorted ballots, spoiled ballots.

(3) Any discrepancies must be investigated. At a minimum, the following areas must be checked until the discrepancy is resolved:

- (a) Check the accuracy of the ballot accountability form.
- (b) Recount the signatures in the poll book.
- (c) Ballot counter/direct recording device results.
- (d) Check the bins in the ballot counter(s).
- (e) Check the spoiled ballots.
- (f) Check the provisional ballots.
- (g) Count the ballot stubs.
- (h) Check the poll-site supplies for ballots.
- (i) Manually count the number of ballots.
- (j) Call the poll workers.

(4) All steps to reconcile each precinct shall be documented, including any discrepancies that cannot be resolved. Reconciliation of all precincts shall be completed and presented to the county canvassing board before the election may be certified.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-262-005	Authority and purpose.
WAC 434-262-035	Canvassing board—Absentee ballot signature verification.
WAC 434-262-045	Canvassing mail ballots.
WAC 434-262-150	Rejection of ballots or parts of ballots.
WAC 434-262-170	Referral of ballots to canvassing board.
WAC 434-262-180	Tabulation of ballots to be continuous—Exception.
WAC 434-262-190	Canvassing board—Opening ballot container.

**WSR 05-17-153
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)
[Filed August 22, 2005, 4:18 p.m., effective September 22, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending subsection (3)(b), changing the words "eight" to "three." This subsection will now read: "(b) A cylinder correction of plus or minus three diopters or greater."

Citation of Existing Rules Affected by this Order: Amending WAC 388-544-0350.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.510, 74.09.520.

Other Authority: 42 C.F.R. 440.120, 42 C.F.R. 440.225.

PERMANENT

Adopted under notice filed as WSR 05-14-121 on July 1, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 18, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-13-038, filed 6/6/05, effective 7/7/05)

WAC 388-544-0350 Vision care—Covered plastic scratch-resistant eyeglass lenses and services. (1) The medical assistance administration (MAA) covers the following plastic scratch-resistant eyeglass lenses:

- (a) Single vision lenses;
- (b) Round or flat top D-style bifocals;
- (c) Flat top trifocals; and
- (d) Slab-off and prism lenses (including Fresnel lenses).

(2) MAA allows bifocal lenses to be replaced with single vision or trifocal lenses or trifocal lenses to be replaced with bifocal or single vision lenses when all of the following apply:

- (a) A client has attempted to adjust to the bifocals or trifocals for at least sixty days;
- (b) The client is unable to make the adjustment; and
- (c) The bifocal or trifocal lenses being replaced are returned to the provider.

(3) MAA covers high index lenses for clients who require one of the following in at least one eye:

- (a) A spherical refractive correction of plus or minus eight diopters or greater; or
- (b) A cylinder correction of plus or minus ~~(eight)~~ three diopters or greater.

To receive payment, providers must follow the expedited prior authorization process.

(4) MAA covers the tinting of plastic lenses through MAA's contracted lens supplier. The client's medical need must be diagnosed and documented as one or more of the following chronic (expected to last longer than three months) eye conditions causing photophobia:

- (a) Blindness;
- (b) Chronic corneal keratitis;
- (c) Chronic iritis, iridocyclitis;
- (d) Diabetic retinopathy;
- (e) Fixed pupil;

- (f) Glare from cataracts;
- (g) Macular degeneration;
- (h) Migraine disorder;
- (i) Ocular albinism;
- (j) Optic atrophy and/or optic neuritis;
- (k) Rare photo-induced epilepsy conditions; or
- (l) Retinitis pigmentosa.

(5) MAA covers plastic photochromatic lenses when the client's medical need is diagnosed as relating to ocular albinism or retinitis pigmentosa.

(6) MAA covers polycarbonate lenses as follows:

(a) For clients who are blind in one eye and need protection for the other eye, regardless of whether a vision correction is required;

(b) Infants and toddlers with motor ataxia;

(c) For clients twenty years of age or younger who are diagnosed with strabismus or amblyopia; or

(d) For clients with developmental disabilities.

(7) MAA covers requests for lenses only when the client owns frames not purchased by MAA, when:

(a) The eyeglass frames are serviceable (MAA and MAA's contractor do not accept responsibility for these frames); and

(b) The size and style of the required lenses meet MAA's contract requirements.

(8) MAA covers replacement lenses as follows:

(a) Due to lost or broken lenses according to WAC 388-544-0300(6); and

(b) Due to refractive changes, without regard to time limits, when caused by one of the following:

(i) Eye surgery, the effects of prescribed medication, or one or more diseases affecting vision. In this case, all of the following must be documented in the client's file:

(A) The client has a stable visual condition;

(B) The client's treatment is stabilized;

(C) The lens correction must have a 1.0 or greater diopter change between the sphere or cylinder correction in at least one eye; and

(D) The previous and new refraction.

(ii) Headaches, blurred vision, or difficulty with school or work. In this case, all of the following must be documented in the client's file:

(A) Copy of current prescription (less than eighteen months old);

(B) Date of last dispensing, if known;

(C) Absence of a medical condition that is known to cause temporary visual acuity changes (e.g., diabetes, pregnancy, etc.); and

(D) A refractive change of at least .75 diopter or greater between the sphere or cylinder correction in at least one eye.

(c) To receive payment for replacement lenses, providers must follow the expedited prior authorization process.

WSR 05-17-154
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 22, 2005, 4:19 p.m., effective September 22, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 388-865-0335 and 388-865-0340 to repeal provisions that allow consumer disenrollment from a regional support network in accordance with the federal waiver of provisions at Section 1915(b) of the Social Security Act as approved by the Centers for Medicare and Medicaid Services.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0340; and amending WAC 388-865-0335.

Statutory Authority for Adoption: RCW 71.24.035.

Adopted under notice filed as WSR 05-08-122 on April 5, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 1; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 1.

Date Adopted: August 17, 2005.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0335 Consumer enrollment. (1) DSHS enrolls a Medicaid recipient in a mental health prepaid inpatient health plan when the person resides in the contracted service area of the prepaid inpatient health plan. The assigned prepaid inpatient health plan is responsible to provide outpatient medically necessary state Medicaid plan approved services to Medicaid service recipients in the contracted service area and to assure inpatient medically necessary state Medicaid plan approved services are received;

(2) An enrolled Medicaid (~~(consumer)~~) service recipient who requests or receives medically necessary nonemergency community mental health rehabilitation services (~~(requests and receives)~~) may request and receive such service from the assigned mental health prepaid inpatient health plan through authorized providers only;

(3) An enrolled Medicaid (~~(consumer does not need to request disenrollment from the mental health division)~~) service recipient is automatically transferred from the assigned

prepaid inpatient health plan when the recipient moves from the contracted service area of one mental health prepaid inpatient health plan to the contracted service area of another;

(4) Services to Medicaid recipients may be provided through alternative means if currently contracted authorized providers are not able to provide those services when:

(a) The services are state Medicaid plan approved services and are medically necessary for the Medicaid service recipient; and

(b) Services are or should be available to other Medicaid service recipients in the local mental health prepaid inpatient health plan; and

(c) The Medicaid service recipient has made reasonable attempts to utilize services through authorized providers; or

(d) The Medicaid service recipient has received a choice of providers and has made an informed decision to request medically necessary services through a provider outside the prepaid inpatient health plan provider network that has cultural or linguistic expertise or both needed to meet medical necessity that are not sufficient within the provider network; or

(e) The Medicaid service recipient has utilized the prepaid inpatient health plan grievance or appeal process and the state administrative hearing process, and a decision has been made in favor of the Medicaid service recipient that Medicaid plan approved services continue to be medically necessary.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-865-0340 Consumer disenrollment.

WSR 05-17-155
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed August 22, 2005, 4:20 p.m., effective October 1, 2005]

Effective Date of Rule: October 1, 2005.

Purpose: Amending WAC 388-492-0070 How are my WASHCAP food benefits calculated?, to clarify what information the department uses to calculate shelter cost standard deductions in WASHCAP. Also, the amendments indicate that the net income calculation is derived using a rounding method versus exact figures, consistent with the Basic Food program net income calculation.

Further amendments implement federal rules that require the department to adjust the shelter deduction standards for food benefits every year based on the consumer price index (CPI); this is also specifically reflected in the WASHCAP state plan waivers.

Citation of Existing Rules Affected by this Order: Amending WAC 388-492-0070.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 05-14-098 on June 30, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 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.

Date Adopted: August 12, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-08-008, filed 3/25/05, effective 4/25/05)

WAC 388-492-0070 How are my WASHCAP food benefits calculated? We calculate your food benefits as follows:

- (1) We begin with your gross income.
- (2) We subtract one hundred thirty-four dollars from your gross income to get your countable income.
- (3) We figure your shelter cost (~~(as follows)~~) based on information we receive from Social Security Administration (SSA), unless you report a change as described under WAC 388-492-0080. If you pay:

(a) (~~(If SSA tells us you pay)~~) Three hundred ((~~nineteen~~) ~~twenty-nine~~) dollars or more a month for shelter, we use three hundred (~~(~~twenty-nine~~)~~) forty dollars as your shelter cost; or

(b) (~~(If SSA tells us you pay)~~) Less than three hundred ((~~nineteen~~) ~~twenty-nine~~) dollars for shelter, we use one hundred (~~(~~fifty-nine~~)~~) sixty-four dollars as your shelter cost; and

(c) We add the current limited utility allowance under WAC 388-450-0195 to determine your total shelter cost.

(4) We figure your shelter deduction by subtracting one half of your countable income from your shelter cost.

(5) We figure your net income by subtracting your shelter deduction from your countable income and rounding the resulting figure up from fifty cents and down from forty-nine cents to the nearest whole dollar.

(6) We figure your WASHCAP food benefits (allotment) by:

(a) Multiplying your net income by thirty percent and rounding up to the next whole dollar; and

(b) Subtracting the result from the maximum allotment under WAC 388-478-0060.

(c) If you are eligible for WASHCAP, you will get at least ten dollars in food benefits each month.

WSR 05-17-156
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 22, 2005, 4:22 p.m., effective September 22, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To add new WAC 388-865-0107 and 388-865-0453 and to amend WAC 388-865-0150, 388-865-0230, and 388-865-0400 as appropriate to include provisions to adopt and implement the requirements for the consumer peer support services modality as defined in the Medicaid state plan.

Citation of Existing Rules Affected by this Order: Amending WAC 388-865-0150, 388-865-0230, and 388-865-0400.

Statutory Authority for Adoption: RCW 71.24.035 (5)(c), 71.24.037.

Adopted under notice filed as WSR 05-08-123 on April 5, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 2, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 3, Repealed 0.

Date Adopted: August 17, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-865-0107 Peer counselor certification. The mental health division certifies consumers to provide peer support services. (1) In order to be certified as a peer counselor, all applicants must meet the following requirements:

(a) Be a self-identified consumer of mental health services, as defined;

(b) Maintain registration as a counselor under chapter 18.19 RCW;

(c) Complete specialized training provided or contracted by the mental health division; and

(d) Successfully pass an examination administered by the mental health division or an authorized contractor.

(2) The training requirement specified in (2)(c) of this subsection is waived for consumers who were trained prior to October 1, 2004 by trainers approved by the mental health division, provided that all of the other requirements are met by January 31, 2005.

(3) A consumer whose request for certification is denied has the right to contest this decision by submitting a written

request to the mental health division within twenty-eight calendar days of the date of notification:

(a) The request should include the consumer's name, address, and telephone number and a brief explanation of the issue and resolution being requested;

(b) The consumer also has the right to use the state administrative hearing process as described in chapter 388-02 WAC;

(c) A consumer who completes the administrative hearing process may request reconsideration in accordance with chapter 388-02 WAC but does not have recourse to review by the DSHS board of appeals.

AMENDATORY SECTION (Amending WSR 03-24-030, filed 11/24/03, effective 12/25/03)

WAC 388-865-0150 Definitions. "Adult" means a person on or after their eighteenth birthday. For persons eligible for the Medicaid program, adult means a person on or after his/her twenty-first birthday.

"Certified peer counselor" is defined as a consumer of mental health services who has met the registration, experience, and training requirements, has satisfactorily passed the examination, and has been issued a certificate by the mental health division as specified in WAC 388-865-0107.

"Child" means a person who has not reached his/her eighteenth birthday. For persons eligible for the Medicaid program, child means a person who has not reached his/her twenty-first birthday.

"Clinical services" means those direct age and culturally appropriate consumer services which either:

- (1) Assess a consumer's condition, abilities or problems;
- (2) Provide therapeutic interventions which are designed to ameliorate psychiatric symptoms and improve a consumer's functioning.

"Consumer" means a person who has applied for, is eligible for or who has received mental health services. For a child, under the age of thirteen, or for a child age thirteen or older whose parents or legal guardians are involved in the treatment plan, the definition of consumer includes parents or legal guardians.

"Consultation" means the clinical review and development of recommendations regarding the job responsibilities, activities, or decisions of, clinical staff, contracted employees, volunteers, or students by persons with appropriate knowledge and experience to make recommendations.

"Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency and enable that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally unique needs.

"Ethnic minority" or **"racial/ethnic groups"** means, for the purposes of this chapter, any of the following general population groups:

- (1) African American;

(2) An American Indian or Alaskan native, which includes:

(a) A person who is a member or considered to be a member in a federally recognized tribe;

(b) A person determined eligible to be found Indian by the secretary of interior, and

(c) An Eskimo, Aleut, or other Alaskan native.

(d) A Canadian Indian, meaning a person of a treaty tribe, Metis community, or nonstatus Indian community from Canada.

(e) An unenrolled Indian meaning a person considered Indian by a federally or nonfederally recognized Indian tribe or off reservation Indian/Alaskan native community organization.

(3) Asian/Pacific Islander; or

(4) Hispanic.

"Medical necessity" or **"medically necessary"** - A term for describing a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause or physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this chapter "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Mental health division" means the mental health division of the Washington state department of social and health services (DSHS). DSHS has designated the mental health division as the state mental health authority to administer the state and Medicaid funded mental health program authorized by chapters 71.05, 71.24, and 71.34 RCW.

"Mental health professional" means:

(1) A psychiatrist, psychologist, psychiatric nurse or social worker as defined in chapters 71.05 and 71.34 RCW;

(2) A person with a masters degree or further advanced degree in counseling or one of the social sciences from an accredited college or university. Such person shall have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the supervision of a mental health professional;

(3) A person who meets the waiver criteria of RCW 71.24.260, which was granted prior to 1986((-));

(4) A person who had an approved waiver to perform the duties of a mental health profession that was requested by the regional support network and granted by the mental health division prior to July 1, 2001; or

(5) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the mental health division consistent with WAC 388-865-265.

"Mental health specialist" means:

(1) A **"child mental health specialist"** is defined as a mental health professional with the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development

and the treatment of children and youth with serious emotional disturbance and their families; and

(b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and youth and their families under the supervision of a child mental health specialist.

(2) A "**geriatric mental health specialist**" is defined as a mental health professional who has the following education and experience:

(a) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the mental health problems and treatment of persons sixty years of age or older; and

(b) The equivalent of one year of full-time experience in the treatment of persons sixty years of age or older, under the supervision of a geriatric mental health specialist.

(3) An "**ethnic minority mental health specialist**" is defined as a mental health professional who has demonstrated cultural competence attained through major commitment, ongoing training, experience and/or specialization in serving ethnic minorities, including evidence of one year of service specializing in serving the ethnic minority group under the supervision of an ethnic minority mental health specialist; and

(a) Evidence of support from the ethnic minority community attesting to the person's commitment to that community; or

(b) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to ethnic minority issues and treatment of ethnic minority consumers.

(4) A "**disability mental health specialist**" is defined as a mental health professional with special expertise in working with an identified disability group. For purposes of this chapter only, "**disabled**" means an individual with a disability other than a mental illness, including a developmental disability, serious physical handicap, or sensory impairment.

(a) If the consumer is deaf, the specialist must be a mental health professional with:

(i) Knowledge about the deaf culture and psychosocial problems faced by people who are deaf; and

(ii) Ability to communicate fluently in the preferred language system of the consumer.

(b) The specialist for consumers with developmental disabilities must be a mental health professional who:

(i) Has at least one year's experience working with people with developmental disabilities; or

(ii) Is a developmental disabilities professional as defined in RCW 71.05.020.

"**Older person**" means an adult who is sixty years of age or older.

"**Service recipient**" means for the purposes of a mental health prepaid health plan, a consumer eligible for the Title XIX Medicaid program.

"**Substantial hardship**" means that a consumer will not be billed for emergency involuntary treatment if he or she meets the eligibility standards of the psychiatric indigent inpatient program that is administered by the DSHS economic services administration.

"**Supervision**" means monitoring of the administrative, clinical, or clerical work performance of staff, students, vol-

unteers, or contracted employees by persons with the authority to give direction and require change.

"**Underserved**" means consumers who are:

- (1) Minorities;
- (2) Children;
- (3) Older adults;
- (4) Disabled; or
- (5) Low-income persons.

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 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0230 Community support services. The regional support network must develop and coordinate age and culturally competent community support services that are consistent with chapters 71.24, 71.05, and 71.34 RCW:

(1) Provide the following services directly, or contract with sufficient numbers and variety of licensed and/or certified service providers to ensure that persons eligible for regional support network services have access to at least the following services:

(a) Emergency crisis intervention services;

(b) Case management services;

(c) Psychiatric treatment including medication supervision;

(d) Counseling and psychotherapy services;

(e) Day treatment services as defined in RCW 71.24.300(5) and 71.24.035(7); ~~(and)~~

(f) Consumer employment services as defined in RCW 71.24.035 (5)(e); and

(g) Peer support services.

(2) Conduct prescreening determinations for providing community support services for persons with mental illness who are being considered for placement in nursing homes (RCW 71.24.025(7) and 71.24.025(9)); and

(3) Complete screening for persons with mental illness who are being considered for admission to residential services funded by the regional support network (RCW 71.24.-025 and 71.24.025(9)).

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0400 Community support service providers. The mental health division licenses and certifies community support service providers. To gain and maintain licensure or certification, a provider must meet applicable local, state and federal statutes and regulations as well as the requirements of WAC 388-865-400 through 388-865-450 as applicable to services offered. The license or certificate lists service components the provider is authorized to provide to publicly funded consumers and must be prominently posted in the provider reception area. In addition, the provider must meet minimum standards of the specific service components for which licensure is being sought:

(1) Emergency crisis intervention services;

(2) Case management services;

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- (3) Psychiatric treatment, including medication supervision;
- (4) Counseling and psychotherapy services;
- (5) Day treatment services; ~~(and/or)~~
- (6) Consumer employment services; and/or
- (7) Peer support services.

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

NEW SECTION

WAC 388-865-0453 Peer support services (1) Peer support services are a wide range of scheduled activities to assist consumers in exercising control over their own lives and recovery process (e.g., promoting socialization, self advocacy, developing natural supports and maintenance of community living skills). Peer support services may include but are not limited to self-help support groups, telephone support lines, drop-in centers, and sharing of the peer counselor's own life experiences. Services must be limited to four hours per day per consumer.

(2) The community support service provider that is licensed to provide peer support services must assure that all general minimum standards for community support services are met.

(3) Services must be provided by a peer counselor who has been certified consistent with WAC 388-865-0107 and who discloses him/herself to be a consumer of mental health services.

(4) Services must be documented in the clinical record at least monthly, including objective progress toward goals established in the individual service plan.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: 42 U.S.C. 9902(2).

Adopted under notice filed as WSR 05-14-122 on July 1, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: August 18, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-15-092, filed 7/16/04, effective 8/16/04)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) The department bases the income standard upon the Federal Poverty Level (FPL) for the following medical programs:

- (a) Pregnant women's program up to one hundred eighty-five percent of FPL;
- (b) Children's categorically needy program up to two hundred percent of FPL;
- (c) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and
- (d) The state children's health insurance program (SCHIP) is over two hundred percent of FPL but not over two hundred fifty percent of FPL.

(2) The department uses the FPL income standards to determine:

- (a) The mandatory or optional Medicaid status of an individual; and
 - (b) Premium amount, if any, for a Medicaid child.
- (3) There are no resource limits for the programs under this section.

(4) Beginning April 1, ~~((2004))~~ 2005, the monthly FPL standards are:

FAMILY SIZE	100% FPL Benchmark	133% FPL	150% FPL	185% FPL	200% FPL	220% FPL	250% FPL
1	\$((776)) <u>798</u>	\$((1032)) <u>1061</u>	\$((1164)) <u>1197</u>	\$((1436)) <u>1476</u>	\$((1552)) <u>1595</u>	\$((1707)) <u>1755</u>	\$((1940)) <u>1994</u>
2	\$((1041)) <u>1070</u>	\$((1385)) <u>1422</u>	\$((1562)) <u>1604</u>	\$((1926)) <u>1978</u>	\$((2082)) <u>2139</u>	\$((2290)) <u>2353</u>	\$((2603)) <u>2673</u>
3	\$((1306)) <u>1341</u>	\$((1737)) <u>1784</u>	\$((1953)) <u>2012</u>	\$((2416)) <u>2481</u>	\$((2612)) <u>2682</u>	\$((2873)) <u>2950</u>	\$((3265)) <u>3353</u>

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FAMILY SIZE	100% FPL Benchmark	133% FPL	150% FPL	185% FPL	200% FPL	220% FPL	250% FPL
4	\$((1571)) <u>1613</u>	\$((2090)) <u>2145</u>	\$((2357)) <u>2419</u>	\$((2907)) <u>2984</u>	\$((3142)) <u>3225</u>	\$((3456)) <u>3548</u>	\$((3928)) <u>4032</u>
5	\$((1836)) <u>1885</u>	\$((2442)) <u>2506</u>	\$((2754)) <u>2827</u>	\$((3397)) <u>3486</u>	\$((3672)) <u>3769</u>	\$((4039)) <u>4146</u>	\$((4590)) <u>4711</u>
6	\$((2101)) <u>2156</u>	\$((2795)) <u>2868</u>	\$((3152)) <u>3234</u>	\$((3887)) <u>3989</u>	\$((4202)) <u>4312</u>	\$((4622)) <u>4743</u>	\$((5253)) <u>5390</u>
7	\$((2366)) <u>2428</u>	\$((3147)) <u>3229</u>	\$((3549)) <u>3642</u>	\$((4377)) <u>4491</u>	\$((4732)) <u>4855</u>	\$((5205)) <u>5341</u>	\$((5915)) <u>6069</u>
8	\$((2631)) <u>2700</u>	\$((3499)) <u>3590</u>	\$((3947)) <u>4049</u>	\$((4868)) <u>4994</u>	\$((5262)) <u>5399</u>	\$((5788)) <u>5939</u>	\$((6578)) <u>6748</u>
9	\$((2896)) <u>2971</u>	\$((3852)) <u>3952</u>	\$((4344)) <u>4457</u>	\$((5358)) <u>5497</u>	\$((5792)) <u>5942</u>	\$((6371)) <u>6536</u>	\$((7240)) <u>7428</u>
10	\$((3161)) <u>3243</u>	\$((4204)) <u>4313</u>	\$((4742)) <u>4864</u>	\$((5848)) <u>5999</u>	\$((6322)) <u>6485</u>	\$((6954)) <u>7134</u>	\$((7903)) <u>8107</u>
Add to the ten person standard for each person over ten:							
	\$((265)) <u>272</u>	\$((353)) <u>362</u>	\$((398)) <u>408</u>	\$((491)) <u>503</u>	\$((530)) <u>544</u>	\$((583)) <u>598</u>	\$((663)) <u>680</u>

AMENDATORY SECTION (Amending WSR 04-17-076, filed 8/13/04, effective 9/13/04)

WAC 388-478-0085 Medicare savings programs—Monthly income and countable resources standards. (1) The qualified Medicare beneficiary (QMB) program income standard is up to one hundred percent of the Federal Poverty Level (FPL). Beginning April 1, ((2004)) 2005, the QMB program's income standards are:

(a) One person	\$((776)) <u>798</u>
(b) Two persons	\$((1041)) <u>1070</u>

(2) The special low-income Medicare beneficiary (SLMB) program income standard is over one hundred percent of FPL, but not more than one hundred twenty percent of FPL. Beginning April 1, ((2004)) 2005, the SLMB program's income standards are:

	Minimum	Maximum
(a) One person	\$((776.01)) <u>798.01</u>	\$((931)) <u>957</u>
(b) Two persons	\$((1041.01)) <u>1070.01</u>	\$((1249)) <u>1283</u>

(3) The qualified individual (QI-1) program income standard is over one hundred twenty percent of FPL, but not more than one hundred thirty-five percent of FPL. Beginning April 1, ((2004)) 2005, the QI-1 program's income standards are:

	Minimum	Maximum
(a) One person	\$((931.01)) <u>957.01</u>	\$((1048)) <u>1077</u>

	Minimum	Maximum
(b) Two persons	\$((1249.01)) <u>1283.01</u>	\$((1406)) <u>1444</u>

(4) The qualified disabled working individual (QDWI) program income standard is two hundred percent of FPL. Beginning April 1, ((2004)) 2005, the QDWI program's income standards are:

(a) One person	\$((1552)) <u>1595</u>
(b) Two persons	\$((2082)) <u>2139</u>

(5) The resource standard for the Medicare savings programs in this section is:

(a) One person	\$4000
(b) Two persons	\$6000

WSR 05-17-158

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 22, 2005, 4:25 p.m., effective September 22, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the rule is to correct name and address changes, correct outdated rule and statute references, consolidate all definitions into one section and repeal obsolete sections. It also amends the currently adopted rule to be consistent with chapter 70.128 RCW and recent amendments to this statute (HB 2444, chapter 223, Laws of 2002; and SB

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5733, chapter 140, Laws of 2004) and other rules, and consolidates information for ease of reading.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-76-59020, 388-76-64005, 388-76-9970, 388-76-9972, 388-76-9974, 388-76-9976, 388-76-9978 and 388-76-9990; and amending WAC 388-76-540, 388-76-560, 388-76-575, 388-76-585, 388-76-595, 388-76-655, 388-76-685, and 388-76-715.

Statutory Authority for Adoption: RCW 70.128.040.

Adopted under notice filed as WSR 05-13-126 on June 20, 2005.

Changes Other than Editing from Proposed to Adopted Version: Deleted a repealed WAC reference in WAC 388-76-540 Definitions, under the definition of "Personal care services."

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 8, Repealed 8.

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 8, Repealed 8.

Date Adopted: August 18, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 05-18 issue of the Register.

WSR 05-17-168
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 23, 2005, 11:03 a.m., effective January 1, 2006]

Effective Date of Rule: January 1, 2006.

Purpose: Ethylene oxide, chapter 296-62 WAC, General occupational health standards; chapter 296-855 WAC, Ethylene oxide; and chapter 296-841 WAC, Respiratory hazards; the department has rewritten and clarified requirements relating to ethylene oxide. The department has amended the rule in chapter 296-62 WAC to only apply to agriculture and adopted ethylene oxide as a new chapter for all other industries, chapter 296-855 WAC. This rule making was part of our goal to rewrite all of WISHA's general occupational safety and health rules for clarity. The department has eliminated unnecessary requirements and outdated terminology.

Citation of Existing Rules Affected by this Order: Amending WAC 296-62-07355 Ethylene oxide and 296-841-100 Scope.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 05-10-076 on May 3, 2005.

Changes Other than Editing from Proposed to Adopted Version:

WAC 296-855-100 Scope.

- Changed the reference in step three to reflect the correct number. Step three now reads: "You need only follow Exposure Records, WAC 296-855-20080."
- Clarified the language in Table 1, Sections That Apply to Your Workplace. The third row now reads "Employee exposure monitoring results are above the AL and below the STEL."

WAC 296-855-20020 Exposure control areas.

- Clarified the language in this section. The fourth primary bullet now reads: "Make sure employees entering exposure control areas have appropriate respirators available for use."

WAC 296-855-20050 Employee protective measures.

- Deleted the language in this section.
- Changed the heading of this section to "Exposure evaluations."
- Moved the language from WAC 296-855-20060 into this section.
- Changed the reference number for exposure records in the first note, it now reads: "You can use Steps three through six of this process to create a written description of the procedure used for obtaining representative employee exposure monitoring results, which is a requirement in Exposure records, WAC 296-855-20080 in this chapter."

WAC 296-855-20060 Exposure evaluations.

- Moved the language from this section into WAC 296-855-20050.
- Changed the heading of this section to "Notification."
- Moved the language from WAC 296-855-20070 into this section.

WAC 296-855-20070 Notification.

- Moved the language from this section into WAC 296-855-20060.
- Changed the heading of this section to "Exposure records."
- Moved the language from WAC 296-855-20080 into this section.

WAC 296-855-20080 Exposure records.

- Added language under the first primary bullet for clarity. It now reads: "The operation being monitored for employee exposure to EtO."
- Moved the language from this section into WAC 296-855-20070.
- Changed the heading of this section to "Documentation records."
- Added language to this section for clarity, it reads:

"You must:

- Keep documentation you develop, of the processing, use, or handling of products made from or containing EtO that conclusively demonstrates that the action level or STEL for EtO cannot be exceeded under any foreseeable conditions of use.
- Include the following in the documentation record:
 - The product that is the subject of the documentation;
 - The source of the data;
 - Any testing protocol, results of testing, and/or analysis of the product for the release of EtO;
 - A description of the operation where the product is used and how the data support your conclusion; and
 - Other data relevant to the operations, materials, processing, or employee exposures covered by your conclusion.
- Maintain the documentation record for as long as you rely on your conclusion that the action level and STEL cannot be exceeded."

other industries relating to ethylene oxide have been moved to chapter 296-855 WAC, Ethylene oxide.

(1) WAC 296-62-07355 through 296-62-07389 applies to all occupational exposures to ethylene oxide (EtO), Chemical Abstracts Service Registry No. 75-21-8, except as provided in subsection (2) of this section.

(2) WAC 296-62-07355 through 296-62-07389 does not apply to the processing, use, or handling of products containing EtO where objective data are reasonably relied upon that demonstrate that the product is not capable of releasing EtO in airborne concentrations at or above the action level, and may not reasonably be foreseen to release EtO in excess of the excursion limit, under the expected conditions of processing, use, or handling that will cause the greatest possible release.

(3) Where products containing EtO are exempted under subsection (2) of this section, the employer shall maintain records of the objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in WAC 296-62-07375(1).

AMENDATORY SECTION (Amending WSR 04-18-079, filed 8/31/04, effective 11/1/04)

WAC 296-841-100 Scope. This chapter applies only if your employees:

- Are exposed to a respiratory hazard

OR

- Could be exposed to one of the specific hazards listed below.

This chapter applies to any workplace with potential or actual employee exposure to respiratory hazards. It requires you to protect employees from respiratory hazards by applying this protection strategy:

- Evaluate employee exposures to determine if controls are needed
- Use feasible controls. For example, enclose or confine the operation, use ventilation systems, or substitute with less toxic material
- Use respirators if controls are not feasible or if they cannot completely remove the hazard.

Definition:**Exposed or exposure:**

The contact an employee has with a toxic substance, harmful physical agent or oxygen deficient condition, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur through various routes of entry, such as inhalation, ingestion, skin contact, or skin absorption.

- Note:**
- Examples of substances that may be respiratory hazards when airborne include:
 - Chemicals listed in Table 3
 - Any substance
 - Listed in the latest edition of the NIOSH Registry of Toxic Effects of Chemical Substances
 - For which positive evidence of an acute or chronic health hazard exists through tests conducted by, or known to, the employer
 - That may pose a hazard to human health as stated on a material safety data sheet kept by, or known to, the employer
 - Atmospheres considered oxygen deficient

WAC 296-855-20090 Training.

- Added language under the third primary bullet for clarity. It now reads: "The location and availability of this chapter."

WAC 296-855-30030 Medical evaluations.

- Changed the number of business days in step four from twenty to five to reflect the correct amount of days.

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 19, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 19, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 19, Amended 2, Repealed 0.

Date Adopted: August 23, 2005.

Gary Weeks
Director

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-07355 Ethylene oxide. Scope and application.

Note: The requirements in WAC 296-62-07355 through 296-62-07386 apply only to agriculture. The requirements for all

- Biological agents such as harmful bacteria, viruses or fungi
 - Examples include airborne TB aerosols and anthrax
 - Pesticides with a label requirement for respirator use
 - Chemicals used as crowd control agents such as pepper spray
 - Chemicals present at clandestine drug labs.
 - These substances can be airborne as dusts, fibers, fogs, fumes, mists, gases, smoke, sprays, vapors, or aerosols.
- Reference:**
- Substances in Table 3 that are marked with an X in the "skin" column may require personal protective equipment (PPE). See WAC 296-800-160, Personal protective equipment, for additional information and requirements.
 - If any of the following hazards are present in your workplace, you will need both this chapter and any of the following specific rules that apply:

Hazard	Rule that applies
Acrylonitrile	WAC 296-62-07336
Arsenic (inorganic)	WAC 296-62-07347
Asbestos	WAC 296-62-077
Benzene	<u>Chapter 296-849</u> WAC ((296-62-07523))
Butadiene	WAC 296-62-07460
Cadmium	WAC 296-62-074 through 296-62-07449 or 296-155-174
Carcinogens	Chapter 296-62 WAC, Part F
Coke ovens	Chapter 296-62 WAC, Part O
Cotton dust	Chapter 296-62 WAC, Part N
1, 2-Dibromo-3-chloropropane	WAC 296-62-07342
Ethylene oxide	<u>Chapter 296-855</u> WAC ((296-62-07355))
Formaldehyde	WAC 296-62-07540
Lead	WAC 296-62-07521 or 296-155-176
Methylene chloride	WAC 296-62-07470
Methylenedianiline	WAC 296-62-076 or 296-155-173
Thiram	WAC 296-62-07519
Vinyl chloride	WAC 296-62-07329

Chapter 296-855 WAC

ETHYLENE OXIDE

NEW SECTION

WAC 296-855-100 Scope. This chapter applies to all occupational exposure to ethylene oxide.

Definition:

- *Ethylene oxide* (EtO) is an organic chemical represented by the Chemical Abstract Service (CAS) registry number 75-21-8. It is a flammable colorless gas that is commonly used to sterilize medical equipment and as a fumigant for certain agricultural products. It is also used as an intermediary in the production of various chemicals such as ethylene glycol, automotive antifreeze, and polyethylene.

- *Exposure* is the contact an employee has with EtO, whether or not protection is provided by respirators or other

personal protective equipment (PPE). Exposure can occur through various routes of entry such as inhalation, ingestion, or skin and eye contact.

Some of the requirements in this chapter may not apply to every workplace with an occupational exposure to EtO. The following steps will show which requirements apply to your workplace based on employee exposure monitoring results.

Step one: Follow requirements in the basic rules section, WAC 296-855-20010 through 296-855-20090.

Step two: Use employee exposure monitoring results from the exposure evaluations required by, Exposure evaluations, WAC 296-855-20050, and follow Table 1 to find out which additional sections of this chapter apply to your workplace.

Step three: You need only follow Exposure records, WAC 296-855-20070 and Medical records, WAC 296-855-30080 if you have documentation conclusively demonstrating that employee exposure for ethylene oxide and the operation where it's used, cannot exceed the AL or STEL during any conditions reasonably anticipated.

- Such documentation can be based on observations, data, calculations, and previous air monitoring results.

Table 1
Sections That Apply to Your Workplace

If:	Then continue to follow the basic rules, and the additional requirements in:
Employee exposure monitoring results are below the AL and STEL	No additional requirements if exposures remain stable
Employee exposure monitoring results are above the PELs	• Exposure and medical monitoring, WAC 296-855-30010 through 296-855-30080;
Note: PEL refers to both the STEL and TWA	AND • Exposure control, WAC 296-855-40005 through 296-855-40045
Employee exposure monitoring results are above the AL; AND Below the STEL	Exposure and medical monitoring, WAC 296-855-30010 through 296-855-30080
When there is a possibility of an emergency release of EtO	Establish a written emergency response plan and a means of alerting potentially exposed employees as found in Exposure control plan, WAC 296-855-40005

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NEW SECTION

WAC 296-855-200 Basic rules.

Summary:

Your responsibility:

To evaluate employee exposure and protect employee from ethylene oxide.

IMPORTANT:

• The requirements in basic rules apply to all employers covered by the scope of this chapter, WAC 296-855-100. Additional sections may apply to you, based on employee exposure monitoring results. Turn to the Scope, WAC 296-855-100, and follow Table 1.

NEW SECTION

WAC 296-855-20010 Preventive practices.

You must:

• Make sure that all containers of EtO whose contents are capable of causing employee exposure above the action level or above the STEL are labeled, tagged, or marked with this warning:

Danger
Contains Ethylene Oxide
Cancer Hazard and Reproductive Hazard

AND

A warning stating that breathing airborne concentrations of EtO is hazardous.

• Keep container labels free of statements that contradict or detract from the labels' hazard warning.

Note: • EtO is highly flammable and should be kept in a tightly covered container, and in a cool, well-ventilated area away from any type of ignition source.

You must:

• Make sure warning labels remain on containers of EtO when these containers are transported.

Exemption: • Reaction vessels, storage tanks, and pipes or piping systems are not considered to be containers and do not require labeling.

• Labeling requirements do not apply when EtO:
 – Is used as a pesticide as defined by the Federal Insecticide, Fungicide, and Rodenticides Act (7 U.S.C. 136 et seq.);

AND

– Meets the Environmental Protection Agency labeling requirements for pesticides.

NEW SECTION

WAC 296-855-20020 Exposure control areas.

You must:

• Establish temporary or permanent exposure control areas where airborne concentrations of ethylene oxide (EtO) exceed or could exceed the permissible exposure limits (PELs) by doing all the following:

– Clearly identify the boundaries of exposure control areas in any way that minimizes employee access.

– Post signs at access points to exposure control areas that:

■ Are easy to read (for example, they are kept clean and well lit).

AND

■ Include this warning:

DANGER
ETHYLENE OXIDE
CANCER AND REPRODUCTIVE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING MAY BE
REQUIRED TO BE WORN IN THIS AREA

• Keep signs and areas near them free of statements that contradict or detract from their message.

Note: • This requirement does not prevent you from posting other signs.

You must:

• Allow only authorized personnel to enter exposure control areas.

Note: • When identifying the boundaries of exposure control areas you should consider factors such as:

- The level and duration of airborne exposure.
- Whether the area is permanent or temporary.
- The number of employees in adjacent areas.

• You may use permanent or temporary enclosures, caution tape, ropes, painted lines on surfaces, or other materials to visibly distinguish exposure control areas or separate them from the rest of the workplace.

You must:

• Make sure employees entering exposure control areas have appropriate respirators available for use.

• Prevent all of the following activities from occurring in exposure control areas:

- Eating food.
- Drinking beverages.
- Smoking.
- Chewing tobacco or gum.
- Applying cosmetics.
- Storing food, beverages, or cosmetics.

NEW SECTION

WAC 296-855-20040 Personal protective equipment (PPE).

You must:

• Make sure employees wear appropriate PPE as protection from skin or eye contact with ethylene oxide (EtO), liquid EtO, or EtO solutions.

• Provide appropriate PPE at no cost to employees.

NEW SECTION

WAC 296-855-20050 Exposure evaluations.

IMPORTANT:

This section applies when there is a potential for airborne exposure to ethylene oxide (EtO) in your workplace.

When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

Following this section will also meet the requirements to identify and evaluate respiratory hazards found in another chapter, Respiratory hazards, chapter 296-841 WAC.

You must:

• Conduct an employee exposure evaluation to accurately determine airborne concentrations of EtO by complet-

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ing Steps one through seven of the exposure evaluation process, each time any of the following apply:

- No evaluation has been conducted.
- Changes have occurred in any of the following areas that may result in new or increased employee exposures:

- Production.
- Processes.
- Personnel.
- Exposure controls such as ventilation systems or work practices.

- You have any reason to suspect new or increased employee exposure may occur.

• Provide affected employees and their designated representatives an opportunity to observe any exposure monitoring during Step six of the exposure evaluation process.

• Make sure observers entering areas with EtO exposure:

- Are provided with and use the same protective clothing, respirators, and other personal protective equipment (PPE) that employees working in the area are required to use;

AND

- Follow all safety and health requirements that apply.

Exposure evaluation process

Step one: Identify all employees who have potential exposure to airborne ethylene oxide (EtO) in your workplace.

Step two: Identify operations where employee exposures could exceed EtO's fifteen-minute short-term exposure limit (STEL) of five parts per million (ppm).

Step three: Select employees from those working in the operations you identified in Step two who will have their STEL exposures measured.

Step four: Select employees from those identified in Step one who will have their eight-hour exposures monitored.

- Make sure the exposures of the employees selected represent eight-hour exposures for all employees identified in Step one including each job classification, work area, and shift.
- If you expect all employee exposures to be below the action level (AL), you can choose to limit your selection to those employees reasonably believed to have the highest exposures. If you find these employees' exposure to be above the AL, then you'll need to repeat Step four to represent all employees identified in Step one.

Note: You can use Steps three through six of this process to create a written description of the procedure used for obtaining representative employee exposure monitoring results, which is a requirement in Exposure records, WAC 296-855-20070.

Exemption: • You can skip Steps four through seven if you have documentation conclusively demonstrating that employee exposure for a particular material and the operation where it's used, cannot exceed the AL or STEL during any conditions reasonably anticipated.
• Such documentation can be based on observations, data, calculations, and previous air monitoring results. Previous air monitoring results:

- Must meet the accuracy required by Step five.
- May be from outside sources, such as industry or labor studies.
- Must be based on data that represents conditions being evaluated in your workplace.

Step five:

Determine how you will obtain accurate employee exposure monitoring results. Select and use an air monitoring method with a confidence level of ninety-five percent, that's accurate to:

- \pm twenty-five percent when concentrations are potentially above the AL or eight-hour time-weighted average of one part per million (ppm).
- \pm thirty-five percent when concentrations are potentially above the AL of 0.5 ppm or the STEL of five ppm.

Note:

Here are examples of air monitoring methods that meet this accuracy requirement:

- OSHA Method thirty found by going to: <http://www.osha.gov/dts/sltc/methods/toc.html>.
- NIOSH Method thirty eight hundred found by going to: <http://www.cdc.gov/niosh/homepage.html> and linking to the NIOSH Manual of analytical methods.

Step six:

Obtain employee monitoring results by collecting air samples representing employees identified in Steps three and four.

- Collect STEL samples for employees and operations selected in Step three.
- Collect samples representing the eight-hour exposure, for at least one shift, for each employee selected in Step four.
- Make sure samples are collected from each selected employee's breathing zone.

Note:

• You may use any sampling method that meets the accuracy specified in Step five. Examples of these methods include:

- Real-time monitors that provide immediate exposure monitoring results.
- Equipment that collects samples that are sent to a laboratory for analysis.
- The following are examples of methods for collecting samples representative of eight-hour exposures.
 - Collect one or more continuous samples, such as a single eight-hour sample or four two-hour samples.
 - Take a minimum of five brief samples, such as five fifteen-minute samples, during a work shift at randomly selected times.
- For work shifts longer than eight hours, monitor the continuous eight-hour portion of the shift expected to have the highest average exposure concentration.

Step seven:

Have the samples you collected analyzed to obtain monitoring results for eight-hour and STEL exposures.

- Determine if employee exposure monitoring results are above or below the following values:
 - Eight-hour time-weighted average (TWA₈) of one ppm.
 - Fifteen-minute short-term exposure limit (STEL) of five ppm.
 - Eight-hour action level (AL) of 0.5 ppm.

Note:

• You may contact your local WISHA consultant for help:

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- Interpreting data or other information.
- Determining eight-hour or fifteen-minute employee exposure monitoring results.

obtaining representative employee exposure monitoring results.

You must:

- Keep exposure monitoring records for at least thirty years.

Reference:

- To see additional requirements for employee exposure records including access, and transfer requirements, go to another chapter, Employee medical and exposure records, chapter 296-802 WAC.
- Exposure monitoring records need to be kept longer than thirty years for employees participating in medical monitoring, go to Medical records, WAC 296-849-12080.

NEW SECTION

WAC 296-855-20060 Notification.

You must:

• Provide written notification of exposure monitoring results to employees represented by your exposure evaluation, within five business days after monitoring results become known to you.

• In addition, when employee exposure monitoring results are above either the TWA₈ or STEL permissible exposure limit (PEL), provide written notification of all the following within fifteen business days after the results become known to you:

- Corrective actions being taken and a schedule for completion;

AND

- Any reason why exposures can not be lowered to below the PELs.

- Note:**
- You can either notify employees individually or post the notifications in areas readily accessible to affected employees.
 - Posted notification may need specific information that allows affected employees to determine which monitoring results apply to them.
 - Notification may be:
 - In any written form, such as hand-written or e-mail.
 - Limited to the required information, such as exposure monitoring results.
 - When notifying employees about corrective actions, your notification may refer them to a separate document that is available and provides the required information.

NEW SECTION

WAC 296-855-20070 Exposure records.

You must:

• Establish and keep complete and accurate records for all exposure monitoring evaluations conducted under this chapter. Make sure the record includes, at least:

- The name, unique identifier, and job classification of:

- The employee sampled;

AND

■ All other employees represented by the sampled employee.

- A description of the methods used to obtain exposure monitoring results and evidence of the methods' accuracy.

- The operation being monitored for employee exposure to EtO.

- A description of the procedure used to obtain representative employee exposure monitoring results.

- The date, number, duration, location, and the result of each sample taken.

- Any environmental conditions that could affect exposure concentration measurements.

- Any personal protective equipment (PPE) worn by the employee including the type of respirator.

- Note:**
- You can use Steps three through six of the exposure evaluation process in Exposure evaluations, WAC 296-855-20050, to create a description of the procedure you used for

NEW SECTION

WAC 296-855-20080 Documentation records.

You must:

• Keep documentation you develop, of the processing, use, or handling of products made from or containing EtO, that conclusively demonstrates that the action level or STEL for EtO cannot be exceeded under any foreseeable conditions of use.

• Include the following in the documentation record:

- The product that is the subject of the documentation;
 - The source of the data;
 - Any testing protocol, results of testing, and/or analysis of the product for the release of EtO;
 - A description of the operation where the product is used and how the data support your conclusion; and
 - Other data relevant to the operations, materials, processing, or employee exposures covered by your conclusion.
- Maintain the documentation record for as long as you rely on your conclusion that the action level and STEL cannot be exceeded.

NEW SECTION

WAC 296-855-20090 Training.

You must:

• Train employees who are potentially exposed above the:

- Action level (AL) 0.5 parts per million (ppm);

OR

- Fifteen-minute short-term exposure limit (STEL) of five ppm.

• Provide training:

- At the time of initial assignment;

AND

- Then at least every twelve months.

• Make sure training and information includes all of the following:

- The requirements of this chapter.

- The location and availability of this chapter.

- The purpose of medical evaluations and a description of your medical evaluation program required in Medical evaluations, WAC 296-855-30030 in this chapter.

- Monitoring procedures and observations to detect the presence or release of EtO.

- The physical and health hazards of EtO.

- Actions employees can take to protect themselves from EtO exposure such as work practices, emergency procedures, and PPE.

- The details of your hazard communication program required by another chapter, Employer chemical hazard communication, WAC 296-800-170.

- Operations in employee work areas where EtO is present.

- The following information found in the General occupational health standards, chapter 296-62 WAC:

- The Substance safety data sheet, WAC 296-62-07383 Appendix A.

- The Substance technical guidelines, WAC 296-62-07385 Appendix B.

- Medical surveillance guidelines, WAC 296-62-07387 Appendix C.

NEW SECTION

WAC 296-855-300 Exposure and medical monitoring.

Summary:

Your responsibility:

To monitor employee health and workplace exposures to ethylene oxide (EtO).

IMPORTANT:

- These sections apply when employee exposure monitoring results are either above the:

- Action level (AL) of 0.5 parts per million (ppm);

OR

- Short-term exposure limit (STEL) of five ppm.

NEW SECTION

WAC 296-855-30010 Periodic exposure monitoring.

Exemption: Periodic employee exposure monitoring is not required if exposure monitoring results conducted to fulfill requirements in Exposure evaluation, WAC 296-855-20050, are below the action level (AL).

You must:

- Obtain employee exposure monitoring results according to the frequency specified in Table 2, Periodic Exposure Evaluation Frequencies.

Note: • If you documented that one work shift consistently has higher exposure monitoring results than another for a particular operation, then you may limit sample collection to the work shift with higher exposures and use those results to represent all employees performing the operation on other shifts.

Table 2

Periodic Exposure Evaluation Frequencies

If employee exposure monitoring results:	Then:
Are between the: • Action level (AL) of 0.5 parts per million (ppm); AND •TWA ₈ of 1 ppm	Conduct additional exposure monitoring at least every 6 months.

Table 2

Periodic Exposure Evaluation Frequencies

If employee exposure monitoring results:	Then:
Are above the TWA ₈ ; OR Above the STEL	Conduct additional exposure monitoring at least every 3 months.
Have been obtained at least every 3 months; AND Have 2 consecutive monitoring results, taken at least 7 days apart, showing 8-hour employee exposure monitoring results that have dropped below the TWA ₈ , but remain at or above the AL	You may decrease your evaluation frequency for the TWA ₈ to every 6 months.
Have 2 consecutive evaluations, taken at least 7 days apart, showing 8-hour employee exposure monitoring results that have dropped below the AL and STEL	You may stop periodic exposure evaluations.

NEW SECTION

WAC 296-855-30030 Medical evaluations.

IMPORTANT:

Medical evaluations meeting all requirements of this section will fulfill the medical evaluation requirement found in another chapter, Respirators, chapter 296-842 WAC.

Employees who wear respirators need to be medically evaluated to make sure the respirator will not harm them, before they are assigned work in areas requiring respirators.

You must:

- Make medical evaluations available to current employees:

- Who have been, are, or may be exposed above the action level (AL) for at least thirty days in any twelve-month period.

- Exposed to EtO during an emergency situation.

- Wanting medical advice on EtO exposure and reproductive health.

- Whenever the employee develops signs and symptoms commonly associated with ethylene oxide.

- At no cost including travel costs and wages associated with any time spent obtaining the medical evaluation.

- At reasonable times and places.

- Complete Steps one through four of the medical evaluation process at the following times:

- Initially, when employees are assigned to work in an area where exposure monitoring results are, or will likely be, above the action level (AL) for at least thirty days in a twelve-month period.

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– Every twelve months for employees exposed above the AL for at least thirty days in the preceding year unless the examining physician determines that they should be provided more frequently.

– When employment with exposure ends, if the employee has not had an evaluation within the six-month period before exposure ends.

Note: • Employees who decline to receive medical examination and testing to monitor for health effects caused by EtO are not excluded from receiving a separate medical evaluation for respirator use.

• If employers discourage participation in medical monitoring for health effects caused by EtO, or in any way interfere with an employee's decision to continue with this program, this interference may represent unlawful discrimination under RCW 49.17.160, Discrimination against employee filing complaint, instituting proceedings, or testifying prohibited—Procedure—Remedy.

Helpful tool: **Declination form for nonemergency related medical evaluations**

You may use this optional form to document employee decisions to decline participation in the medical evaluation process for exposure to ethylene oxide (EtO). To see this form, go to the resources section within this chapter.

Medical evaluation process

Step one: Select an appropriate licensed health care professional (LHCP) who will conduct or supervise examinations and procedures.

• If the LHCP is not a licensed physician, make sure individuals who conduct pulmonary function tests have completed a training course in spirometry sponsored by an appropriate governmental, academic, or professional institution.

Step two: Make sure the LHCP receives all of the following information before the medical evaluation is performed:

- A copy of:
 - This chapter.
 - The following information found in the General occupational health standards, chapter 296-62 WAC:
 - The Substance safety data sheet, WAC 296-62-07383(1) Appendix A.
 - The Substance technical guidelines, WAC 296-62-07385(2) Appendix B.
 - Medical surveillance guidelines, WAC 296-62-07387(3) Appendix C.
 - A description of the duties of the employee being evaluated and how these duties relate to EtO exposure.
 - The anticipated or representative exposure monitoring results for the employee being evaluated.
 - A description of the personal protective equipment (PPE) and respirators each employee being evaluated uses or will use.
 - Information from previous employment-related examinations when this information is not available to the examining LHCP.

• Instructions that the written opinions the LHCP provides you be limited to the following information:

– Whether or not medical conditions were found that would increase the employee's risk for impairment from exposure to EtO.

– Any recommended limitations for EtO exposure and use of respirators or other PPE.

– A statement that the employee has been informed of medical results and medical conditions caused by EtO exposure requiring further examination or treatment.

Step three: Make medical evaluations available to the employee. Make sure they include the content listed in Table 3, Content of Medical Evaluations.

Step four: Obtain the LHCP's written opinion for the employee's medical evaluation and make sure the employee receives a copy within five business days after you receive the written opinion.

• Make sure the written opinion is limited to the information specified for written opinions in Step two.

Note: • If the written opinion contains specific findings or diagnoses unrelated to occupational exposure, send it back and obtain a revised version without the additional information.

Table 3
Content of Medical Evaluations

When conducting:	Include:
An initial and annual evaluation	<ul style="list-style-type: none"> • A work history and medical history that includes emphasis on: <ul style="list-style-type: none"> – Pulmonary, hematological, neurological, reproductive systems; AND – The eyes and skin. • A physical examination that includes emphasis on: <ul style="list-style-type: none"> – Pulmonary, hematological, neurological, and reproductive systems; AND – The skin and eyes. • A complete blood count including a: <ul style="list-style-type: none"> – White cell count with differential – Red cell count – Hematocrit – Hemoglobin.

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Table 3
Content of Medical Evaluations

When conducting:	Include:
	<ul style="list-style-type: none"> • Additional examinations the licensed health care professional (LHCP) believes appropriate based on the employee's exposure to ethylene oxide (EtO) or respirator use. • Additional testing: <ul style="list-style-type: none"> – Pregnancy test, and laboratory evaluation for fertility if requested by employee and approved by evaluating LHCP.
Evaluations due to termination of employment	<ul style="list-style-type: none"> • The same content as specified for initial and annual evaluations.
Evaluations due to reassignment to an area where EtO exposure is below the AL	<ul style="list-style-type: none"> • The same content as specified for initial and annual evaluations. • As determined by the LHCP.
Evaluations due to exposure during an emergency	<ul style="list-style-type: none"> • The same content as specified for initial and annual evaluations.
Evaluations triggered by employee signs and symptoms commonly associated with overexposure to EtO or a request for reproductive advice	<ul style="list-style-type: none"> • The content of medical examinations and consultations will be determined by the examining LHCP. <ul style="list-style-type: none"> – Pregnancy test, and laboratory evaluation for fertility if requested by employee and approved by evaluating LHCP.
Evaluations determined necessary by LHCP for exposed employees	<ul style="list-style-type: none"> • The content of medical examinations and consultations will be determined by the examining LHCP.

NEW SECTION

WAC 296-855-30080 Medical records.

IMPORTANT:

This section applies when a medical evaluation is performed, or any time a medical record is created for an employee exposed to ethylene oxide (EtO).

You must:

- Establish and maintain complete and accurate medical records for each employee receiving a medical evaluation for EtO and make sure the records include all the following:
 - The employee's name and unique identifier.
 - Any employee medical complaints related to EtO.
 - A description of the employee's duties.

- A copy of the licensed health care professional's (LHCP's) written opinions.
- The anticipated or representative employee exposure monitoring results provided to the LHCP for the employee.
- A copy of the information required in Step two of the medical evaluation process, found in WAC 296-855-30030, except the copy of this chapter and the appendices.
 - Maintain medical records for the duration of employment plus thirty years.

Note: • Your medical provider may keep these records for you. Other medical records, such as the employee's medical history or X rays, need to be kept as confidential records by the medical provider.

Reference: For additional requirements that apply to employee exposure records including access and transfer requirements, go to, Employee medical and exposure records, chapter 296-802 WAC.

NEW SECTION

WAC 296-855-400 Exposure control.

Summary:

Your responsibility:

To protect employees from exposure to ethylene oxide (EtO) by using feasible exposure controls and appropriate respirators.

IMPORTANT:

- These sections apply when employee exposure monitoring results are above either of the following permissible exposure limits (PELs):
 - The eight-hour time-weighted average (TWA₈) of one part per million (ppm);

OR

- The fifteen-minute short-term exposure limit (STEL) of five ppm.

NEW SECTION

WAC 296-855-40010 Exposure control plan.

You must:

- Establish and implement a written exposure control plan to reduce employee exposure to EtO below both TWA₈ and the STEL by the use of feasible exposure controls. Include at least the following in your plan:
 - A schedule for periodic leak detection surveys.
 - Make sure employee rotation is not included as a method to control employee exposure.
 - Establish a written plan for emergency situations for each work area where there is a possibility of an emergency from a release of EtO. The plan must include, at a minimum:
 - Emergency escape:
 - Procedures.
 - Route assignments.
 - Emergency evacuation plans and procedures to account for all employees after emergency evacuation has been completed.
 - Procedures to be followed by employees who remain to operate critical plant operations before they evacuate.
 - Requirements for the use of respiratory protection as required in WAC 296-855-40045.

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– Rescue and medical duties for those employees who will perform them.

– The preferred means of reporting fires and other emergencies.

– Names or regular job titles of persons or departments who can be contacted for further information or explanation of duties under the plan.

• Establish an employee alarm system that meets the requirements of Employee alarm systems, WAC 296-800-31070 in the safety and health core rules.

– The employee alarm system must be distinctive and recognizable as a signal to perform actions designated under the emergency response plan.

• Review your exposure control plan at least every twelve months and update as needed to reflect your current workplace conditions.

• Provide a copy of your exposure control plan to affected employees and their designated representatives, when they ask to review or copy it.

NEW SECTION

WAC 296-855-40030 Exposure controls.

IMPORTANT:

The use of an employee rotation schedule to control employee exposure to ethylene oxide (EtO) is prohibited.

Respirators and other personal protective equipment (PPE) are not exposure controls.

You must:

• Use feasible exposure controls to:

– Reduce exposure to, or below, the permissible exposure limit (PELs);

OR

– To reduce exposure to the lowest achievable level above the PELs.

Reference: Go to another chapter, Respiratory hazards, chapter 296-841 WAC for additional information on employee exposure controls.

NEW SECTION

WAC 296-855-40040 Respirators.

IMPORTANT:

The requirements in this section are in addition to the requirements found in another chapter, Respirators, chapter 296-842 WAC.

Medical evaluations meeting all requirements of WAC 296-855-30030, will fulfill the medical evaluation requirement found in another chapter, Respirators, chapter 296-842 WAC.

You must:

• Provide respirators and require that employees use them in circumstances where exposure is above either PEL, such as when:

■ Feasible exposure controls are being put in place.

■ You determine that exposure controls are not feasible.

■ Feasible exposure controls do not reduce exposures to or below the PELs.

■ Employees are responding to emergencies.

• Ensure all respirator use is accompanied by eye protection either through the use of full-facepiece respirators, hoods, or chemical goggles.

• Establish a respirator program that meets the requirements of another chapter, Respirators, chapter 296-842 WAC, and include the following additional requirement:

– Limit selection of respirators to those with a full-facepiece or another type of respirator providing eye protection for EtO.

NEW SECTION

WAC 296-855-500 Definitions.

Action level:

An airborne concentration of ethylene oxide (EtO) of 0.5 parts per million, calculated as an eight-hour time-weighted average.

Authorized personnel:

Individuals specifically permitted by the employer to enter the exposure control area to perform necessary duties, or to observe employee exposure evaluations.

Breathing zone:

The space around and in front of an employee's nose and mouth, forming a hemisphere with a six- to nine-inch radius.

CAS (Chemical Abstract Service) number:

CAS numbers are internationally recognized and used on material safety data sheets (MSDSs) and other documents to identify substances. For more information see <http://www.cas.org/about>.

Container:

Any container, except for pipes or piping systems that contains ethylene oxide. It can be any of the following:

- Barrel.
- Bottle.
- Can.
- Cylinder.
- Drum.
- Reaction vessel.
- Storage tank.

Day:

Any part of a calendar day.

Director:

The director means the director of the department of labor and industries or their designee.

Emergency:

Any event that could or does result in the unexpected significant release of ethylene oxide. Examples of emergencies include equipment failure, container rupture, or control equipment failure.

Ethylene oxide (EtO):

Is an organic chemical represented by the CAS registry number 75-21-8. EtO is a flammable colorless gas and is commonly used to sterilize medical equipment and as a fumigant for certain agricultural products. It is also used as an intermediary in the production of various chemicals such as ethylene glycol, automotive antifreeze, and polyurethane.

Exposure:

The contact an employee has with ethylene oxide, whether or not protection is provided by respirators or other personal protective equipment (PPE). Exposure can occur

through various routes of entry such as inhalation, ingestion, skin contact, or skin absorption.

Licensed health care professional (LHCP):

An individual whose legally permitted scope of practice allows him or her to provide some or all of the health care services required for medical evaluations.

Permissible exposure limits (PELs):

PELs are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable WISHA rules. The PELs for ethylene oxide (EtO) are:

- Eight-hour time-weighted average (TWA₈) of one part per million (ppm);

AND

- Fifteen-minute short-term exposure limit (STEL) of five ppm.

Short term exposure limit (STEL):

An exposure limit averaged over a short time period (usually fifteen minutes) that must not be exceeded during any part of an employee's workday.

Time-weighted average (TWA₈):

An exposure limit averaged over an eight-hour period that must not be exceeded during an employee's workday.

WSR 05-17-169

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 05-07—Filed August 23, 2005, 12:24 p.m., effective September 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to make the rules easier to use and to harmonize the state rules with the federal standards. Ecology has amended parts of chapter 173-415 WAC by changing sections that deal with applicability, emissions standards, monitoring and reporting (including reports of startup, shutdown, breakdown or upset conditions), and modified some definitions. Some duplicative sections are eliminated. In chapter 173-481 WAC, ecology is amending sections that deal with applicability, definitions, forage and ambient standards, and compliance.

Citation of Existing Rules Affected by this Order: Repealing 6, WAC 173-415-040, 173-415-045, 173-415-050, 173-415-051, 173-415-070 and 173-415-080; and amending 8, WAC 173-415-020, 173-415-030, and 173-415-060, 173-481-020, 173-481-030, 173-481-100, 173-481-110, and 173-481-150.

Statutory Authority for Adoption: RCW 70.94.395 and 70.94.331.

Adopted under notice filed as WSR 05-13-112 on June 17, 2005.

Changes Other than Editing from Proposed to Adopted Version: All changes made to the proposal are editorial in nature.

A final cost-benefit analysis is available by contacting Tom Todd, Washington 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.

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 8, Repealed 6.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 8, 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.

Date Adopted: August 23, 2005.

Jay J. Manning
Director

NEW SECTION

WAC 173-415-015 Applicability. (1) In addition to the general applicability of chapter 173-400 WAC to all emission sources, all primary aluminum reduction plants are required to meet the emissions standards of this chapter. Specific emissions standards and requirements listed in this chapter shall supersede the general emissions standards and general requirements in chapter 173-400 WAC.

(2) All primary aluminum reduction plants are required to meet applicable National Emissions Standards for Hazardous Air Pollutants (NESHAPs). New primary aluminum reduction plants must meet federal New Source Performance Standards (NSPS).

(3) In this rule, whenever a federal regulation is cited, the most recent version that has been adopted into Washington Administrative Code is the version of the federal regulation that is referenced. These most recent adoptions by reference can be found in chapter 173-400 WAC.

AMENDATORY SECTION (Amending Order 90-06, filed 2/19/91, effective 3/22/91)

WAC 173-415-020 Definitions. The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

(1) ("~~Fluorides~~" means ~~compounds of the element fluorine~~;

(2) ("~~Forage~~" means ~~grasses, pasture and other vegetation that is normally consumed or is intended to be consumed by livestock~~;

(3) ("~~Primary aluminum plant~~" or) "Potline" means a single discreet group of electrolytic reduction cells connected in series, in which alumina is reduced to form aluminum.

(2) "Primary aluminum reduction plant" (~~or "primary aluminum mill"~~) means ((a plant which produces aluminum metal from aluminum oxide (alumina))) any facility manufacturing aluminum by electrolytic reduction. For the pur-

poses of this regulation "primary aluminum reduction plant" is equivalent to "source."

~~((4)) (3) "((Potline)) Primary emission control system" means the equipment ((and procedures designed to collect and remove contaminants from the exhaust gases which are captured at the pot)) used to capture the gases and particulate matter evacuated directly from the reduction cell and the emission control device(s) used to remove pollutants prior to discharge of the cleaned gas to the atmosphere. A roof scrubber is not part of the primary control system.~~

(4) "Total fluorides (TF)" means elemental fluorine and all fluoride compounds as measured by Methods 13A, 13B or 14A in 40 CFR Part 60 Appendix A or by an EPA approved alternative method.

AMENDATORY SECTION (Amending Order 90-06, filed 2/19/91, effective 3/22/91)

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WAC 173-415-030 Emission standards. ~~((In addition to the general applicability of chapters 173-400 and 173-490 WAC to all emission sources; all primary aluminum plants are required to meet the emission standards of this chapter. Specific emissions standards listed in this chapter will take precedence over the general emission standards of chapter 173-400 WAC.))~~ (1) Fluoride. The emission of total fluorides from a primary aluminum reduction plant shall meet the MACT requirements specified in 40 CFR 63 Subpart LL. If the department has reason to believe that adverse fluoride impacts are occurring in violation of chapter 173-481 WAC, a primary aluminum reduction plant must establish, in response to a request from the department, an ambient air and/or forage monitoring program approved by the department as required by WAC 173-481-150.

~~((a) The emission of gaseous and particulate fluorides for all emissions units within a primary aluminum plant shall be restricted so that the plant's emissions will not cause ambient air and forage standards for fluorides established by chapter 173-481 WAC to be exceeded outside the property controlled by the aluminum plant owner(s) or operator(s).~~

~~(b) Each potline primary emission control system shall be designed so that the control of fluoride emissions will be equivalent to a total fluoride collection efficiency of: (i) Eighty percent for vertical stud soderberg and side worked prebake pots, (ii) eighty five percent for horizontal stud soderberg pots, and (iii) ninety five percent for center worked prebake pots. A primary emission control system with a design removal efficiency of at least ninety five percent of the fluoride collected is required.))~~

(2) Particulate. The total emission of particulate matter to the atmosphere from the reduction process (potlines) shall be reduced to the lowest level consistent with reasonably available control technology (RACT) for primary aluminum reduction plants. The emission of solid particulate shall not exceed 7.5 grams per kilogram (fifteen pounds per ton) of aluminum produced on a daily basis. Aluminum produced shall be calculated by the method used to determine aluminum production rate in 40 CFR 63.847 (e)(6).

(3) Visible emissions. Visible emissions from any emissions unit in a primary aluminum reduction plant shall not exceed an average twenty percent opacity for more than six

consecutive minutes in any sixty minute period. This provision shall not apply:

(a) When the presence of uncombined water is the only reason for the opacity of the plume to exceed twenty percent; or

(b) When an alternate opacity limit has been established under RCW 70.94.331 (2)(c).

(4) Fugitive emissions. Each primary aluminum reduction plant shall use RACT to prevent fugitive emissions. Fugitive dust is included in fugitive emissions.

(5) Sulfur dioxide.

(a) Total emissions of sulfur dioxide from all emissions units shall not exceed thirty grams of sulfur dioxide per kilogram of aluminum produced on a monthly average (sixty pounds per ton). Those primary aluminum plants which were in excess of the above sulfur dioxide limit on January 1, 1978, will be allowed to emit at the January 1, 1978, level of emissions provided that the owners or operators did demonstrate to ecology by July 1, 1981, by use of modeling and ambient measurements, that the emissions will not cause the ambient standard to be exceeded, and that the limits are placed in a regulatory order(s).

(b) In no case shall any plant cause or permit the emission of a gas containing sulfur dioxide in excess of one thousand parts per million corrected to dry standard conditions for an hourly average.

(6) Operation and maintenance (O&M). At all times, including periods of abnormal operation and upset conditions, owners and operators shall, to the extent practicable, maintain and operate an affected facility, ~~((and operate and maintain air pollution control equipment associated with such facility))~~ including associated air pollution control equipment, in a manner consistent with good air pollution control practice. ~~((A plant may elect to establish a program, subject to the approval of ecology, for monitoring each potroom in order to demonstrate good operation and maintenance.))~~ Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to ecology which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source. The means for demonstrating ongoing compliance with good O&M may include, but not be limited to: More frequent source testing, prescriptive procedures or inspections, control values for emissions at values less than the applicable regulatory requirements and that function as an investigative trigger rather than as a limit, collection and efficiency requirements, or the use of CEMs.

(7) Source testing. To demonstrate compliance with this chapter, the testing provisions of chapter 173-400 WAC ~~((173-400-105 shall apply to all sources to which this chapter is))~~ and MACT requirements as specified in 40 CFR 63 Subpart LL shall be used as applicable.

AMENDATORY SECTION (Amending Order 90-06, filed 2/19/91, effective 3/22/91)

WAC 173-415-060 Monitoring and reporting. (1) When requested by the department, each primary aluminum reduction plant shall conduct routine monitoring of emis-

sions, ambient air, and forage in accordance with a program that has been approved by the department of ecology. Results of monitoring shall be reported within thirty days of the end of each calendar month ~~((and))~~. In addition to the information required by the Primary Aluminum MACT, 40 CFR 63 Subpart LL, the approved program shall include data as follows:

~~(a) ((Ambient air: Twenty four hour concentrations of gaseous fluoride in the ambient air expressed in micrograms of hydrogen fluoride per cubic meter of ambient air.~~

~~(b) Forage: Concentrations of fluoride in forage expressed in parts per million of fluoride on a dried weight basis.~~

~~(c) Particulate emissions: Results of all emission sampling conducted during the month for particulates, shall be expressed in ((grains per standard dry cubic foot, in pounds per day, and in pounds per ton of aluminum produced)) units used in the applicable requirements or in units specified in the monitoring plan. The method of calculating pounds per ton shall be as specified in the approved monitoring programs. For each potline, particulate data shall be reported as total particulates and percentage of fluoride ion contained therein. For other units at a primary aluminum reduction plant, particulate data shall be reported as total particulates.~~

Compliance with WAC 173-415-030(2) shall be determined by measurements of emissions from the potline primary control system plus measurements of emissions from the potline roof ~~((monitor))~~.

~~((d)) (b) Fluoride emissions: Results of all sampling conducted during the month for fluoride emissions ((All results shall be expressed as hydrogen fluoride in parts per million on a volume basis and pounds per day of hydrogen fluoride)) shall be reported in pounds of total fluoride per ton of aluminum produced. Aluminum produced shall be calculated by the method used to determine aluminum production rate in 40 CFR 63.847 (e)(6).~~

~~((e)) (c) Other emission and ambient air data as specified in the approved monitoring program.~~

(2) Other data: ~~((For ecology to evaluate a plant's emissions or emission control program, each primary aluminum))~~ Each primary aluminum reduction plant shall furnish other data requested by the department of ecology to evaluate a plant's emission control program.

(3) Change in raw materials or fuel: Any change or series of changes in raw material or fuel which results in a cumulative increase in emissions of sulfur dioxide of five hundred tons per year or more over that stated in the 1979 emissions inventory ~~((required by WAC 173-415-080))~~ shall require the submittal of sufficient information to the department of ecology so that the effect upon ambient concentrations of sulfur dioxide can be determined. The department of ecology may issue regulatory orders requiring controls to reduce the effect of such increases.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-415-040 Standards of performance.

WAC 173-415-045	Creditable stack height and dispersion techniques.
WAC 173-415-050	New source review (NSR).
WAC 173-415-051	Prevention of significant deterioration (PSD).
WAC 173-415-070	Report of startup, shutdown, breakdown or upset conditions.
WAC 173-415-080	Emission inventory.

AMENDATORY SECTION (Amending Order 87-21, filed 9/16/87)

WAC 173-481-020 Applicability. The forage provisions of this chapter apply to all areas ((of the state of Washington)) where livestock are grazed, and where forage is grown for livestock feed. The ambient action levels apply to areas where fluoride sensitive vegetation is grown for commercial purposes and in public land use areas, such as parks, where fluoride damage to vegetation would adversely impact the use and enjoyment of the area. The ambient action levels are independent of the forage standards and are not designed to relate to potential concentrations in forage.

AMENDATORY SECTION (Amending Order 87-21, filed 9/16/87)

WAC 173-481-030 Definitions. ~~((Unless a different meaning is clearly required by context, words and phrases used in this chapter shall have the following meanings; general terms common with other chapters of Title 173 WAC as defined in chapter 173-403 WAC, and terms specific to standards for fluorides as defined below:))~~ The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

(1) "Fluorides" means compounds of the element of fluorine.

(2) "Forage" means grasses, pasture and other vegetation that is consumed or is intended to be consumed by livestock.

~~((2) "Cured forage" means hay, straw, ensilage that is consumed or is intended to be consumed by livestock:))~~ (3) "Growing season" means April 1 to September 30 unless a different period is specified by the department by an order.

(4) "Injury" means any fluoride induced measurable change in a plant that is metabolic, visual, or physiological such as alterations in the assimilation rate of plant constituents, leaf necrosis, leaf or fruit abscission, or reduced or altered growth.

(5) "Damage" means any fluoride induced injury to a plant that causes economic loss, or would adversely impact the use and enjoyment of public land use areas.

(6) "Public land use area" means land belonging to the community as a whole and administered through its representatives in government, and within which fluoride sensitive vegetation is important to the purpose of the land use such as parks, national forests, etc.

AMENDATORY SECTION (Amending Order 87-21, filed 9/16/87)

WAC 173-481-100 Forage standards. (1) All sampling to determine compliance with these standards shall be conducted in locations and during time periods consistent with protecting livestock ~~((and vegetation))~~.

(2) The fluoride content of forage calculated by dry weight shall not exceed:

(a) Forty parts per million fluoride ion (40 ppm F⁻) average for ~~((any twelve consecutive months))~~ the growing season.

(b) Sixty parts per million fluoride ion (60 ppm F⁻) each month for more than two consecutive months during the growing season.

(c) Eighty parts per million fluoride ion (80 ppm F⁻) more than once in any two consecutive months during the growing season.

~~((3)) In areas where cattle are not grazed continually, but are fed cured forage part of the year, the fluoride content of the cured forage shall be used as the forage fluoride content for as many months as it is fed to establish the yearly average.~~

(4) Cured forage grown for sale as livestock feed shall not exceed forty parts per million fluoride ion (40 ppm F⁻) by dry weight after curing or preparing for sale.)

AMENDATORY SECTION (Amending Order 87-21, filed 9/16/87)

WAC 173-481-110 Ambient ~~((standards))~~ action levels. (1) All sampling to determine compliance with these ~~((standards))~~ action levels shall be conducted in locations and during time periods consistent with protecting ~~((livestock and))~~ vegetation of the type and in areas covered by this chapter.

(2) Gaseous fluorides in the ambient air calculated as HF at standard conditions shall not exceed:

(a) ~~((Three and seven tenths micrograms per cubic meter (3.7 mg/m³) average for any twelve consecutive hours;~~

~~((b)))~~ Two and nine-tenths micrograms per cubic meter (2.9 µg/m³) average for any nonoverlapping twenty-four consecutive hours;

~~((e)))~~ (b) One and seven-tenths micrograms per cubic meter (1.7 µg/m³) average for any seven consecutive days;

~~((d)))~~ (c) Eighty-four one-hundredths micrograms per cubic meter (0.84 µg/m³) average for any thirty consecutive days;

~~((e)))~~ (d) Five-tenths micrograms per cubic meter (0.5 µg/m³) average for the ~~((period March 1 through October 31 of any year))~~ growing season.

AMENDATORY SECTION (Amending Order 87-21, filed 9/16/87)

WAC 173-481-150 ~~((Compliance with standards,))~~ Corrective action. (1) When requested by the department, persons emitting fluorides to the ambient air shall demonstrate their compliance with WAC 173-481-100 and 173-481-110 by conducting a monitoring program approved in writing by the department. ~~((All monitoring data shall be submitted to the department.))~~ Monitoring shall be required

only in areas with forage or vegetation to be protected by this chapter. Monitored exceedances of the ambient action level shall not require corrective action or be considered violations of this chapter unless there is demonstrated related fluoride induced damage to vegetation protected by this chapter. If an ambient action level is exceeded, the persons emitting fluorides shall provide a plan for ecology approval for determining if damage has occurred. If damage is found the facility shall determine the cause of the damage and take corrective action approved by ecology to prevent further damage. When evaluating corrective action, work practices shall be considered before considering additional controls.

(2) Concurrent violations of the action levels found in WAC 173-481-100 and 173-481-110 shall not contain overlapping time periods for any one standard or action level.

WSR 05-17-175

PERMANENT RULES

SUPERINTENDENT OF
PUBLIC INSTRUCTION

(Filed August 23, 2005, 4:36 p.m., effective September 23, 2005)

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule is being amended due to the changes in legislation regarding RCW 28A.400.210. Revision of the WAC is needed to address the effect of changes in law made by the legislature. Rule revision is needed to address sick leave cash out for employees returning to work pursuant to the retire-rehire legislation and those employees returning after termination and cash out.

Citation of Existing Rules Affected by this Order: Amending WAC 392-136-020.

Statutory Authority for Adoption: Chapter 28A.150 RCW.

Adopted under notice filed as WSR 05-10-080 on May 3, 2005.

Changes Other than Editing from Proposed to Adopted Version: Subsection (1)(d), the word "only" was deleted: "Eligible school district employees ... due to retirement may only cash out ..."

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.

Date Adopted: August 15, 2005.

Marty Daybell
for Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending WSR 01-11-098, filed 5/18/01, effective 6/18/01)

WAC 392-136-020 Conversion of sick leave upon ~~(retirement or death)~~ separation from district employment. (1) Eligible employees: Upon separation from district employment the following employees may personally, or through their estate in the event of death, elect to convert all eligible, accumulated, unused sick leave up to a maximum of one hundred eighty days to monetary compensation as provided in this section:

(a) Eligible educational service district employees are those who terminate employment with the educational service district due to either retirement or death.

(b) Eligible school district employees are those who qualify under an attendance incentive program established by the school district board of directors pursuant to WAC (~~392-136-065~~) 392-136-065 and who:

(i) Separate from employment with the school district due to death or retirement; or

(ii) After June 7, 2000, separate from employment with the school district and are at least age fifty-five and:

(A) Have at least ten years of service under teachers' retirement plan 3 as defined in RCW 41.32.010(40), or under the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010(31); or

(B) Have at least fifteen years of service under teachers' retirement system plan 2 as defined in RCW 41.32.010(39), under Washington school employees' retirement system plan 2 as defined in RCW 41.35.010(30), or under public employees' retirement system plan 2 as defined in RCW 41.40.010(34).

(c) In order to receive reimbursement for unused sick leave, by virtue of retirement pursuant to subsection (1)(a) or (1)(b)(i) of this section the employee must have separated from such employment and have been granted a retirement allowance under the laws governing the teachers' retirement system, the public employees' retirement system, or the school employees' retirement system whichever applies; however, it is not necessary that the employee actually file for retirement prior to the date of his or her separation so long as the application is thereafter filed within a reasonable period of time and without the occurrence of any intervening covered employment.

(d) Eligible school district employees who qualify under an attendance incentive program established by the school district board of directors pursuant to WAC 392-136-065 and who have previously separated from a school district due to retirement may cash out subsequent earned sick leave under the following exceptions:

(i) The employee ceases receipt of retirement benefits and reestablishes membership in the retirement system, including resuming payments into the system; or

(ii) The employee establishes, and makes payment into, a second retirement system from which they may subsequently retire.

(2) Eligible sick leave days (~~(= A maximum of one hundred eighty days may be converted to monetary compensation pursuant to this section. Eligible days)~~) include all unused sick leave days that have been accumulated from year to year up to a maximum of the number of contracted days agreed to in a given contract, but not greater than one year, by an eligible employee (~~(at a rate of accumulation no greater than one full day per month of employment as provided by the leave policies of the district(s) of employment (a maximum of twelve days per year))~~), less sick leave days previously converted pursuant to WAC 392-136-015 and those credited as service rendered for retirement purposes.

(3) Rate of conversion: Sick leave days that are eligible for conversion shall be converted to monetary compensation at the rate of twenty-five percent of an employee's full-time daily rate of compensation at the time of termination of employment for each full day of eligible sick leave. Partial days of eligible sick leave shall be converted on a pro rata basis.

(4) Deduction of converted days: All sick leave days converted pursuant to this section shall be deducted from an employee's accumulated sick leave balance.

(5) Exclusion from retirement allowance: Compensation received pursuant to this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

WSR 05-17-176

PERMANENT RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed August 23, 2005, 4:37 p.m., effective September 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule is being amended due to the changes in legislation regarding HB 2266 amending RCW 41.04.655, 41.04.660 and 41.04.665. Rule revision is needed to address donating of leave for employees who are called to voluntary and involuntary military duty.

Citation of Existing Rules Affected by this Order: Amending WAC 392-126-006, 392-126-010, 392-126-026, 392-126-027, 392-126-085, and 392-126-095.

Statutory Authority for Adoption: Chapter 28A.150 RCW.

Adopted under notice filed as WSR 05-10-081 on May 3, 2005.

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.

PERMANENT

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.

Date Adopted: August 15, 2005.

Marty Daybell
for Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending Order 98-11, filed 11/24/98, effective 12/25/98)

WAC 392-126-006 Purpose. The purpose of this chapter is to set forth policies and procedures for the operation of a permissive shared leave program in school districts and educational service districts which permits employees to donate annual leave, sick leave, or personal holiday to a fellow employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition, or who has been called to service in the uniformed services, which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

NEW SECTION

WAC 392-126-009 Definition—Program. "Program" means the leave sharing program established in RCW 41.04.660.

NEW SECTION

WAC 392-126-026 Definition—Service in the uniformed services. "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

NEW SECTION

WAC 392-126-027 Definition—Uniformed services. "Uniformed services" means the armed forces, the Army National Guard, and the Air National Guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time National Guard duty, or state active duty, the commissioned corps of the Public Health Service, the Coast Guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

AMENDATORY SECTION (Amending Order 98-11, filed 11/24/98, effective 12/25/98)

WAC 392-126-085 Donation of sick leave. An employee may donate sick leave to specific individuals or pool using the following criteria:

(1) The employee must have accrued more than ~~((sixty))~~ twenty-two days of sick leave.

(2) ~~((Employees may not donate more than six days of sick leave during any twelve-month period.~~

~~((3))~~ Employees may not donate an amount of sick leave that will result in his or her sick leave account going below ~~((sixty))~~ twenty-two days.

~~((4))~~ (3) All donated sick leave must be given voluntarily. No employee shall be coerced, threatened, intimidated, or financially induced into donating sick leave.

AMENDATORY SECTION (Amending Order 25, filed 8/21/90, effective 9/21/90)

WAC 392-126-095 Documentation. The district shall require the employee or his or her legal representative, to submit, prior to approval or disapproval, documentation from a licensed physician or other authorized health care practitioner verifying the severe or extraordinary nature and expected duration of the condition, or orders verifying the employee has been called to service in the uniformed services.

WSR 05-17-177

**PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed August 23, 2005, 4:39 p.m., effective September 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rules are being amended to accommodate repealing of RCW 28A.310.380 and also incorporate guidance for use of interfund loans used by the ESDs. This will allow ESDs to establish enterprise funds to account for those operations requiring enterprise fund accounting. This will establish authority to allow ESDs to use interfund loans between the general fund and enterprise fund operations. This authority is modeled after the school district interfund loan process.

Citation of Existing Rules Affected by this Order: Amending chapter 392-125 WAC.

Statutory Authority for Adoption: Chapter 28A.150 RCW.

Adopted under notice filed as WSR 05-11-030 on May 10, 2005.

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.

Date Adopted: August 15, 2005.

Marty Daybell
for Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending Order 81-19, filed 9/4/81)

WAC 392-125-010 Principles of accounting. In all cases, the budgeting and accounting systems of educational service districts shall be governed by generally accepted accounting principles modified where necessary by statute and/or this chapter. *The Accounting Manual for Educational Service Districts* shall govern the accounting system of educational service districts and is hereby incorporated into this chapter by this reference. Prior to any revision thereof, the superintendent of public instruction shall publish notice of such proposed action and shall hold at least one public hearing. ~~((The general expense fund of an educational service district shall be the only fund of the district and shall be used for all activities which an educational service district performs.))~~

NEW SECTION

WAC 392-125-100 Interfund loans—Definition. An interfund loan is considered to be a temporary loan of moneys between one educational service district fund and another. An interfund loan is not considered to be an investment.

NEW SECTION

WAC 392-125-105 Interfund loans allowable. Loans are allowable to the general expense fund and the enterprise fund. Loans shall not be made to the detriment of any function or project for which the fund was established.

NEW SECTION

WAC 392-125-110 Interfund loans—Identification of temporary loans. A temporary loan is considered to be a loan which is completely liquidated in less than one year.

NEW SECTION

WAC 392-125-120 Interfund loans—Payment of interest. Interest shall be charged by the loaning fund to be paid by the borrowing fund. The rate of interest shall be not less than the current warrant interest rate prevailing in the county in which the educational service district is considered to be located. The interest shall be credited to the loaning fund and shall not be transferred to any other fund.

NEW SECTION

WAC 392-125-130 Interfund loans—Full disclosure on financial statements. Financial reports of each educational service district, including the monthly financial reports provided to the board of directors of the educational service district, shall specify all outstanding interfund loans and all interest charges involved. The proceeds of any interfund loan shall not be used to balance the budget of the borrowing fund.

NEW SECTION

WAC 392-125-140 Interfund loans—board resolution adopted—Contents. The board of directors of an educational service district shall adopt a resolution before any interfund loan transaction may take place. The resolution shall contain the exact amount of the loan, the funds involved, the specific source of funds for repayment, the schedule for repayment, and the interest rate involved.

WSR 05-17-178

PERMANENT RULES

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed August 23, 2005, 4:41 p.m., effective September 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule is being amended due to the changes in RCW 28A.335.060. This law allows for the proceeds from the lease or rental of real property to be deposited in the district's general fund at the option of the board, after evaluating the sufficiency of the school district's capital projects fund for purposes of meeting demands for new construction and improvements.

Citation of Existing Rules Affected by this Order: Amending chapter 392-123 WAC.

Statutory Authority for Adoption: Chapter 28A.150 RCW.

Adopted under notice filed as WSR 05-12-055 [05-12-035] on May 25, 2005.

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.

Date Adopted: August 15, 2005.

Marty Daybell
for Dr. Terry Bergeson
State Superintendent

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-123-175 Proceeds from the lease, rental or occasional use of surplus property. Pursuant to RCW 28A.335.060 each school district's board of directors shall deposit moneys derived from the lease, rental or occasional use of surplus school property as follows:

(1) Moneys derived from real property shall be deposited into the district's debt service fund and/or capital projects fund except for:

(a) Moneys required to be expended for general maintenance, utility, insurance costs, and any other costs associated with the lease or rental of such property, which money shall be deposited in the district's general fund; or

(b) At the option of the board, after evaluating the sufficiency of the school district's capital projects fund for purposes of meeting demands for new construction and improvements, moneys derived from the lease or rental of real property may be deposited into the district's general fund to be used exclusively for nonrecurring costs related to operating school facilities, including, but not limited to, expenses for maintenance;

(2) Moneys derived from pupil transportation vehicles shall be deposited in the district's transportation vehicle fund;

(3) Moneys derived from other personal property shall be deposited in the district's general fund.

WSR 05-17-179

PERMANENT RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed August 23, 2005, 4:43 p.m., effective September 23, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules implement changes to state-funded staff/student ratios made in the 2004 legislative session for the 2004-05 school year and thereafter. The maximum state-funded ratio decreases from 54.0 certificated instructional staff (CIS) per 1,000 FTE students to 53.2 CIS per 1,000 FTE students. Also, supplemental contracts for extended learning opportunities in grades K-6 (duty suffix 4) no longer contribute to a district's state-funded K-4 ratio.

Citation of Existing Rules Affected by this Order: Repealing WAC 392-140-905; and amending WAC 392-140-903, 392-140-904, and 392-140-912.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

Other Authority: Section 502 (2)(a) of ESHB 2459 (the 2004 supplemental budget).

Adopted under notice filed as WSR 05-13-095 on June 16, 2005.

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 3, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 1.

Date Adopted: August 22, 2005.

Marty Daybell
for Dr. Terry Bergeson
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 02-09-024, filed 4/8/02, effective 5/9/02)

WAC 392-140-903 K-4 Staff enhancement—Definitions. As used in WAC 392-140-900 through 392-140-913:

(1) "Report S-275" means the school district personnel report as defined in WAC 392-121-225.

(2) "Form SPI 1158" means the form provided by the superintendent of public instruction on which school districts report a net change in K-12 full-time equivalent (FTE) staff and/or K-4 FTE staff after October 1 (~~and K-6 supplemental contracts for extended learning opportunities not reportable on Report S-275~~).

(3) "Report 1159" means the report produced by the superintendent of public instruction displaying the calculations of K-4 certificated instructional staffing and K-4 apportionment ratios and other information as necessary.

(4) "Form SPI 1160" means the form provided by the superintendent of public instruction on which school districts may select the period of enrollment the superintendent of public instruction shall use to calculate staffing ratios.

(5) "Form SPI 1230" means the form provided by the superintendent of public instruction on which school districts had the option of reporting 1989-90 FTE K-3 basic education classified instructional assistants before September 1, 1999.

(6) "Form SPI 1230K-4" means the form provided by the superintendent of public instruction on which school districts have the option of reporting 1989-90 FTE K-4 basic education classified instructional assistants after September 1, 1999.

(7) "FTE K-4 basic education enrollment" means the school district's K-4 full-time equivalent enrollment reported for basic education funding pursuant to WAC 392-121-122 for the month of October or such other period selected by the district on optional Form SPI 1160.

(8) "FTE basic education certificated instructional employee" means the FTE calculated pursuant to WAC 392-121-215 for a basic education certificated instructional

employee assigned in whole or in part to the following programs as defined in the *Accounting Manual for Public School Districts in the State of Washington*:

- (a) Basic education, program 01;
- (b) Vocational, basic, state, program 31;
- (c) Skills center, basic, state, program 45; and
- (d) District-wide support, program 97.

(9) "FTE K-4 basic education certificated instructional employee" means for a FTE basic education certificated instructional employee the following:

(a) If the basic education certificated instructional employee serves only K-4 students, one hundred percent of the FTE assigned to basic education; or

(b) If the basic education certificated instructional employee serves K-4 students and students of one or more other grades, multiply the FTE assigned to basic education by:

- (i) The proportion of time spent serving K-4 students to all time serving students;
- (ii) The proportion of K-4 students served to all students served; or
- (iii) Any combination of (i) or (ii) of this subsection as appropriate.

(10) "FTE K-4 basic education certificated instructional staff" means the sum of FTE K-4 basic education certificated instructional employees for a school district.

(11) (~~"Extended learning opportunities" means additional classroom contact time provided to students by teachers beyond the normal school day for more than half day or half year kindergarten, before and after school programs, weekend school programs, summer school programs, and inter-session opportunities to assist students in meeting the essential academic learning requirements and student assessment performance standards.~~)

(12) (~~"K-6 basic education supplemental contracts for extended learning opportunities" means time related supplemental contracts for extended learning opportunities provided by teachers for students enrolled in grades kindergarten through six (K-6). For the purposes of this subsection, these supplemental contract hours shall include only the following staff assignments as defined in the S-275 Personnel Reporting Handbook:~~)

- (a) Program 01, basic education; and
- (b) Activity 27, teaching; and
- (c) Duty roots:
 - (i) 31, elementary teacher; or
 - (ii) 33, other teacher; or
 - (iii) 63, contractor teacher; and
- (d) Duty suffix 4, extended learning opportunities; and
- (e) Grade groups:
 - (i) K, kindergarten; or
 - (ii) E, elementary (grades 1, 2, 3, or 4); or
 - (iii) M, middle (grades 5 or 6).

(13)) "Basic education classified instructional assistant" means a person who is assigned in whole or in part to:

- (a) Program 01 - basic education; 31 - vocational, basic, state; or 45 - skills center, basic, state; and
- (b) Activity 27 - teaching; and
- (c) Duty 910 - aide.

((14)) (12) "Basic education classified instructional assistant FTE" means the number determined for a basic education classified instructional assistant as follows:

(a) Determine the hours per year that the employee is assigned as a basic education classified instructional assistant; and

(b) Divide by 2080.

((15)) (13) "District FTE K-4 basic education classified instructional assistants" means the sum of a school district's FTE K-4 basic education classified instructional assistants.

(a) If the basic education classified instructional assistant serves only K-4 students, one hundred percent of the FTE determined pursuant to subsection ((14)) (12) of this section.

(b) If the basic education classified instructional assistant serves K-4 students and students of one or more other grades, multiply the FTE determined pursuant to subsection ((14)) (12) of this section by:

- (i) The proportion of time spent serving K-4 students to all time serving students;
- (ii) The proportion of K-4 students served to all students served; or
- (iii) Any combination of (b)(i) or (ii) of this subsection as appropriate.

((16)) (14) "Actual average salary for basic education classified instructional assistants" means the dollar amount determined for a school district for a school year as follows:

(a) For each basic education certificated instructional assistant reported on Report S-275 determine the assignment salary reported;

(b) Sum the dollar amounts determined pursuant to (a) of this subsection; and

(c) Divide the result of (b) of this subsection by the sum of the school district's FTE basic education classified instructional assistants as reported on Report S-275.

AMENDATORY SECTION (Amending WSR 02-09-024, filed 4/8/02, effective 5/9/02)

WAC 392-140-904 K-4 Staff enhancement—School district reporting. School districts shall report staff information to the superintendent of public instruction as follows:

(1) Required Report S-275. School districts shall report K-4 basic education certificated instructional staff and K-4 basic education classified instructional assistants employed as of October 1 of the school year on Report S-275 pursuant to instructions provided by the superintendent of public instruction. (~~"K-6 basic education supplemental contracts for extended learning opportunities provided by staff employed by the district as of October 1 shall be reported on Report S-275 and shall be updated throughout the school year as needed to reflect actual hours employed."~~)

(2) Optional Form SPI 1158. School districts may use this form to report (~~the following:~~)

(a)) net changes in K-4 basic education certificated instructional staff or in K-4 basic education classified instructional assistants after October 1 determined as follows:

((1)) (a) Determine the base contract K-4 basic education FTE that would be reported for each employee for the school year on Report S-275 if the current date were substi-

tuted for the October 1 snapshot date as required in S-275 instructions and subtract the base contract K-4 basic education FTE as of October 1 actually reported for the employee on the school district's most current Report S-275.

((iii)) (b) Include decreases as well as increases in FTE staff after October 1 and not reflected in Report S-275. Decreases include terminations, retirements, unpaid leave, and reassignment of staff.

~~((b) K-6 basic education supplemental contracts for extended learning opportunities for staff that were not employed by the district as of October 1 of the school year and not reported on Report S-275.))~~

(3) Optional Form SPI 1160. School districts may use this form to select an enrollment period other than October:

(a) Enrollment for any month of the school year; or

(b) Annual average enrollment for the school year.

(4) Optional Form SPI 1230 K-4. School districts may use this form to report 1989-90 FTE K-4 classified instructional assistants. This is a one-time form. Once filed, the information from this form is used for all subsequent years unless revised by the district.

(5) Optional report forms for a school year must be filed with the superintendent of public instruction by September 30 following the close of the school year.

AMENDATORY SECTION (Amending WSR 03-03-001, filed 1/2/03, effective 2/2/03)

WAC 392-140-912 K-4 Staff enhancement—Determination of K-4 apportionment ratios. The superintendent of public instruction shall determine each school district's ratio of state allocated certificated instructional staff units per one thousand K-4 students for state basic education apportionment as follows:

(1) For the months of September through December, the superintendent shall use the district's estimated K-4 ratio as submitted on Report F-203 Estimates of State Revenue, or as submitted on a letter to the superintendent after submission of Report F-203.

(2) Beginning with the January apportionment payment and each month thereafter, the superintendent shall calculate the district's K-4 apportionment ratio as the greater of (a) or (b) of this subsection:

(a) The district's minimum state-funded K-4 staffing ratio, using FTE enrollment for state apportionment, and calculated as follows:

(i) Sum the district's K-3 FTE enrollment times 0.049 and the district's fourth grade FTE enrollment times 0.046;

(ii) Divide the result of (a)(i) of this subsection by the district total K-4 FTE enrollment;

(iii) Multiply the result of (a)(ii) of this subsection by 1000.

(b) The lesser of:

(i) ~~((55.4 for the 2001-02 school year and 54.0 for the 2002-03 school year and thereafter))~~ 53.2; or

(ii) The sum of the following:

(A) The district's K-4 certificated instructional staff ratio pursuant to WAC 392-140-910; and

(B) ~~((The lesser of 2.2 for the 2001-02 school year and 0.8 for the 2002-03 school year and thereafter or the district's~~

~~K-4 staff ratio equivalent of K-6 basic education supplemental contracts for extended learning opportunities pursuant to WAC 392-140-904; and~~

~~(C))~~ If the district's K-4 basic education certificated instructional staff ratio is 51.00 or greater, the lesser of 1.3 or the district's K-4 certificated staff ratio equivalent of the increased K-4 classified instructional assistants pursuant to WAC 392-140-908 if applicable, otherwise zero.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-140-905

K-4 Staff enhancement—
Determination of the K-4
staff ratio equivalent of K-6
basic education supplemental
contracts for extended learn-
ing opportunities.

WSR 05-17-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-164—Filed August 3, 2005, 3:41 p.m., effective August 4, 2005]

Effective Date of Rule: August 4, 2005.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-07100R; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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.

Date Adopted: August 3, 2005.

J. P. Koenings
 Director

NEW SECTION

WAC 220-52-07100S Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective August 4, 2005 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. August 8, 2005 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2, and 5 on Monday, Tuesday and Wednesday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Saturday and Sunday of each week.

REPEALER

The following section of the Washington Administrative Code is repealed effective August 4, 2005:

WAC 220-52-07100R Sea cucumbers. (05-152)

WSR 05-17-016
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-169—Filed August 4, 2005, 10:05 a.m., effective August 7, 2005, 11:59 p.m.]

Effective Date of Rule: August 7, 2005, 11:59 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-05100T; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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: Commercial spot shrimp quotas have been taken in the catch areas closed in this rule. 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.

Date Adopted: August 3, 2005.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-52-05100U Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3, 4 and 6 outside the shrimp districts are open to the harvest of all shrimp species immediately, until further notice, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-C, 23A-E, 23A-W and 26B-2.

ii) It is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Area 1C and Marine Fish/Shellfish Management and Catch Reporting Areas 23B and 26D.

iii) Effective 11:59 p.m. August 11, 2005, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Area 1B.

iv) Until further notice, it is unlawful to harvest shrimp for commercial purposes in that portion of 26A-W (west) from the Shipwreck west to a point one mile offshore then paralleling the shoreline southerly to the 26B line.

v) The Port Townsend Shrimp District is open to the harvest of shrimp species other than spot shrimp, except those waters south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' West longitude line are closed.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Until 11:59 p.m. August 11, 2005, it is unlawful for the harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 150 pounds per week from Shrimp Management Area 1B.

(d) Until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week from Crustacean Management Region 3, or to exceed 300 pounds per week from Crustacean Management Regions 2, 4 or 6.

(e) Any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Management and Catch Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fishing vessel, of spot shrimp harvested from the previous trip limit accounting week or weeks. 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. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information. The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being to.

(f) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area

subsequent to making a report as indicated in Section 1(e) above.

(g) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Management and Catch Reporting Area 23A is divided into four sub-areas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50°N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50°N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50°N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts is open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A and 22A within Shrimp Management Area 1B is open immediately, until further notice.

(c) Until further notice, Marine Fish/Shellfish Management and Catch Reporting Area 20A is open.

(d) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 7, 2005:

WAC 220-52-05100T Puget Sound shrimp pot and beam trawl fishery—Season (05-159)

**WSR 05-17-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-171—Filed August 5, 2005, 1:22 p.m., effective August 5, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000X and 220-24-04000Y; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary for the utilization of the commercial chinook allocation in the North of Falcon troll fishery in a manner that maximizes the economic value to the commercial fishery industry and the state of Washington. These rules are adopted at the recommendation of the Pacific Fisheries Management Council. 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 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.

Date Adopted: August 5, 2005.

Ronald McQueen
for Jeff Koenings
Director

NEW SECTION

WAC 220-24-04000Y All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except as provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open:

Immediately through August 7, 2005;

August 10 through August 14, 2005;

August 17 through August 21, 2005;

August 24 through August 28, 2005;

August 31 through September 4, 2005;

September 7 through September 11, 2005;

September 14 through September 15, 2005.

(2) The Cape Flattery and Columbia River Control Zones are closed.

(3) Landing and possession limit of 100 chinook per boat for each of the seven open periods provided for in this rule..

(4) Minimum size for chinook salmon is 28 inches in length. Minimum size for coho is 16 inches in length and all coho must have a healed adipose fin clip. No minimum size for pink, sockeye or chum salmon.

(5) Lawful troll gear is restricted to plugs 6 inches or longer with single point, single shank barbless hooks, except troll gear other than plugs allowed in Area 1 beginning August 10, 2005.

(6) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section,

and must land and deliver within the Salmon Management and Catch Reporting Areas 1, 2, 3 or 4. Vessels fishing north of Leadbetter Point must land and deliver their fish within the area and north of Leadbetter Point. Vessels fishing south of Leadbetter Point must land and deliver their fish within the area and south of Leadbetter point.

(7) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. EEZ: and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude and west of 125°05'00" W longitude.

(8) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running north-east/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" West. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon, and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(10) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279 or faxing the information to (360) 902-2949 or E-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each species and the total weight for each species including halibut.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-04000X All-citizen commercial salmon troll. (04-120)

The following section of the Washington Administrative code is repealed effective September 16, 2005:

WAC 220-24-04000Y All-citizen commercial salmon troll

WSR 05-17-032
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-172—Filed August 5, 2005, 4:55 p.m., effective August 7, 2005, 11:59 p.m.]

Effective Date of Rule: August 7, 2005, 11:59 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 220-52-05100U; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.240.

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: Commercial spot shrimp quotas have been taken in the catch areas closed in this rule. 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.

Date Adopted: August 5, 2005.

Ronald McQueen
 for Jeff Koenings
 Director

NEW SECTION

WAC 220-52-05100V Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3, 4 and 6 outside the shrimp districts are open to the harvest of all shrimp species immediately, until further notice, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-C, 23A-E, 23A-W and 26B-2.

ii) It is unlawful to harvest spot shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23B and 26D.

iii) Effective 11:59 p.m. August 9, 2005, until further notice, it is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Area 26B-1.

iv) Effective 11:59 p.m. August 11, 2005, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Areas 1B and 1C.

v) Until further notice, it is unlawful to harvest shrimp for commercial purposes in that portion of 26A-W (west) from the Shipwreck west to a point one mile offshore then paralleling the shoreline southerly to the 26B line.

vi) The Port Townsend Shrimp District is open to the harvest of shrimp species other than spot shrimp, except those waters south of the 48.06' North latitude line, north of the 48.04' North latitude line and east of the 122.46' West longitude line are closed.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Until further notice, it is unlawful for the harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 100 pounds per week from Shrimp Management Areas 2E or 2W.

(d) Until 11:59 p.m. August 11, 2005, it is unlawful for the harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 150 pounds per week from Shrimp Management Areas 1B or 1C.

(e) Until further notice, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week from Crustacean Management Region 3, or to exceed 300 pounds per week from Crustacean Management Regions 4 or 6.

(f) Any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Management and Catch Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fishing vessel, of spot shrimp harvested from the previous trip limit accounting week or weeks. 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. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information. The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being to.

(g) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(e) above.

(h) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Management and Catch Reporting Area 23A is divided into four sub-areas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50°N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50°N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50°N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts is open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A and 22A within Shrimp Management Area 1B is open immediately, until further notice.

(c) Until further notice, Marine Fish/Shellfish Management and Catch Reporting Area 20A is open.

(d) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 7, 2005:

WAC 220-52-05100U Puget Sound shrimp pot and beam trawl fishery—Season (05-169)

**WSR 05-17-039
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed August 9, 2005, 10:31 a.m., effective August 9, 2005]

Effective Date of Rule: Immediately.

Purpose: Electrical program recently adopted amendments to its rules that directly impact the factory-assembled structure (FAS) rules. This emergency rule making will immediately amend the FAS rules changing the reference to the electrical rules which states that electrical plan reviews are not required for structures under 400 amp electrical service. Such structures include: Portable classrooms, educational facilities, city or county jail cells, prisons, small hospitals, MRI structures, or medical clinics. The amendments will clearly state that an electrical plan review must be conducted on all systems within the structure making them consistent with the electrical rules and the statute, Department of

Labor and Industries, chapter 43.22 RCW. Permanent rule making will also be conducted to permanently put these amendments in place.

Citation of Existing Rules Affected by this Order: Amending WAC 296-150C-0020, 296-150C-0320, 296-150C-3000, 296-150F-0020, 296-150F-0320, 296-150F-3000, 296-150V-0020, 296-150V-0320, and 296-150V-3000.

Statutory Authority for Adoption: Chapter 43.22 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: The department is adopting emergency rules for factory assembled structures to ensure the rules are consistent with the statute. The amendments will ensure all plans are reviewed by the department.

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 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: August 9, 2005.

Gary Weeks
Director

AMENDATORY SECTION (Amending WSR 05-01-102, filed 12/14/04, effective 2/1/05)

WAC 296-150C-0020 What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, fire and life safety, or the plumbing, mechanical, and electrical systems of a commercial coach.

The following are not considered alterations:

- Repairs with approved parts;
- Modification 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.

"**Building site**" is a tract, parcel, or subdivision of land on which a commercial coach will be installed.

"**Consumer**" is a person or organization, excluding a manufacturer or dealer of commercial coaches, who buys or leases a commercial coach.

"Commercial coach" is a structure (referred to as a unit) that:

- Can be transported in one or more sections;
- Is used for temporary commercial purposes;
- Is built on a permanent chassis;
- Conforms to the construction standards of this chapter;
- May include plumbing, mechanical, electrical and other systems.

Note: A commercial coach may not be used as a single-family dwelling or hazardous storage building. A commercial coach does not have to be placed on a permanent foundation.

"Damaged in transit" means damage that affects the integrity of a structural 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 commercial coaches.

"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 plan for the construction or alteration of a commercial coach or conversion of a vehicle to a commercial coach including floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its commercial coach design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a commercial coach.

"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 commercial coaches. (See RCW 43.22.420.)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010).

"Insignia" is a label that we attach to a commercial coach to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a commercial coach in place.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"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 commercial coach.

"Master design plan" is a design plan that expires when a new state building code has been adopted.

"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 commercial coach designed to serve a particular function. Examples include structural, plumbing, electrical, or mechanical systems.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

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.))~~ Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(8) All electrical plans for new or altered electrical installations in educational, institutional, and health or per-

sonal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(9) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(10) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150C-3000 Commercial coach fees.

INITIAL FILING FEE	\$32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$222.80
INITIAL FEE - ONE YEAR DESIGN	\$91.20
RENEWAL FEE	\$38.60
RESUBMIT FEE	\$65.10
ADDENDUM (Approval expires on same date as original plan)	\$65.10
ELECTRONIC PLAN SUBMITTAL FEE \$4.90 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW ((When required by chapter 296-46B WAC.)) Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	\$65.10
Service/feeder Ampacity:	
0 - 100	\$28.80
101 - 200	\$35.90
201 - 400	\$67.40
401 - 600	\$79.50
601 - 800	\$102.50
801 - 1000	\$125.40
Over 1000	\$136.10
Over 600 volts surcharge	\$21.50
Thermostats:	
First	\$12.70

EMERGENCY

Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$11.60
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$77.10
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	207 plus
Service/feeder	\$189.80
Additional Feeder	\$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	\$100.70
Additional Feeder	\$25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$62.40
FIRST STATION	\$62.40
EACH ADDITIONAL STATION	\$22.80
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$99.30
INITIAL FEE - ONE YEAR DESIGN	\$60.10
RENEWAL FEE	\$60.10
ADDENDUM	\$60.10
PLANS APPROVED BY PROFESSIONALS	
	\$45.30
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	
	\$12.20
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$65.10
TRAVEL (Per hour)	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$65.10
TRAVEL (Per hour*)	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	

EMERGENCY

ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$97.40
INSIGNIA FEES:	
FIRST SECTION	\$19.70
EACH ADDITIONAL SECTION	\$12.20
ALTERATION	\$32.30
REISSUED-LOST/DAMAGED	\$12.20
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

WAC 296-150F-0020 What definitions apply to this chapter? "Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a factory-built house or commercial structure will be installed.

"Closed construction" is a factory-built house, commercial structure, or component that is not open for visible inspection at the building site. It may enclose factory-installed structural, mechanical, electrical, plumbing, or other systems and equipment.

"Commercial structure" is a structure designed or used for human habitation (such as a dormitory) or human occupancy for industrial, educational, assembly, professional, or commercial purposes. It may also include a component.

"Component" is a discrete element that cannot be inspected at the time of installation either in the factory or in a site-built unit, but is:

- Designed to be installed in a structure;
- Manufactured as a unit; and
- Designed for a particular function or group of functions.

A component may be a floor, wall panel, roof panel, plumbing wall, electrical service wall, or heating assembly.

It may also be a service core. A service core is a factory assembled, three-dimensional section of a building. It may include mechanical, electrical, plumbing, and related systems. It may be a complete kitchen, bathroom, or utility room. Service cores are referred to as "wet boxes," "mechanical cores," or "utility cores."

Note: A roof truss is not considered a component.

"Damaged in transit" is damage that effects the integrity of the structural design or damage to any other system referenced in the codes required by the State Building Code, or other applicable codes.

"Department" is the department of labor and industries. The department may also 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 plan for the construction of factory-built housing, commercial structures, or components that includes floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its design plan.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, installation, or alteration of factory-built housing, commercial structures, and components.

"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 factory-built housing, commercial structures and components. (See RCW 43.22.420.)

"Factory-built housing" is housing designed for human occupancy such as a single-family dwelling. The structure of any room is entirely or substantially prefabricated or assembled at a place other than a building site. It may also include a component. A factory-built house is also referred to as a "modular" structure. Factory-built housing does not include manufactured (mobile) housing. (See RCW 43.22.450(3).)

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010.)

EMERGENCY

"Insignia" is a label that we attach to a structure to verify that a factory-built house or commercial structure meets the requirements of this chapter. It could also be a stamp or label attached to a component to verify that it meets the requirements of this chapter.

"Install" is to erect or set in place a structure at a building site. It may also be the construction or assembly of a component as part of a factory-built house or commercial structure.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"Listed" is a piece of equipment, a component, or an installation that appears in a list published by a testing or listing agency and is suitable for use in a specified manner.

"Listing agency" is an organization whose business is approving equipment, components, or installations for publication.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of factory-built housing and commercial structures.

"Master design plan" is a design plan that expires when a new State Building Code has been adopted.

"Manufacturing" is making, fabricating, forming, or assembling a factory-built house, commercial structure, or component.

"One-year design plan" is a design plan that expires one year after approval or when a new State Building Code has been adopted.

"Repair" is the replacement, addition, modification, or removal of any construction, equipment, system, or installation to correct damage in transit or during on-site installation before occupancy.

"Unit" is a factory-built house, commercial structure, or component.

AMENDATORY SECTION (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

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.

(6) Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(7) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(8) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable and stamped with the engineer's mark and signature.

(9) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)**WAC 296-150F-3000 Factory-built housing and commercial structure fees.**

INITIAL FILING FEE	\$57.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$282.80
INITIAL FEE - ONE YEAR DESIGN	\$165.70
RENEWAL FEE	\$57.30
RESUBMIT FEE	\$82.80
ADDENDUM (Approval expires on same date as original plan.)	\$82.80
ELECTRONIC PLAN SUBMITTAL FEE \$4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (When required by chapter 296-46A WAC,) Plan review for educational, insititutional or health care facilities and other buildings):	
Electrical Plan submission fee	\$63.10
Service/feeder Ampacity:	
0 - 100	\$28.00
101 - 200	\$34.90
201 - 400	\$65.30
401 - 600	\$77.10
601 - 800	\$99.30
801 - 1000	\$121.50
Over 1000	\$131.80
Over 600 volts surcharge	\$20.90
Thermostats:	
First	\$12.40
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$11.30
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour*	\$74.60
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service /feeders Ampacity	207 plus
Service/feeder	\$189.80
Additional Feeder	\$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus
Service/feeder	\$100.70
Additional Feeder	\$25.70
MEDICAL GAS PLAN REVIEW:	
SUBMISSION FEE	\$78.60
FIRST STATION	\$78.60

EMERGENCY

EACH ADDITIONAL STATION	\$28.60
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN	\$126.50
INITIAL FEE-ONE YEAR DESIGN	\$76.50
RENEWAL FEE	\$76.50
ADDENDUM	\$76.50
PLANS APPROVED BY DESIGN PROFESSIONALS	
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$14.80
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$73.30
TRAVEL (Per hour*)	\$73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$73.30
TRAVEL (Per hour*)	\$73.30
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$233.80
EACH ADDITIONAL SECTION	\$21.20
REISSUED-LOST/DAMAGED	\$57.30
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$73.30
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$31.80
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

AMENDATORY SECTION (Amending WSR 03-12-044, filed 5/30/03, effective 6/30/03)

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 pur-

pose 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.

Note: The conversion vendor unit may NOT include a dining area.

"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.

"Educational facility" is a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

"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.

"Health or personal care facilities" are buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated. (Further defined in WAC 296-46B-010.)

"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.

"Institutional facility" is a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

"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.

AMENDATORY SECTION (Amending WSR 99-18-069, filed 8/31/99, effective 10/1/99)

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).))~~ Electrical plan review for educational, institutional or health care facilities and other buildings. Plan review is a part of the electrical inspection process; its primary purpose is to determine:

- (a) That loads and service/feeder conductors are calculated and sized according to the proper NCE or WAC article or section;
- (b) The classification of hazardous locations; and
- (c) The proper design of emergency and standby systems.

(5) All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available for use during the electrical installation or alteration and for use by the electrical inspector.

(6) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW in compliance with chapters 246-320, 180-29, and 388-97 WAC as applicable, and stamped with the engineer's mark and signature.

(7) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panel board schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department.

AMENDATORY SECTION (Amending WSR 05-12-032, filed 5/24/05, effective 6/30/05)

WAC 296-150V-3000 Conversion vendor units and medical units—Fees.

INITIAL FILING FEE	\$32.30
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$222.80
INITIAL FEE - ONE YEAR DESIGN	\$91.20
RENEWAL FEE	\$38.90
RESUBMIT FEE	\$65.10
ADDENDUM (Approval expires on same date as original plan)	\$65.10
ELECTRONIC PLAN SUBMITTAL FEE \$4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
ELECTRICAL PLAN REVIEW (Plan review for educational, institutional or health care facilities and other buildings)	
<u>Electrical plan submission fee</u>	<u>\$65.10</u>
<u>Service/feeder ampacity:</u>	
<u>0 - 100</u>	<u>\$28.80</u>
<u>101 - 200</u>	<u>\$35.90</u>
<u>201 - 400</u>	<u>\$67.40</u>
<u>401 - 600</u>	<u>\$79.50</u>
<u>601 - 800</u>	<u>\$102.50</u>
<u>801 - 1000</u>	<u>\$125.40</u>
<u>Over 1000</u>	<u>\$136.10</u>
<u>Over 600 volts surcharge</u>	<u>\$21.50</u>

EMERGENCY

Thermostats:	
First	\$12.70
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$11.60
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$77.10
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	\$99.30
INITIAL FEE - ONE YEAR DESIGN	\$60.10
RENEWAL FEE	\$60.10
ADDENDUM	\$60.10
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	\$12.20
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$65.10
TRAVEL (Per hour)*	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$97.40
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	\$65.10
TRAVEL (Per hour*)	\$65.10
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	\$18.80
ALTERATION	\$32.30
REISSUED-LOST/DAMAGED	\$12.20
EXEMPT	\$32.30
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders Ampacity	207 plus
Service/feeder	\$189.80
Additional Feeder	\$36.00
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders	207 plus

EMERGENCY

Service/feeder	\$100.70
Additional Feeder	\$25.70
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$65.10
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$12.20
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**WSR 05-17-057
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-173—Filed August 9, 2005, 4:51 p.m., effective August 9, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-05100V; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.240.

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: Commercial spot shrimp quotas have been taken in the catch areas closed in this rule. 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.

Date Adopted: August 9, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-05100W Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until fur-

ther notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3, 4 and 6, are open to the harvest of all shrimp species, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-C, 23A-E, 23A-W, 26B-2, all shrimp districts except Port Townsend Bay, that portion of Area 25D south of 48.06 North latitude, north of 48.04 North latitude, and east of the 122.46 West longitude line, and that portion of 26A-W from the shipwreck west to a point one mile offshore and then paralleling the shoreline south to the 26B line.

ii) Effective 11:59 p.m. August 9, 2005, until further notice, it is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Area 26B-1.

iii) It is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Area 2-E and Marine Fish/Shellfish Management and Catch Reporting Areas 23B, 25D and 26D..

iv) Effective 11:59 p.m. August 10, 2005, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Area 25A.

v) Effective 11:59 p.m. August 11, 2005, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Areas 1B and 1C, and, until 11:59 p.m. August 11th, it is unlawful for the harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 150 pounds per week from Shrimp Management Areas 1B or 1C.

vi) Until further notice, it is unlawful for the harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed:

(A) 100 pounds per week from Shrimp Management Area 2W;

(B) 600 pounds per week from Crustacean Management Region 3, of which not more than 200 pounds per week may come from Area 25A; or

(C) 300 pounds per week from Crustacean Management Regions 4 or 6.

EMERGENCY

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Management and Catch Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fishing vessel, of spot shrimp harvested from the previous trip limit accounting week or weeks. 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. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information. The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area to which the pots are being moved.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(e) above.

(e) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Management and Catch Reporting Area 23A is divided into four sub-areas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50' °N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts is open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A and 22A within Shrimp Management Area 1B is open immediately, until further notice.

(c) Until further notice, Marine Fish/Shellfish Management and Catch Reporting Area 20A is open.

(d) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100V Puget Sound shrimp pot and beam trawl fishery—Season (05-172)

**WSR 05-17-073
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-177—Filed August 11, 2005, 4:43 p.m., effective August 13, 2005, 12:01 a.m.]

Effective Date of Rule: August 13, 2005, 12:01 a.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62100R and 232-28-62100S; and amending WAC 232-28-619 and 232-28-621.

Statutory Authority for Adoption: RCW 77.12.047.

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 emergency rules are necessary to comply with agreed-to management plans, and are interim until permanent rules take effect. Chinook in the Green River appear to be below escapement goals and fishing for chinook in Elliott Bay will close to protect the remaining fish.

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.

Date Adopted: August 11, 2005.

J. P. Koenings
Director
by Larry Peck

EMERGENCY

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Green (Duwamish) River (King County) Notwithstanding the provisions of WAC 232-28-619:

(1) Effective September 1, 2005 until further notice, in those waters of the Green River from the First Avenue South Bridge to Tukwila International Boulevard/Pacific Highway the following rules apply:

- (a) Trout: Minimum length fourteen inches.
- (b) One wild steelhead per day may be retained.
- (c) Salmon: Open - daily limit 6 fish of which no more than 3 may be adult salmon, except release chinook.
- (d) Non-buoyant lure restriction and night closure in effect.

(2) Effective September 1, through September 15, 2005 it is unlawful to fish in those waters of the Green River from the Tukwila International Boulevard/Pacific Highway South to Interstate 5.

(3) Effective September 16, 2005 until further notice, in those waters of the Green River from the Tukwila International Boulevard/Pacific Highway South to Interstate 5. the following rules apply.

- (a) Trout: Minimum length fourteen inches.
- (b) One wild steelhead per day may be retained.
- (c) Salmon: Open - daily limit 6 fish of which no more than 3 may be adult salmon, except release chinook.
- (d) Non-buoyant lure restriction and night closure in effect.

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 232-28-62100S Puget Sound salmon seasons—2005 North of Falcon. Notwithstanding the provisions of WAC 232-28-621, WAC 220-56-128 and WAC 220-56-195, effective immediately until further notice, it is unlawful to fish for salmon in Puget Sound during 2005 except as provided for in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) **Area 5** - Open immediately until further notice, daily limit 2 salmon and 2 additional pink, except release chum, chinook, and wild coho.

(2) **Area 6** - Open immediately until further notice, daily limit 2 salmon and 2 additional pink, except release chum, chinook, and wild coho.

(3) **Area 7** - Open immediately until further notice, daily limit 2 salmon and 2 additional pink, not more than one of which may be a chinook salmon, except release chum and wild coho.

(4) **Area 8-1** - Open immediately until further notice, daily limit 2 salmon and 2 additional pink, except release chinook.

(5) **Area 8-2:**

(a) Effective immediately until further notice - Waters adjacent to Tulalip Bay west of the line from Mission Point to Hermosa Point, and within 2,000 feet of shore, north of pilings at old Bower's Resort and south of the fishing marker 1.4 miles northwest of Hermosa Point, open Friday through

11:59 a.m. the following Monday of each week. Daily limit 2 salmon.

(b) Effective immediately until further notice - All other waters of Area 8-2 open, except closed to salmon angling north of a line from Camano Head to the fishing marker 1.4 miles northwest of Hermosa Point through August 31. Daily limit 2 salmon and 2 additional pink, except release chinook and effective beginning September 1, release all pink north of a line from Camano Head to the fishing marker 1.4 miles northwest of Hermosa Point.

(6) **Area 9:**

(a) Salmon fishing open year-round from the Edmonds fishing pier. Daily limit 2 salmon, not more than one of which may be a chinook, except release chum.

(b) Effective immediately until further notice - All other waters of Area 9 open. Daily limit 2 salmon and 2 additional pink, except release chinook and chum.

(7) **Area 10:**

(a) Salmon fishing open year-round from the Elliott Bay public fishing pier, Seacrest pier, Waterman pier, Bremerton boardwalk, and Illahee State Park pier. Daily limit 2 salmon, not more than one of which may be a chinook salmon, except release chum.

(b) Effective immediately until further notice, all other waters of Area 10 open with the following area rules, limits, and species restrictions - Daily limit 2 salmon and 2 additional pink, except release chinook and chum.

(i) Effective immediately through August 31, Shilshole Bay east of a line from Meadow Point to West Point is closed.

(ii) Waters of Sinclair Inlet and Port Orchard south of the Manette Bridge, south of a line projected true west from Battle Point, and west of a line projected true south from Point White. Daily limit 2 salmon, lawful to retain chinook, except release chum.

(iii) Effective immediately through August 23, Elliott Bay east of a line from West Point to Alki Point is closed.

(iv) Terminal gear in waters of the East Duwamish Waterway between a line projected east along the path of SW Hanford Street on Harbor Island and a line projected east from the south tip of Harbor Island is restricted to bait suspended above the bottom from a float.

(8) **Area 11:**

(a) Salmon fishing open year-round from the Les Davis public fishing pier, Des Moines public fishing pier, Redondo public fishing pier, Dash Point dock, and Point Defiance Boathouse dock. Daily limit 2 salmon, not more than one of which may be a chinook salmon.

(b) Effective immediately until further notice - All other waters of Area 11 open. Daily limit 2 salmon and 2 additional pink.

(9) **Area 13:**

(a) Salmon fishing open year-round from the Fox Island public fishing pier. Daily limit 2 salmon, not more than one of which may be a chinook, except release wild coho.

(b) All other waters of Area 13, open immediately until further notice - Daily limit 2 salmon, except release wild coho.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 13, 2005:

WAC 232-28-62100R Puget Sound salmon seasons—2005 North of Falcon. (05-75)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 3, 2005:

WAC 232-28-62100S Puget Sound salmon seasons—2005 North of Falcon.

WSR 05-17-074
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-176—Filed August 11, 2005, 4:44 p.m., effective August 14, 2005, 7:00 p.m.]

Effective Date of Rule: August 14, 2005, 7:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000I; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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: Sets the fifth fishing period for the early fall commercial fishing season. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2005 non-Indian allocation agreement. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. A biological opinion covering Columbia River fisheries was received from NMFS on May 9, 2005. Regulation is consistent with compact action of August 11, 2005. 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.

Date Adopted: August 11, 2005.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-33-01000I Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. AREA: SMCRA 1B, 1C, 1D, and 1E

2. SEASON:

a. 7:00 p.m. Sunday August 14 to 7:00 a.m. Monday August 15

3. GEAR: Drift gill nets only. 8-inch minimum mesh and 9-3/4 inch maximum mesh

4. ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The five sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

5. SANCTUARIES: Grays River, Elokomina-A, Cowlitz River, Kalama-A, Lewis-A, Washougal and Sandy Rivers.

6. OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. August 15, 2005:

WAC 220-33-01000I Columbia River season below Bonneville.

WSR 05-17-075
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-180—Filed August 11, 2005, 4:45 p.m., effective August 16, 2005, 12:01 a.m.]

Effective Date of Rule: August 16, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-62000Z; and amending WAC 232-28-620.

Statutory Authority for Adoption: RCW 77.12.240.

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: Catch and effort have been slow enough to provide more opportunity and stay within the quotas through Labor Day. 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.

Date Adopted: August 12, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 232-28-62000A Coastal salmon seasons Notwithstanding the provisions of WAC 232-28-620, effective 12:01 a.m., August 16, 2005, until further notice, it is unlawful to fish for salmon in coastal waters during 2005 except as provided in this section, provided that unless otherwise amended all permanent rules remain in effect:

(1) **Area 1** - Open through September 30, 2005, open 7 days per week, daily limit 2 salmon, except release wild coho.

(2) **Areas 2, 2-1, and 2-2:**

(a) **Area 2** - Open through September 18, 2005, open 7 days per week, daily limit 2 salmon, except release wild coho.

(i) Those waters within a line from the lighthouse 1 mile south of the south jetty to Buoy No. 2, then to Buoy No. 3, then to the tip of the north jetty then to the exposed end of the south jetty are closed August 1 until further notice.

(b) **Area 2-1** - Open August 16 until further notice, daily limit 6 salmon, not more than two of which may be adult salmon.

(c) **Area 2-2** west of the Buoy 13 line - Closed.

(3) **Area 3** - Open through September 18, 2005, open 7 days per week, daily limit 2 salmon, except release wild coho.

(4) **Area 4:**

(a) Open through September 18, 2005, open Tuesday through Saturday of each week, daily limit 2 salmon, except release chum and wild coho, release chinook east of the Bonilla-Tatoosh Line.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. August 16, 2005:

WAC 232-28-62000Z Coastal salmon. (05-157)

WSR 05-17-076 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-179—Filed August 11, 2005, 4:46 p.m., effective August 11, 2005, 11:59 p.m.]

Effective Date of Rule: August 11, 2005, 11:59 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100W; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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: Commercial spot shrimp quotas have been taken in the catch areas closed in this rule. 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.

Date Adopted: August 11, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-05100X Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3 and 6, are open to the harvest of all shrimp species, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-C, 23A-E, 23A-W, all shrimp districts except Port Townsend Bay, and that portion of Area 25D south of 48.06 North latitude, north of 48.04 North latitude, and east of the 122.46 West longitude line.

ii) It is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Area 1B, 1C, 2-E, 2-W, and Marine Fish/Shellfish Management and Catch Reporting Areas 23B, 25A, 25D and 26D.

iii) Until further notice, it is unlawful for the combined harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week total from Crustacean Management Region 3 or to exceed 300 pounds per week total from Crustacean Management Region 6.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Management and Catch Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fishing vessel, of spot shrimp harvested from the previous trip limit accounting week or weeks. 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. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information. The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area to which the pots are being moved.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(e) above.

(e) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Management and Catch Reporting Area 23A is divided into four sub-areas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50' °N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S

(south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts and Marine Fish/Shellfish Management and Catch Reporting Area 20A are open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A and 22A within Shrimp Management Area 1B is open immediately, until further notice.

(c) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 11, 2005:

WAC 220-52-05100W Puget Sound shrimp pot and beam trawl fishery—Season (05-173)

WSR 05-17-077
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-175—Filed August 11, 2005, 4:47 p.m., effective August 15, 2005, 6:00 a.m.]

Effective Date of Rule: August 15, 2005, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100S; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. 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.

Date Adopted: August 11, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-07100T 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. August 15, 2005 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Monday, Tuesday and Wednesday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Saturday and Sunday of each week.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. August 15, 2005:

WAC 220-52-07100S Sea cucumbers. (05-164)

**WSR 05-17-082
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-178—Filed August 12, 2005, 1:48 p.m., effective August 12, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Statutory Authority for Adoption: RCW 77.12.240.

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: Regulations for the 2005 Puget Sound commercial salmon fishery were discussed at North of Falcon planning meetings in the spring, and subsequently, a package containing permanent regulation changes arising from agreements made by comanagers at those meetings was filed with the Code Reviser's Office under expedited rule procedures. That package of permanent regulations is

not yet in effect, and these emergency rules are necessary to initiate fisheries, which are scheduled to commence before those permanent rules will become effective. These fisheries are not expected to exceed chinook by-catch levels modeled during the preseason 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 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.

Date Adopted: August 12, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-47-50100I Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7B and 7C:

That portion of Area 7B west of a line from Point Francis (48° 41' 42" N, 122° 36' 40" W) to the red and green buoy southeast of Point Francis (48° 40' 22" N, 122° 35' 30" W) then to the northernmost tip of Eliza Island (48° 39' 37" N, 122° 35' 45" W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48° 38' 35" N, 122° 34' 40" W) and Fish Point (48° 34' 35" N, 122° 29' 45" W) and then southeastward along that line to Fish Point are closed 9/1-9/30.

Purse Seines - (a) Open in Area 7B and 7C to purse seines during the following hours and dates:

6:00 a.m. to 8:00 p.m. August 17, 24 and 31

7:00 a.m. to 7:00 p.m. September 7

(i) It is unlawful to retain sockeye or coho salmon, and any sockeye or coho salmon caught must be released immediately.

(ii) It is unlawful 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 WAC 220-47-325, prior to the seine net being removed from the water.

(iii) The 5-inch strip requirement is not in effect during these openings.

(b) Open in Area 7B to purse seines using the 5-inch strip during the following hours and dates, provided it is unlawful to retain sockeye salmon, and any sockeye salmon caught must be released immediately.

7:00 a.m. to 7:00 p.m. September 12, 13 and 14

7:00 a.m. September 18 to 8 p.m. October 29

Gill Nets - Open to gill nets as follows:

Areas	Mesh Size	Hours	Dates
7B and 7C	7" minimum	7:00 p.m.	August 15 to 7:00 a.m. August 16
		7:00 p.m.	August 21 to 7:00 a.m. August 22
		7:00 p.m.	August 23 to 7:00 a.m. August 24
		7:00 p.m.	August 25 to 7:00 a.m. August 26

Gill Nets - Open to gill nets as follows:

Areas	Mesh Size	Hours	Dates
7B and 7C	7" minimum	7:00 p.m.	August 15 to 7:00 a.m. August 16
		7:00 p.m.	August 21 to 7:00 a.m. August 22
		7:00 p.m.	August 23 to 7:00 a.m. August 24
		7:00 p.m.	August 25 to 7:00 a.m. August 26
		7:00 p.m.	August 28 to 7:00 a.m. August 29.
		7:00 p.m.	August 30 to 7:00 a.m. August 31.
		7:00 p.m.	September 1 to 7:00 a.m. September 2.
		6:00 p.m.	September 5 to 8:00 a.m. September 6
		6:00 p.m.	September 6 to 8:00 a.m. September 7
		6:00 p.m.	September 8 to 8:00 a.m. September 9
7B	5" minimum	6:00 p.m.	September 11 to 8:00 a.m. September 12
		6:00 p.m.	September 13 to 8:00 a.m. September 14
		6:00 p.m.	September 15 to 8:00 a.m. September 16.
7B	5" minimum	7:00 p.m.	September 18 through 8:00 p.m. October 29

Area 9A: Gill Nets - Open to gill nets using 5-inch minimum mesh as follows:

Hours	Dates
7:00 p.m.	August 23 to 7:00 a.m. August 24
7:00 p.m.	August 25 to 7:00 a.m. August 26
7:00 a.m.	August 28 through 8:00 p.m. October 29

It is unlawful to retain chum salmon in Area 9A prior to October 1 and unlawful to retain Chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

Area 12A:

Skiff gill net - (a) Open to skiff gill nets using 5-inch minimum and 5 1/2-inch maximum mesh from 7:00 a.m. to 7:00 p.m. on the following dates: 8/22, 8/31, 9/7, 9/14, 9/21, 9/28.

(b) It is unlawful to retain chinook or pink salmon taken in Area 12A at any time. Any salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

All Other Saltwater and Freshwater Areas: Closed. **"Quick Reporting" Fisheries:**

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or

pink salmon in Areas 7 and 7A are designated as "Quick Reporting Required" fisheries.

WSR 05-17-085

EMERGENCY RULES

HORSE RACING COMMISSION

[Filed August 12, 2005, 3:19 p.m., effective August 12, 2005]

Effective Date of Rule: Immediately.

Purpose: To adopt, on an emergency basis, a new section in chapter 260-70 WAC to prevent persons from administering to race horses any bicarbonate or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a race horse on race day.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

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 new section addresses substances that can be administered to a racehorse on race day, and is needed on an emergency basis to preserve the health and safety of the horse and rider and to protect the general welfare of the betting public, until the permanent rule can be adopted.

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 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.

Date Adopted: August 11, 2005.

R. M. Leichner
Executive Secretary

NEW SECTION

WAC 260-70-675 Bicarbonate testing. No bicarbonate-containing substance or alkalizing substance that effectively alters the serum or plasma pH or concentration of bicarbonates or total carbon dioxide in a horse shall be administered to a horse within twenty-four hours of post time of the race in which the horse is entered.

The official veterinarian, the board of stewards or the executive secretary acting on behalf of the commission may

EMERGENCY

at their discretion and at any time order the collection of test samples from any horses present either in the horse's stall or within the receiving or test barn to determine the serum or plasma pH or concentration of bicarbonate, total carbon dioxide, or electrolytes.

Test samples shall not exceed 37.0 millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum or plasma total carbon dioxide level exceeding this value shall constitute a violation of this rule. Penalties shall be assessed as a Class 4 violation as provided in WAC 260-84-110.

Split samples will be taken from all horses entered to run in race when bicarbonate testing is to be done. When split samples are taken, they shall be shipped as soon as practical to the commission-approved laboratories for total carbon dioxide split sample testing. The commission shall be responsible for the cost of shipping and testing of split samples taken under this section.

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

WSR 05-17-088
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed August 12, 2005, 4:21 p.m., effective August 22, 2005.]

Effective Date of Rule: August 22, 2005.

Purpose: The purpose of new chapter 388-824 WAC, Division of Developmental Disabilities mini-assessment process, is to govern and support the implementation of requirements per ESSB 6090, section 205 (e)(iii), chapter 518, Laws of 2005, requiring that DDD collect client need(s) and client/family financial information for implementation of a flexible family support pilot program to address the health, safety and general welfare needs of up to 1400 clients during the 2006 fiscal year. The mini-assessment is the only automated application tool that DDD currently has available to collect legislatively mandated information on severity of need and family income to ensure that families identified to participate in the flexible family support pilot are eligible to receive these services. Without this automated application, DDD will not be able to consistently and easily monitor information that DDD is required to report to the legislature regarding client needs and family income. Consequently the division's ability to authorize services to this pilot population will be jeopardized. In addition, DDD will not be able to complete the necessary analysis, required by the legislature, regarding the results, successes and failures, of the pilot. The legislature has required DDD to collect this information so that it will be available in making policy recommendations for future biennia regarding family support services. Therefore, it is essential that these rules be adopted by August 22, 2005, to complete the steps necessary to be able to meet the legislative requirement that the mini-assessment be used to implement the flexible family support pilot project. These rules have been proposed for permanent adoption and a pub-

lic hearing has been scheduled for September 6, 2005 (see WSR 05-16-085).

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: ESSB 6090, section 205, chapter 518, Laws of 2005, and 2005-07 Conference Budget.

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: DDD is adopting chapter 388-824 WAC on an emergency basis, effective August 22, 2005, in order to comply with the legislative mandate that the department's mini-assessment tool be used to implement the flexible family support pilot program per SB 6090, section 205 (2)(iv), chapter 518, Laws of 2005. The purpose of the mini-assessment is to electronically capture information regarding a client's income and crisis levels so that the client's eligibility for flexible family support can be verified. Without these rules DDD will be not able to identify clients and families who: Have unmet needs, may be in crisis; and are not receiving paid services. Consequently, without the emergency rule, these clients will not receive available flexible family support services to address their needs, resulting in these clients being at increased risk for out-of-home placement and/or institutional services.

In addition, the Joint Legislative Audit and Review Committee (JLARC) in 2003 recommended DSHS to develop an assessment process for developmentally disabled clients designed to be consistently applied, to all clients, in all parts of the state. Section 205 (1)(iii), chapter 518, Laws of 2005, states that: Eligibility for, and the amount of, renewable awards and one-time awards shall be redetermined annually and shall correspond with the application of the department's mini-assessment tool.

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 29, 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 29, Amended 0, Repealed 0.

Date Adopted: August 12, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

Chapter 388-824 WAC

DIVISION OF DEVELOPMENTAL DISABILITIES
MINI-ASSESSMENT PROCESSNEW SECTION

WAC 388-824-0001 What definitions apply to this chapter? The following definitions apply to this chapter:

"Algorithm" means a numerical formula used by the mini-assessment software application to assign a client to a level of need group.

"CARE" means the Comprehensive Assessment Reporting Evaluation as defined in Chapter 388-106 WAC.

"Client" means a person with a developmental disability as defined in Chapter 388-823 WAC. For purposes of this chapter, the term "client" may include the client's representative.

"Crisis" means a serious and imminent threat exists or will exist without immediate intervention and the client lacks the resources to address the situation. The threat may be:

- (1) To the life, health and/or safety of the client; or
- (2) To the safety of the client's family; or
- (3) To the safety of the community.

"Department" means the Washington State department of social and health services.

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration (ADSA), department of social and health services (DSHS).

"Domain" means a specific area of the client's life. For mini-assessment purposes only, domains are identified in WAC 388-824-0025.

"Full assessment" means an inventory and evaluation of client needs using a department approved tool to determine service eligibility and amount of services that may be authorized.

"Full assessment referral database" means a report that contains client identification information and mini-assessment results.

"ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to individuals diagnosed as having mental retardation or persons with related conditions as defined in chapter 388-825 WAC.

"Information and referral" means a service directing clients to appropriate DSHS and generic community resources based on reported and/or assessed needs. This includes client/family education and problem solving related to reported and/or identified needs. This does not include authorizing a paid service.

"Mini-assessment" means a brief computerized assessment tool using a set of questions and responses scored by an algorithm. A mini-assessment identifies the relative level of need that exists in specific domains of the client's life.

"Paid services" is defined as one or more of the following:

- (1) Authorization of a paid service within the last ninety days as evidenced by a social services payment system (SSPS) authorization, a county authorization for day program

services, a Waiver Plan of Care approving a DDD paid service, or residence in a SOLA or ICF/MR.

(2) Authorization of family support services within the last twelve months.

(3) Documentation of DDD approval of your absence from DDD paid services for more than ninety days with available funding for your planned return to services.

"Reassessment" means any additional mini-assessment that the client receives after the initial mini-assessment.

"Respondent" means a client's parent(s) or another person who participates in the mini-assessment interview by answering questions and providing information.

"Significant change" means a reported change, for better or worse, in the client's medical condition, caregiver status, or need for support that differs from what was reported in the client's initial mini-assessment.

"SOLA" means a state operated living alternative program for adults that is operated by DDD.

NEW SECTION

WAC 388-824-0010 What is the DDD mini-assessment? (1) The mini-assessment is a brief computerized assessment tool that case managers use to identify the relative level of need that exists in specific domains of your life.

NEW SECTION

WAC 388-824-0015 How do you and/or your respondent(s) obtain information about the mini-assessment? Upon request, your case manager must provide you with a written copy and/or information on how to obtain a copy of the mini-assessment and associated algorithm.

NEW SECTION

WAC 388-824-0020 What is the purpose of the mini-assessment? The purpose of the mini-assessment is to:

- (1) Identify major domains in which needs may exist, as identified in WAC 388-824-0010;
- (2) Identify clients with no current unmet needs;
- (3) Identify clients who are not in crisis and who will receive information and referral services alone;
- (4) Identify clients who need employment or other county services;
- (5) Determine whether a client is in crisis;
- (6) Identify clients who may be eligible for Medicaid Personal Care;
- (7) Assign clients to one of the following level of need groups for referral to the Full Assessment Referral Database:
 - (a) High level of need;
 - (b) Moderate level of need; or
 - (c) Low level of need; and
- (8) Assist supervisors and case resource managers to make decisions about whom to refer for a full assessment.

NEW SECTION

WAC 388-824-0025 What domains does the mini-assessment evaluate to identify your relative level of need? The mini-assessment evaluates information you report regarding the following specific domains:

- (1) Housing;
- (2) Caregiver/support system;
- (3) Safety;
- (4) Community protection;
- (5) Behavior;
- (6) Financial/subsistence;
- (7) Physical health;
- (8) Mental health;
- (9) Personal care assistance;
- (10) Education;
- (11) Employment;
- (12) Social/community participation;
- (13) Legal;
- (14) Communication;
- (15) Adaptive equipment; and
- (16) Transportation.

NEW SECTION

WAC 388-824-0030 Does the mini-assessment affect other DDD assessments? The mini-assessment does not replace or change other assessments that DDD uses.

NEW SECTION

WAC 388-824-0040 Who receives a mini-assessment? (1) DDD conducts a mini-assessment if you have been determined eligible to be a client of the division of developmental disabilities per WAC 388-823-0020 and meet the requirements of WAC 388-824-0050; or

(2) You are eligible to be a client of DDD per WAC 388-823-0020 and are eligible for the Medicaid Categorically Needy Program (CNP) but you have been determined ineligible for Medicaid Personal Care by a CARE assessment, or have declined Medicaid Personal Care Services.

NEW SECTION

WAC 388-824-0050 Who does not receive a mini-assessment? DDD does not conduct a mini-assessment in any of these situations:

- (1) Your child is under age of three, since your child:
 - (a) May be eligible for services through the federally funded Infant Toddler Early Intervention Program; and
 - (b) May be referred for county-funded child development services.
- (2) You are under the age of seventeen years and receiving private duty nursing services as defined by WAC 388-551-3000.
- (3) You have been authorized to receive a State Supplementary Payment, through SSPS.
- (4) You are currently living in or being discharged from a state-paid residential program or facility.
- (5) You are in crisis and have been referred directly for a full assessment by a supervisor or case resource manager.

(6) You are receiving paid services as defined in WAC 388-824-0001.

NEW SECTION

WAC 388-824-0055 Who participates in the mini-assessment? You and your respondent(s) participate in the mini-assessment. If you are under age of eighteen or have a legal guardian, the primary respondent(s) will be your parent(s) or legal guardian.

NEW SECTION

WAC 388-824-0060 How does DDD conduct an initial mini-assessment? (1) DDD staff must complete the mini-assessment through a face-to-face interview with you.

(2) The mini-assessment may occur at any site agreed to by you, your respondent(s) and DDD.

NEW SECTION

WAC 388-824-0065 When does DDD conduct a reassessment? A reassessment may occur when:

- (1) A significant change is reported regarding your relative level of need; and
- (2) You and/or your respondent have requested assistance in supporting your reported unmet need to your case resource manager; and
- (3) You meet the criteria defined in WAC 388-824-0040 and WAC 388-824-0050; or
- (4) A supervisor and/or your case resource manager determine that a reassessment is necessary.

NEW SECTION

WAC 388-824-0070 Does DDD require you to disclose financial information? (1) If you are under the age of eighteen and live with your natural, step, or adoptive parent(s), your case resource manager must ask for information regarding:

- (a) Your family's annual gross income; and
 - (b) The number of dependents in your family's household.
- (2) Your case resource manager must ask for this information before completing your mini-assessment.
- (3) If your respondent(s) agree to disclose your family's annual gross income and the number of your family's dependents, your case resource manager must record this information in the CARE tool.

NEW SECTION

WAC 388-824-0080 Is the respondent required to provide verification of my family's annual gross income? Your respondent(s) are not required to provide verification or evidence of your family's annual gross income and/or number of family dependents.

NEW SECTION

WAC 388-824-0090 Does reporting your family's annual gross income and number of family dependents affect your eligibility for paid services? Reporting your family's annual gross income and number of family dependents does not affect your eligibility for paid services except when the legislature establishes, by law, standards for a specific service.

NEW SECTION

WAC 388-824-0100 What does DDD do if the respondent does not provide the requested family income and dependent information? If the respondent does not provide information regarding your family's annual gross income and number of family dependents, the case resource manager must:

(1) Document that the your respondent(s) have declined to provide information regarding your family's annual gross income information and/or number of family dependents.

(2) Ask your respondent(s) if they would like information regarding a referral for ICF/MR services per Title 71A RCW, chapter 388-825 WAC and chapter 388-837 WAC.

(3) Offer you and/or your respondent(s) an opportunity to complete the mini-assessment.

NEW SECTION

WAC 388-824-0120 What is the difference between a mini-assessment for adults and a mini-assessment for children? The differences between a mini-assessment for adults and children are:

(1) The requirement to request your family income information and number of family dependents per chapter 388-824-0070; and

(2) The presentation of different wordings of questions which may activate or inactivate whole questions based on your age.

NEW SECTION

WAC 388-824-0140 How does the mini-assessment use information that is scored during the mini-assessment interview? The mini-assessment uses information reported by you and/or your respondent(s) to evaluate your relative level of need using an algorithm in the software application.

NEW SECTION

WAC 388-824-0170 What occurs when you are assigned to the "high level of need" group? When you are assigned to the "high level of need" group, your case resource manager must do one or more of the following:

(1) Refer you to the Full Assessment Referral Database for a full assessment.

(2) Assist you to resolve a crisis, if indicated by the mini-assessment, before initiating a full assessment.

(3) Offer you necessary information and referral services to address a reported and/or assessed need.

(4) Provide you and your respondent(s) with information on how to contact your case resource manager should a change in your needs occur.

(5) Refer you for further case management review if the mini-assessment indicates:

(a) You have an unmet need in the community protection domain; or

(b) You may be at risk for placement in a more restrictive setting.

NEW SECTION

WAC 388-824-0190 What occurs when you are assigned to the "moderate level of need" group? When you are assigned to the "moderate level of need" group, your case resource manager must do one or more of the following:

(1) Refer you to the Full Assessment Referral Database for a full assessment.

(2) Offer you necessary information and referral services to address a reported and/or assessed need.

(3) Refer you for further case management review if the mini-assessment identifies you to be at risk for placement in a more restrictive residential setting.

(4) Provide you and your respondent(s) with information on how to contact your case resource manager should a change in your needs occur.

NEW SECTION

WAC 388-824-0210 What occurs when you are assigned to the "low level of need" group? When you are assigned to the "low level of need" group, your case resource manager must do one or more of the following:

(1) Refer you to the Full Assessment Referral Database.

(2) Offer you necessary information and referral services to address a reported and/or assessed need.

(3) Provide you and your respondent(s) with information on how to contact your case resource manager should a change in your needs occur.

NEW SECTION

WAC 388-824-0220 When will I be reassigned to another level of need group? You may be reassigned to another level of need group only if you continue to meet the criteria defined in WAC 388-824-0065 and receive a reassessment that indicates assignment to another level of need group.

NEW SECTION

WAC 388-824-0230 Does the mini-assessment result in paid services? The mini-assessment does not result in you receiving paid services except when the legislature establishes, by law, standards for specific service.

NEW SECTION

WAC 388-824-0240 How do you know the results of your mini-assessment? After the mini-assessment is performed, your case resource manager must discuss the results

with you and/or your respondent(s). You and your designated respondent(s) will be notified in writing regarding:

- (1) Your assigned level of need group; and
- (2) Information on how to contact your case resource manager should a change in your needs occur.

NEW SECTION

WAC 388-824-0260 What is the full assessment referral database? The full assessment referral database is a report that assists supervisors and case resource managers to make decisions about whom to refer for a full assessment. It contains the following information:

- (1) Your name, date of birth, and phone number.
- (2) The date your mini-assessment was performed.
- (3) Information about whether the mini-assessment indicated that you may be in crisis.
- (4) Information regarding your relative level of need to include:
 - (a) Your assigned level of need group; and
 - (b) Your mini-assessment score.

NEW SECTION

WAC 388-824-0280 What information does DDD use in deciding whom to refer for a full assessment? DDD refers you from the full assessment referral database for a full assessment on the basis of:

- (1) Your mini-assessment score;
- (2) Your identified level of unmet need;
- (3) DDD's capacity for completing full assessments; and
- (4) Available funding to provide an approved service to meet the identified level of unmet need.

NEW SECTION

WAC 388-824-0290 When does DDD remove my name from the full assessment referral database? DDD removes your name from the full assessment referral database after:

- (1) You have received a full assessment;
- (2) DDD determines that you no longer meet the criteria for a mini-assessment per WAC 388-824-0050; or
- (3) DDD determines that you are receiving a paid service and/or no longer eligible to be a client of the division of developmental disabilities per chapter 388-823 WAC.

NEW SECTION

WAC 388-824-0310 When DDD adjusts the mini-assessment algorithm, when does the adjustment become effective? When DDD adjusts the mini-assessment algorithm, the adjustment becomes effective at your initial or next mini-assessment or reassessment following the date of the algorithm adjustment.

NEW SECTION

WAC 388-824-0320 Are there appeal rights to the mini-assessment? (1) You and/or your designated representative(s) have the right to a hearing when:

- (a) You disagree with the information entered into the mini-assessment; or
 - (b) DDD denies you and/or your designated representative's request to have a reassessment performed.
- (2) You do not have the right to appeal the mini-assessment algorithm.

NEW SECTION

WAC 388-824-0330 If you request a hearing to review the results of your mini-assessment, which mini-assessment does the administrative law judge review in the hearing? If you request a hearing to review the results of your mini-assessment, the administrative law judge must review your most recent mini-assessment.

WSR 05-17-097

EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-181—Filed August 15, 2005, 4:13 p.m., effective August 15, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100X; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.240.

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: Commercial spot shrimp quotas have been taken in the catch areas closed in this rule. 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.

Date Adopted: August 15, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-05100Y Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3 and 6, are open to the harvest of all shrimp species, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-C, 23A-E, 23A-W, all shrimp districts except Port Townsend Bay, and that portion of Area 25D south of 48.06 North latitude, north of 48.04 North latitude, and east of the 122.46 West longitude line.

ii) It is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Area 1B, 1C, 2-E, 2-W, and Marine Fish/Shellfish Management and Catch Reporting Areas 23B, 25A, 25D and 26D.

iii) Until further notice, it is unlawful for the combined harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 300 pounds per week total from Crustacean Management Regions 2 and 3, except Fish/Shellfish Management and Catch Reporting Area 29.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Management and Catch Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fishing vessel, of spot shrimp harvested from the previous trip limit accounting week or weeks. 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. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information. The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area to which the pots are being moved.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(e) above.

(e) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Management and Catch Reporting Area 23A is divided into four sub-areas: 23A-E (east) is those waters of Catch Area 23A north

of a line projected 48.22.50' °N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50' °N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts and Marine Fish/Shellfish Management and Catch Reporting Area 20A are open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A and 22A within Shrimp Management Area 1B is open immediately, until further notice.

(c) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-52-05100X Puget Sound shrimp pot and beam trawl fishery—Season (05-179)

WSR 05-17-116**EMERGENCY RULES****DEPARTMENT OF HEALTH**

[Filed August 17, 2005, 4:31 p.m., effective August 17, 2005]

Effective Date of Rule: Immediately.

Purpose: The rule amendment will allow all physician specialties to be eligible for visa waiver consideration based on need criteria and will allow up to five waivers to be approved for physicians practicing in health care facilities not located in designated health professional shortage areas.

Citation of Existing Rules Affected by this Order: Amending WAC 246-562-070 and 246-562-080.

Statutory Authority for Adoption: Chapter 70.185 RCW.

Other Authority: Federal legislation Public Law 108-44.

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: Foreign physicians who are in the United States on a J-1 visa for training (residency or fellowship) must at the completion of their training either return

to their home country for two years or receive a waiver of the two year home requirement in exchange for working in a designated health professional area for a minimum of three years. States participating in the waiver program are authorized to approve up to 30 waivers each federal program year. The federal law authorizing the J-1 waiver program, codified as Public Law 108-441, was amended in December 2004. The amendments:

The following reasons necessitate an emergency rule amendment:

1. Federal law authorizing the J-1 waiver program, codified as Public Law 108-441, was amended in December 2004. Public Law 108-441 basically:

- a. Reauthorized the program,
- b. Added language allowing states to approve waivers for specialist physicians based on need criteria developed by the state, and
- c. Allows states to sponsor up to five waivers to be approved in nondesignated shortage areas.

2. Placing a sufficient number of physicians in underserved areas is a longstanding problem. Many sites, unable to recruit United States trained physicians, have turned to non-United States citizens who have completed training in the United States to address this issue. Nationally it has been increasingly difficult to recruit certain specialties; as a result we have the change in the federal law. By Department of Health rule, specifically WAC 246-562-080, we have limited the types of specialties allowed in the waiver program. Unfortunately, the types of specialists needed in our state do not always fall under this limited list. Harborview Medical Center in Seattle and Yakima Regional Medical and Cardiac Center in Yakima, are examples of sites having difficulty recruiting particular specialties. They have been recruiting neurosurgeons almost constantly and are unable to find United States citizens to fill their vacancies. This speciality is difficult to recruit for due to the limited number of neurosurgeons produced each year compared to the great number of vacancies. Neurosurgeons are also necessary to maintain trauma designations as required by WAC 246-976-535. Both facilities have identified a foreign trained physician as their ideal neurosurgeon candidate, and each candidate requires a J-1 visa waiver. The need for this specialty, to the respective institutions, is critical to provision of care in our state. Due to their visa requirements, if the physicians do not receive a waiver in our state, their options are to look to other states or return to their home countries.

3. A CR-101 was filed with the code reviser and an appropriate public process initiated. In spite of all best efforts permanent rules cannot be in place by the end of the federal program year. The physicians have completed their training and are in the country on training visas which expire August 31, 2005. It is essential our rules be amended on an emergency basis to keep these physicians in Washington state. The existing rule language is not consistent with the new federal language and is the only barrier to these health care facilities accessing these physician services.

These conditions constitute good cause to find threat to the public health, safety, or welfare. The emergency rule is narrowly tailored to address the recent implementation of PL 108-441.

Because the waivers are limited to a program year that is currently in process, and the change in direction of implementation of federal law was provided after the program year was already in process, observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and would eliminate the opportunity for these two health care facilities to access the physicians during this program year. The amendments are tailored to alleviate these conditions on a temporary basis.

The above-described conditions constitute that a recent federal law interpretation by the authoritative agency requires immediate adoption of a rule according to RCW 34.05.350 (1)(b).

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 2, 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 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 1, Amended 2, Repealed 0.

Date Adopted: August 17, 2005.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 98-20-067, filed 10/2/98, effective 11/2/98)

WAC 246-562-070 Criteria for the proposed practice location to be served by the physician. (1) The proposed practice location must be located in:

- (a) A federally designated primary care health professional shortage area(s); or
- (b) A federally designated mental health professional shortage area(s) for psychiatrists; or
- (c) A federally designated whole-county medically underserved area(s); or
- (d) A combination of federally designated areas.

(2) If the federal designation is based on a specific population, the health care facility must serve the designated population.

(3) If the practice location is in both a population designation area and a medically underserved area, the designated population must be served.

(4) If the practice location is not located in a federally designated shortage area or whole-county medically underserved area, the applicant must meet the criteria in WAC 246-562-075.

(5) The health care facility named in the visa waiver application may be an existing practice location or a new practice location ((for the health care facility named in the

~~visa waiver application~~). If a new practice location is planned, additional criteria apply. New practice locations must:

- (a) Have the legal, financial, and organizational structure necessary to provide a stable practice environment, and must provide a business plan that supports this information;
- (b) Support a full-time physician practice;
- (c) Have written referral plans that describe how patients using the new primary care location will be connected to existing secondary and tertiary care if needed.

NEW SECTION

WAC 246-562-075 Criteria for waiver sponsorships in nondesignated shortage areas. Public Law 108-441 allows states to sponsor up to five waivers each program year for physicians who will practice medicine in a health care facility that is not located in a designated health professional shortage area but serves patients who reside in designated shortage areas. Waivers will not be open to physicians practicing in nondesignated shortage areas until April 1 of each program year. For waiver approval, the health care facility must:

(1) Provide care to patients who reside in designated shortage areas.

- (a) Describe the facility's service area.
- (b) Provide a patient visit report based on patient origin by zip code. At least twenty percent of total patient visits must come from patients who reside in designated shortage areas.

(2) Describe who will benefit from the physician's services.

- (a) Identify the percentage of Medicaid and Medicare patients who will have access to this physician.
- (b) Describe how the facility will assure access to this physician for low-income or uninsured patients.
- (c) Explain if the physician has language skills that will benefit patients at this facility.

(3) Provide a detailed report of the extensive recruitment efforts made to recruit a U.S. physician for the specific position that the J-1 physician will fill.

- (a) Explain why this physician is necessary at this location.
- (b) Explain why it is difficult to recruit a U.S. physician for this location.
- (c) Provide the number of physicians interviewed for this position.
- (d) Provide the number of physicians offered this position.

AMENDATORY SECTION (Amending WSR 03-19-054, filed 9/11/03, effective 10/12/03)

WAC 246-562-080 Criteria for the physician. (1) The physician must not have a J-1 visa waiver pending for any other employment offer.

- (2) Physicians must have the qualifications described in recruitment efforts for a specific vacancy.
- (3) Physicians are considered eligible to apply for a waiver when:

(a) They have successfully completed their residency or fellowship program; or

(b) They are in the last six months of a residency or fellowship program, and the physician provides a letter from their program that:

- (i) Identifies the date the physician will complete the residency or fellowship program; and
- (ii) Confirms the physician is in good standing with the program.

(4) Physicians applying as primary care physicians must:

- (a) Provide direct patient care; and
- (b) Be trained in:
 - (i) Family practice; or
 - (ii) General internal medicine; or
 - (iii) Pediatrics; or
 - (iv) Geriatric medicine; or
 - (v) Obstetrics and gynecology; or
 - (vi) Psychiatry and its subspecialties; and

(c) Except for geriatric medicine and psychiatrists, not have any additional specialty training. Continuing medical education (CME) will not be considered specialty training for the purposes of this rule.

(5) Specialist waivers are available to nonprimary care physician specialties. Physicians applying as specialists must:

- ~~((a)) Provide direct patient care(;~~
- ~~(b) Be trained in a subspecialty as defined by the Accreditation Council for Graduate Medical Education and published in the 1999-2000 Graduate Medical Education Directory, which is hereby incorporated by reference of:~~

- ~~(i) Internal medicine, except for geriatric medicine; or~~
- ~~(ii) Family practice, except for geriatric medicine; or a specialty as defined by the Accreditation Council for Graduate Medical Education and published in the 1999-2000 Graduate Medical Education Directory, which is hereby incorporated by reference of~~

- ~~(iii) General surgery;~~
- ~~(iv) Radiology diagnostic;~~
- ~~(v) Anesthesiology;~~
- ~~(vi) Otolaryngology (ENT); or~~
- ~~(vii) Urology)).~~

(6) ~~((Copies of the 1999-2000 Graduate Medical Education Directory are available from the American Medical Association or can be viewed at the Washington State Department of Health, Office of Community and Rural Health, 310 Israel Road SE, Tumwater WA 98501.))~~ Applicants submitting an application for a specialist physician must:

(a) Demonstrate a need for the nonprimary care specialty by addressing one of the following need criteria:

(i) The physician specialty is needed to meet state or federal health care facility regulations; for example, to maintain the hospital trauma designation level.

(A) Identify the regulation; and

(B) Address how facility is currently meeting this regulation.

(ii) The physician specialty is needed to address a major health problem in the facility service area.

(A) Identify the health problem and how this specialty will address it;

(B) Provide incident rates of the pathology and tie diagnosis codes to payer mix (i.e., How many patients are affected and how many are low-income or uninsured?); and

(C) If this specialty is not available in the community, identify the nearest location where this specialty service can be obtained.

(iii) The physician specialty is needed to address population-to-physician ratio because the current ratio does not meet national standards.

(A) Provide the population-to-physician ratio for the specialty, include source for data provided;

(B) Provide the number of physicians (FTE) practicing this specialty in the same HPSA/facility service area;

(C) Provide the distance to the nearest physician practicing the same specialty; and

(D) Describe how the demand for the specialty has been handled in the past.

(b) Describe the referral system that includes:

(i) On-call sharing;

(ii) Affiliation agreements with other health care entities, specifically with community and migrant health centers or other safety providers in the service area.

(c) Provide at least one letter of support for this type of physician specialty from a primary care provider practicing with a safety net system outside of the applicant's organization.

(7) Physicians must have an active Washington state medical license, unless unusual circumstances delay licensing. If the application for a Washington state medical license has been received by the Washington state medical quality assurance commission four or more weeks prior to submission of the visa waiver application, the applicant may substitute a copy of the license application and request an exception.

(8) Physicians must be an active candidate for board certification on or before the start date of employment.

(9) Physicians must have at least one letter of recommendation from their residency program if applying as a primary care physician or from their fellowship program if applying as a specialist that:

(a) Addresses the physician's interpersonal and professional ability to effectively care for diverse and low-income people in the United States; and

(b) Describes an ability to work well with supervisory and subordinate medical staff, and adapt to the culture of United States health care facilities; and

(c) Documents level of specialty training, if any; and

(d) Is prepared on residency program letterhead and is signed by residency program staff or faculty; and

(e) Includes name, title, relationship to physician, address and telephone number of signatory.

(10) The physician must comply with all provisions of the employment contract.

(11) Physician must:

(a) Accept Medicaid assignment; and

(b) Post and implement a sliding fee discount schedule; and

(c) Serve the low-income population; and

(d) Serve the uninsured population; and

(e) Serve the shortage designation population; or

(f) Serve the population of a local, state, or federal governmental institution or corrections facility as an employee of the institution.

**WSR 05-17-121
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-182—Filed August 17, 2005, 4:52 p.m., effective August 20, 2005, 12:01 a.m.]

Effective Date of Rule: August 20, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900P; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The upper Columbia River summer chinook return is very strong with 22,000 fish passing Wells Dam as of July 29. Escapement exceeds hatchery broodstock and wild broodstock spawning needs and there is a harvestable surplus. The stocks are stable, not listed under ESA and the expanded fishery has been deemed by NMFS not likely to have a negative impact on ESA-listed Okanogan basin steelhead. 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.

Date Adopted: August 17, 2005.

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900P Exceptions to statewide rules—Okanogan and Similkameen rivers. Notwithstanding the

provisions of WAC 232-28-619, effective August 20 through September 30, 2005, it is lawful to fish the following waters:

(1) Okanogan River (Okanogan Co.) Those waters from the Highway 97 bridge near the mouth to the railroad trestle (bridge) downstream of the Lake Osoyoos Control Dam in Oroville. Daily limit of six salmon, no more than two adults. Release all coho and sockeye. Night closure and non-buoyant lure restriction in effect. Statewide gamefish rules are in effect, except release all trout.

(2) Similkameen River (Okanogan County) Those waters from the confluence with the Okanogan River upstream to the county road bridge in Oroville. Daily limit of six salmon, no more than two adults. Release all coho and sockeye. Night closure and non-buoyant lure restriction in effect. Release all fish except salmon.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 pm., September 30, 2005:

WAC 220-28-61900P Exceptions to statewide rules—Okanogan and Similkameen rivers (05-182)

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 05-17-122
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-183—Filed August 17, 2005, 4:53 p.m., effective August 17, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000I; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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: Sets an additional fishing period for the early fall commercial fishing season. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2005 Non-Indian allocation agreement. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. A biological opinion covering Columbia River fisheries was received from NMFS on May 9, 2005. Rule is consistent

with compact action of August 16, 2005. 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.

Date Adopted: August 17, 2005.

Evan Jacoby
for Jeff Koenings
Director

NEW SECTION

WAC 220-33-01000J Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010 and 220-33-020, it is unlawful to fish for or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas, 1A, 1B, 1C, 1D and 1E except as provided for in this section:

1. Areas open: 1B, 1C, 1D and 1E.
2. Time and date open: 7:00 p.m. August 17 to 7:00 a.m. August 18, 2005.
3. Lawful gear: Drift gill nets only. 8-inch minimum mesh and 9-3/4 inch maximum mesh.
4. Allowable sale: Salmon and sturgeon only. A maximum of five sturgeon may be possessed or sold from each participating vessel. The five sturgeon limit includes both mainstem and Select Area fisheries.
5. Closed waters: The following sanctuaries are closed: Grays River, Elokommin-A, Cowlitz River, Kalama-A, Lewis-A, Washougal and Sandy Rivers.
6. Miscellaneous provisions: Quick reporting is required for Washington wholesale dealers. WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. August 18, 2005:

WAC 220-33-01000J Columbia River season below Bonneville. (05-183)

**WSR 05-17-134
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-184—Filed August 19, 2005, 3:41 p.m., effective August 19, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-25500X; and amending WAC 220-56-255.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The rate of incidental catch of canary rockfish is higher this year as compared to last year, and the Washington recreational fishery is projected to achieve, and may exceed, the harvest guideline adopted by the Pacific Council. In order to manage this harvest guideline, the department committed to take inseason action to prohibit fishing for bottomfish seaward of a line approximating the 30 fathom depth contour in an effort to slow down the catch rate of canary rockfish. 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.

Date Adopted: August 18, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-56-25500Y Halibut—Seasons—Daily and possession limits. (1) Notwithstanding the provisions of WAC 220-56-255, effective immediately until further notice it is unlawful to fish for or possess halibut taken for personal use except from the areas or in excess of the amounts provided for in this section:

(a) Catch Record Card Area 1 - Closed

(b) Catch Record Card Area 2 - Closed, except lawful to retain halibut from 12:01 a.m. each Friday through 11:50

p.m. Saturday until further notice, in those waters south of Queets River (47 deg, 31.70'N lat.) to 47 deg, 00.00'N lat. and east of a line approximating 30 fathoms, as defined in the following coordinates:

47°31.70'N lat.	124°37.03'W long.;
47°25.67'N lat.	124°34.79'W long.;
47°12.82'N lat.	124°29.12'W long.;
46°52.94'N lat.	124°22.58'W long.;
46°44.18'N lat.	124°18.00'W long.;
46°38.17'N lat.	124°15.88'W long.

(c) Catch Record Card Areas 3 through 13 - Closed.

(2) Daily limit one halibut.

(3) The possession limit is two daily limits of halibut in any form, except the possession limit aboard the fishing vessel is one daily limit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-25500X Halibut—Seasons daily and possession limits. (05-147)

**WSR 05-17-146
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-186—Filed August 19, 2005, 4:46 p.m., effective August 19, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100N; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 77.12.047.

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: Opens first three weeks of tribal commercial fishery. Continues the commercial sale of platform and hook and line caught fish in the treaty Indian fishery, including Washington tributaries, consistent with Yakama Nation rules for those tributaries. Season is consistent with the 2005-2007 management agreement and the biological opinion. Consistent with action of the Columbia River compact of August 19, 2005, and conforms state rules with tribal rules. 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

EMERGENCY

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.

Date Adopted: August 19, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-32-05100N Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and the Klickitat River and White Salmon rivers, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, sturgeon, steelhead and walleye under the following provisions pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. August 22, 2005 to 6:00 p.m. August 26, 2005

6:00 a.m. August 29, 2005 to 6:00 p.m. September 2, 2005

6:00 a.m. September 6, 2005 to 6:00 p.m. September 10, 2005

a) Open Areas: SMCRA 1F, 1G, 1H

b) Gear: Gill Nets. No mesh restriction from August 22 through September 2. 8-inch minimum mesh restriction from September 6 through September 10.

c) Allowable sale includes: salmon, steelhead, walleye, carp, and shad. Sturgeon may not be sold.

d) Sanctuaries: All standard sanctuaries except the small 150 foot sanctuary around Spring Creek Hatchery.

2) Open Periods: Immediately until further notice.

a) Open Areas: SMCRA 1F, 1G, 1H, the Klickitat River and the White Salmon River.

b) Gear: Hoop nets, dip bag nets, or hook and line.

c) Allowable sale includes: Salmon, steelhead, walleye, carp and shad. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings. Fish taken in the Klickitat and White Salmon rivers may be sold when those rivers are open pursuant to lawfully enacted tribal rules.

3) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles

to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

4) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a. Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b. Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c. Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

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

Date Adopted: August 19, 2005.

J. P. Koenings
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. September 10, 2005:

WAC 220-32-05100N Columbia River salmon seasons above Bonneville Dam.

WSR 05-17-147
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-185—Filed August 19, 2005, 4:46 p.m., effective August 22, 2005, 7:00 p.m.]

Effective Date of Rule: August 22, 2005, 7:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

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: Sets the late August commercial fishing season. Harvestable salmon and sturgeon are available. The season is consistent with the 2005-2007 interim management agreement and the 2005 non-Indian allocation agreement. Opens select area fisheries, which were adopted at the July 28, 2005, compact hearing. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. A biological opinion covering Columbia River fisheries was received from NMFS on May 9, 2005. Regulation is consistent with compact action of August 19, 2005. 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.

NEW SECTION

WAC 220-33-01000K Columbia River season below Bonneville. Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

1. OPEN AREA: SMCRA 1D, and 1E

a. SEASON: 8:00 p.m. August 22 to 7:00 a.m. August 23, 2005

b. GEAR: Drift gill nets only. 9-inch minimum mesh and 9-3/4 inch maximum mesh.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon total (white or green) may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. The five sturgeon possession/sales limit includes both mainstem and Select Area fisheries.

d. SANCTUARIES: Lewis-A, Washougal and Sandy Rivers.

e. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2. OPEN AREA: Blind Slough/Knappa Slough Select Area. Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Knappa Slough fishing area includes all waters bounded by a line from the north marker at the mouth of Blind Slough, westerly to a marker on Karlson Island, downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters in Knappa Slough are under concurrent jurisdiction.

a. SEASON: Tuesday, Wednesday, and Thursday nights from August 30 through September 9 and Monday, Tuesday, Wednesday, and Thursday nights from September 12 through October 28. Open hours are 7:00 p.m. to 7:00 a.m. from August 30 through September 23 and 6:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: Gillnet - 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five possession and sales limit includes mainstem and Select Area fisheries.

EMERGENCY

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3. OPEN AREA: Tongue Point/South Channel Select Area. Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore. All waters are under concurrent jurisdiction. South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy #7 to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker #10, northwesterly to a marker on Burnside Island defining the upstream terminus of South Channel. All waters are under concurrent jurisdiction.

a. SEASON: Tuesday, Wednesday, and Thursday nights from August 30 through September 9 and Monday, Tuesday, Wednesday, and Thursday nights from September 12 through October 28. Open hours are 7:00 p.m. to 7:00 a.m. from August 30 through September 9 and 4:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line. In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4. OPEN AREA: Deep River Select Area. Deep River fishing area includes all waters downstream of the town of Deep River to the mouth defined by a line from USCG navigation marker #16 southwest to a marker on the Washington shore. Concurrent waters extend downstream of the Highway 4 bridge.

a. SEASON: Tuesday, Wednesday, and Thursday nights from August 30 through September 9 and Monday, Tuesday, Wednesday, and Thursday nights from September 12 through October 28. Open hours are 7:00 p.m. to 7:00 a.m. from August 30 through September 9 and 4:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed. Nets

may not be tied off to stationary structures. Nets may not fully cross the navigation channel.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5. OPEN AREA: Steamboat Slough Select Area. Steamboat Slough fishing area includes all waters bounded by markers on Price Island and the Washington shore, at both ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a. SEASON: Tuesday, Wednesday, and Thursday nights from August 30 through September 9 and Monday, Tuesday, Wednesday, and Thursday nights from September 12 through October 28. Open hours are 7:00 p.m. to 7:00 a.m. from August 30 through September 23 and 6:00 p.m. to 8:00 a.m. thereafter.

b. GEAR: The mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Use of additional weights or anchors attached directly to the lead line is allowed.

c. ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five possession and sales limit includes mainstem and Select Area fisheries.

d. MISCELLANEOUS REGULATIONS: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

**WSR 05-17-180
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-189—Filed August 23, 2005, 4:58 p.m., effective August 23, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-05100Y; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

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: Commercial spot shrimp weekly trip limits have been adjusted in several catch areas. 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.

Date Adopted: August 23, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-05100Z Puget Sound shrimp pot and beam trawl fishery—Season. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Shrimp Management Areas 1B, 1C, Crustacean Management Regions 2, 3 and 6, are open to the harvest of all shrimp species, except as provided for in this section:

i) It is unlawful to harvest shrimp for commercial purposes in Marine Fish/Shellfish Management and Catch Reporting Areas 23A-C, 23A-E, 23A-W, all shrimp districts except Port Townsend Bay, and that portion of Area 25D south of 48.06 North latitude, north of 48.04 North latitude, and east of the 122.46 West longitude line.

ii) It is unlawful to harvest spot shrimp for commercial purposes in Shrimp Management Area 1B, 1C, 2-E, 2-W, and Marine Fish/Shellfish Management and Catch Reporting Areas 23B, 25A, 25D and 26D.

iii) Until further notice, it is unlawful for the combined harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Marine Fish-Shellfish Management and Catch Reporting Areas 23A-S, 23C, 23D, and Crustacean Management Region 6.

(b) The shrimp trip limit accounting week is Monday through Sunday.

(c) Any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Management and Catch Reporting Area 29, shall not be subject to the weekly spot shrimp trip limit for that week. It is unlawful to fish for any shrimp while in possession, on board the fishing vessel, of spot shrimp harvested from the previous trip limit accounting week or weeks. 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. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Man-

agement and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include the following additional information. The number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area to which the pots are being moved.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(e) above.

(e) For purposes of shrimp harvest allocation, fishing season, and catch reporting, Marine Fish-Shellfish Management and Catch Reporting Area 23A is divided into four sub-areas: 23A-E (east) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude east of a line projected 122.57°W longitude. 23A-W (west) is those waters of Catch Area 23A north of a line projected 48.22.50' °N latitude and west of a line projected 122.57°W longitude. 23A-C (central) is those waters of Catch Area 23A south of a line projected 48.22.50' °N latitude and east of a line projected 335 degrees true from the Dungeness lighthouse. 23A-S (south) is those waters of Catch Area 23A west of a line projected 335 degrees true from the Dungeness lighthouse.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts and Marine Fish/Shellfish Management and Catch Reporting Area 20A are open immediately, until further notice.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Areas 21A and 22A within Shrimp Management Area 1B is open immediately, until further notice.

(c) It is unlawful to set or pull shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(3) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100Y	Puget Sound shrimp pot and beam trawl fishery—Season (05-181)
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**WSR 05-17-181
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-190—Filed August 23, 2005, 4:58 p.m., effective August 23, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-47-50100I.

Statutory Authority for Adoption: RCW 77.12.047.

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 provides for PSC authorized sockeye fisheries in Areas 7 and 7A and modifies the emergency regulation previously implemented to enact permanent regulation changes arising from North of Falcon agreements made by comanagers. The permanent regulation change package has been filed with the Code Reviser's Office under expedited rule procedures, but the permanent regulation changes are not yet in effect. There emergency rules are necessary to initiate fisheries, which are scheduled to commence before those permanent rules will become effective. These fisheries are not expected to exceed chinook by-catch levels modeled during the preseason 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 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.

Date Adopted: August 23, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-47-50100J Puget Sound all-citizen commercial salmon fishery. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, noti-

fication, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

Areas 7 and 7A:

Gill Nets - Open to gill net gear with 5 inch minimum and 5 1/2 in maximum mesh size according to the times, dates, and conditions as prescribed and listed here:

<u>Hours</u>	<u>Dates</u>
3:00 p.m. to 7:00 p.m.	August 25

It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

Reef Nets - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

<u>Hours</u>	<u>Dates</u>
6:00 a.m. to 2:00 p.m.	August 25

It is unlawful to retain chinook salmon at all times, and it is unlawful to retain chum salmon and wild coho salmon prior to October 1. It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department issued certification card.

Areas 7B and 7C:

That portion of Area 7B west of a line from Point Francis (48° 41' 42" N, 122° 36' 40" W) to the red and green buoy southeast of Point Francis (48° 40' 22" N, 122° 35' 30" W) then to the northernmost tip of Eliza Island (48° 39' 37" N, 122° 35' 45" W) then along the eastern shore of the island to a point intersecting a line drawn through Eliza Rock Light (48° 38' 35" N, 122° 34' 40" W) and Fish Point (48° 34' 35" N, 122° 29' 45" W) and then southeastward along that line to Fish Point are closed 9/1-9/30.

Purse Seines - (a) Open in Area 7B and 7C to purse seines during the following hours and dates:

- 6:00 a.m. to 8:00 p.m. August 24 and 31
- 7:00 a.m. to 7:00 p.m. September 7

(i) It is unlawful to retain sockeye or coho salmon, and any sockeye or coho salmon caught must be released immediately.

(ii) It is unlawful 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 WAC 220-47-325, prior to the seine net being removed from the water.

(iii) The 5-inch strip requirement is not in effect during these openings.

(b) Open in Area 7B to purse seines using the 5-inch strip during the following hours and dates, provided it is unlawful to retain sockeye salmon, and any sockeye salmon caught must be released immediately.

- 7:00 a.m. to 7:00 p.m. September 12, 13 and 14
- 7:00 a.m. September 18 to 8 p.m. October 29

Gill Nets - Open to gill nets as follows:

<u>Areas</u>	<u>Mesh Size</u>	<u>Hours</u>	<u>Dates</u>
7B and 7C	7" minimum	7:00 p.m. August 23 to 7:00 a.m. August 24	

EMERGENCY

<u>Areas</u>	<u>Mesh Size</u>	<u>Hours</u>	<u>Dates</u>
		7:00 p.m. August 25 to 7:00 a.m. August 26	
		7:00 p.m. August 28 to 7:00 a.m. August 29.	
		7:00 p.m. August 30 to 7:00 a.m. August 31.	
		7:00 p.m. September 1 to 7:00 a.m. September 2.	
		6:00 p.m. September 5 to 8:00 a.m. September 6	
		6:00 p.m. September 6 to 8:00 a.m. September 7	
		6:00 p.m. September 8 to 8:00 a.m. September 9	
7B	5" minimum	6:00 p.m. September 11 to 8:00 a.m. September 12	
		6:00 p.m. September 13 to 8:00 a.m. September 14	
		6:00 p.m. September 15 to 8:00 a.m. September 16.	
7B	5" minimum	7:00 p.m. September 18 through 8:00 p.m. October 29	

Area 9A:

Gill Nets - Open to gill nets using 5-inch minimum mesh as follows:

<u>Hours</u>	<u>Dates</u>
7:00 p.m. August 23 to 7:00 a.m. August 24	
7:00 p.m. August 25 to 7:00 a.m. August 26	
7:00 a.m. August 28 through 8:00 p.m. October 29	

It is unlawful to retain chum salmon in Area 9A prior to October 1 and unlawful to retain Chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

Area 12A:

Skiff gill net - (a) Open to skiff gill nets using 5-inch minimum and 5 1/2-inch maximum mesh from 7:00 a.m. to 7:00 p.m. on the following dates: 8/31, 9/7, 9/14, 9/21, 9/28.

(b) It is unlawful to retain chinook or pink salmon taken in Area 12A at any time. Any salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

All Other Saltwater and Freshwater Areas: Closed.

"Quick Reporting" Fisheries:

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or pink salmon in Areas 7 and 7A are designated as "Quick Reporting Required" fisheries.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-47-50100I	Puget Sound all-citizen commercial salmon fishery. (05-178)
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WSR 05-17-182
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 05-191—Filed August 23, 2005, 4:58 p.m., effective August 23, 2005, 11:59 p.m.]

Effective Date of Rule: August 23, 2005, 11:59 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000Y.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable quota of chinook salmon available for the troll fleet has been taken. These rules are adopted at the recommendation of the Pacific Fisheries Management Council. 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 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 23, 2005.

J. P. Koenings
Director
by Larry Peck

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 23, 2005:

WAC 220-24-04000Y	All-citizen commercial salmon troll. (05-171)
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EMERGENCY

WSR 05-17-014
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD
ADMINISTRATION BOARD
[Memorandum—August 3, 2005]

- MEETING NOTICE: October 27, 2005
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
1:00 p.m. to 5:00 p.m.
- PUBLIC HEARING
NOTICE: October 27, 2005
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
2:00 p.m.
- MEETING NOTICE: October 28, 2005
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
8:30 a.m. - noon

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

WSR 05-17-018
AGENDA
OFFICE OF
INSURANCE COMMISSIONER
[Filed August 4, 2005, 1:47 p.m.]

Rules Agenda
August 4, 2005

Pending Rule Makings: The following rule makings have been proposed and are currently between the CR-101, CR-102, and CR-103 stage. They are currently under review and there may be further rule-making activity before January 2006.

R 2003-09 Chapter 284-02 WAC, OIC operations.

R 2003-05 WAC 284-24-065 Simplify the process to show compliance with RCW 48.19.020.

Possible Rule Makings: The commissioner notes that there may be rule makings necessary to implement legislation adopted this session. In addition to those activities, the commission continues the effort to update and clarify the code. In the period before January 2006, subjects that may be considered for rule making in this effort include:

Chapter 284-17 WAC, Continuing education for agents and brokers to meet new guidelines for FEMA regarding flood insurance.

Chapter 284-23 WAC, Corporate owned life insurance.
Chapter 284-51 WAC, Coordination of benefits.
Please direct questions or comments regarding this agenda or any ongoing or possible rule making to Kacy Scott, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 725-7041, fax (360) 586-3109, e-mail KacyS@oic.wa.gov.

WSR 05-17-021
PUBLIC RECORDS OFFICER
HEALTH CARE AUTHORITY
[Filed August 4, 2005, 3:34 p.m.]

As of July 27, 2005, and until further notice, Pete Cutler, P.O. Box 42702, Olympia, WA 98504-2702, voice (360) 923-2720, fax (360) 923-2614, pcut107@hca.wa.gov, is designated public disclosure officer for the Health Care Authority.

Steve Hill
Administrator

WSR 05-17-022
RULES COORDINATOR
HEALTH CARE AUTHORITY
[Filed August 4, 2005, 3:35 p.m.]

As of July 27, 2005, and until further notice, Pete Cutler, P.O. Box 42702, Olympia, WA 98504-2702, voice (360) 923-2720, fax (360) 923-2614, pcut107@hca.wa.gov, is designated rules coordinator for the Health Care Authority.

Steve Hill
Administrator

WSR 05-17-023
PUBLIC RECORDS OFFICER
ATTORNEY GENERAL'S OFFICE
[Filed August 4, 2005, 3:36 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Attorney General's Office is LaDona Jensen, Attorney General's Office, P.O. Box 40100, Olympia, WA 98504-0100, e-mail publicrecords@atg.wa.gov, phone (360) 586-2533, fax (360) 664-0228.

Sue Bellevue
Rules Coordinator

WSR 05-17-029
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Memorandum—August 5, 2005]

AMENDED NOTICE

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for Thursday,

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August 18, 2005, has been canceled and rescheduled for Thursday, September 1, 2005, 9:00 - 11:00 a.m., in the College Services Board Room on the Bellingham Technical College campus. Call 752-8334 for information.

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for September 15, 2005, has been cancelled.

WSR 05-17-033**NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE**

[Memorandum—July 22, 2005]

NOTIFICATION OF MEETING CANCELLATION

The board of trustees of Everett Community College has cancelled their regularly scheduled meeting of August 10, 2005. Please call (425) 388-9572 for information.

WSR 05-17-034**NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE**

[Memorandum—July 22, 2005]

NOTIFICATION OF EXECUTIVE SESSION MEETING

The board of trustees of Everett Community College will hold an executive session to discuss personnel matters on August 30, 2005, from 5:00 - 7:00 p.m. at Moss Adams, 2707 Colby, Suite 801, Everett, WA.

WSR 05-17-035**NOTICE OF PUBLIC MEETINGS
WENATCHEE VALLEY COLLEGE**

[Memorandum—August 8, 2005]

BOARD OF TRUSTEES MEETING SCHEDULE 2006

UNLESS OTHERWISE NOTIFIED, WORK SESSIONS WILL BEGIN AT 12 P.M. AND BOARD OF TRUSTEES MEETINGS AT 3 P.M.

This schedule is subject to change

January 18, 2006
February 15, 2006
March 15, 2006
April 19, 2006 (at Omak campus)
May 17, 2006
June 21, 2006
July 19, 2006
August 16, 2006
September 20, 2006
October 18, 2006 (at Omak campus)
November 15, 2006
December 20, 2006

WSR 05-17-036**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF ECOLOGY**

[Memorandum—August 8, 2005]

**Oil Transfer Operations Advisory Committee
Spill Prevention, Preparedness, and Response Program**

The Department of Ecology announces a regular quarterly meeting of the Oil Transfer Operations Advisory Committee established by Washington Administrative Code Chapter 88.46 Section 160 [RCW 88.46.160], on August 18, 2005, at 8:30 a.m. to 4:30 p.m., at the Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA.

The mission of this committee is to provide input and advice to the program on current oil transfer practices and improvements to those practices that would enhance the prevention of, preparedness for, and response to oil spills during transfers.

This meeting is open to the public and a public comment period is included in the meeting agenda.

More information can be found on our web site <http://www.ecy.wa.gov/programs/spills/preparedness/transrule/transferrule.html>

The organizations and interests represented on the committee are: Aquaculture, environmental protection organizations, marine terminals, oil refineries, spill response organizations, state of Oregon, tank truck operators, tribal governments, United States Coast Guard, United States Navy, the public at large, and Marine transportation - Dry cargo, fishing, labor, oil, passenger, ports, and towing.

WSR 05-17-054**NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGES
OF SPOKANE**

[Memorandum—August 4, 2005]

Revised Scheduled Meeting for 2005

Pursuant to RCW 42.30.075, please be advised the board of trustees for Washington State Community College District 17 has cancelled the meeting scheduled for August 16, 2005.

Should you have questions regarding this memo, please contact Christine Pearl, Executive Assistant to the Chancellor/CEO and Liaison to the board of trustees, at (509) 434-5006.

WSR 05-17-056**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed August 9, 2005, 4:19 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: PCM 05-001 and PCM 05-002.

Subject: Arrears-only interstate cases, Washington Service Members' Civil Relief Act (SCRA).

Effective Date: July 21, 2005.

Document Description: PCM 05-001 to Division of Child Support (DCS) staff clarifies how to manage interstate cases in which DCS is requesting that the responding jurisdiction establishes an arrears-only debt when the responding jurisdiction cannot or will not honor this request.

PCM 05-002 to DCS staff explains to staff that recent state legislation grants National Guard members and reservists similar rights that other active duty members receive under the existing federal SCRA.

To receive a copy of the interpretive or policy statement, contact Fran Ferry, Division of Child Support, P.O. Box 11520, Tacoma, WA 98411-5520, phone (360) 664-5233, TDD (360) 753-9122, fax (360) 664-5342, e-mail fferry@dshs.wa.gov.

August 5, 2005
Fran Ferry

WSR 05-17-058

**PUBLIC RECORDS OFFICER
TRAFFIC SAFETY COMMISSION**

[Filed August 10, 2005, 1:31 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington Traffic Safety Commission is Michelle Nicholls, P.O. Box 40944, Olympia, WA 98504-0944, e-mail mnicholls@wtsc.wa.gov, phone (360) 753-6197, fax (360) 586-6489.

WSR 05-17-060

**PUBLIC RECORDS OFFICER
PUBLIC DISCLOSURE COMMISSION**

[Filed August 10, 2005, 2:20 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Public Disclosure Commission is Suemary Trobaugh, Public Disclosure Commission, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, WA 98504-0908, e-mail Strobaugh@pdc.wa.gov, phone (360) 753-1985, fax (360) 753-1112.

Suemary Trobaugh
Rules Coordinator

WSR 05-17-061

**PUBLIC RECORDS OFFICER
GAMBLING COMMISSION**

[Filed August 10, 2005, 2:21 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington State Gambling Commission is Jessica Quiles, P.O. Box 42400, Olympia,

WA 98504, e-mail Jessicaq@wsgc.wa.gov, phone (360) 486-3529, fax (360) 486-3630.

Jessica Quiles
Public Records Officer

WSR 05-17-062

**PUBLIC RECORDS OFFICER
HIGHER EDUCATION
COORDINATING BOARD**

[Filed August 10, 2005, 2:21 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Higher Education Coordinating Board is Donald G. Alexander, 917 Lakeridge Way S.W., P.O. Box 43430, Olympia, WA 98504-3430, e-mail dona@hecb.wa.gov, phone (360) 753-7816, fax (360) 704-6216.

Belma Villa
Rules Coordinator

WSR 05-17-066

**NOTICE OF PUBLIC MEETINGS
OFFICE OF
FINANCIAL MANAGEMENT**

[Memorandum—August 10, 2005]

**COMPREHENSIVE EDUCATION
STUDY STEERING COMMITTEE
(WASHINGTON LEARNS)**

MEETING SCHEDULE FOR 2005

As required by RCW 42.30.075, Open Public Meetings Act, the following schedule is submitted for publication in the Washington State Register.

The Comprehensive Education Study Steering Committee (Washington Learns) has adopted the following 2005 regular meeting schedule. All Washington Learns Committee meetings will begin at 9 a.m. unless otherwise noted on the Washington Learns web site www.washingtonlearns.wa.gov.

September 6, 2005	Tuesday
October 10, 2005	Monday
November 14, 2005	Monday
December 12, 2005	Monday

The meeting locations have not yet been determined but will be posted on the Washington Learns web site www.washingtonlearns.wa.gov or may be obtained by calling (360) 902-0667. If you have any questions, please e-mail steeringcommittee@washingtonlearns.wa.gov or call the above referenced telephone number.

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WSR 05-17-067
PUBLIC RECORDS OFFICER
PARKS AND RECREATION
COMMISSION

[Filed August 11, 2005, 2:41 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington State Parks and Recreation Commission is Antonette (Toni) Benham, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650, toni.benham@parks.wa.gov, (360) 902-8636, fax (360) 902-8695.

A. Benham

WSR 05-17-068
PUBLIC RECORDS OFFICER
DEPARTMENT OF
VETERANS AFFAIRS

[Filed August 11, 2005, 2:42 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington State Department of Veterans Affairs is Heidi Audette, Washington Department of Veterans Affairs, P.O. Box 41150, Olympia, WA 98504, e-mail heidia@dva.wa.gov, phone (360) 725-2154, fax (360) 586-4393.

John M. King
 Director

WSR 05-17-069
PUBLIC RECORDS OFFICER
LIQUOR CONTROL BOARD

[Filed August 11, 2005, 2:42 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the [Liquor Control Board] is James Kauffman, Washington State Liquor Control Board, ATTN: Public Records Officer, PLMR, P.O. Box 43075, Olympia, WA 98504-3075, e-mail jdk@liq.wa.gov, phone (360) 664-1714, fax (360) 664-9689.

Pam Madson
 Rules Coordinator

WSR 05-17-070
PUBLIC RECORDS OFFICER
PUBLIC EMPLOYMENT
RELATIONS COMMISSION

[Filed August 11, 2005, 2:42 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Public Employment Relations Commission is Kenneth J. Latsch, Public Employment Relations Commission, 112 N.E. Henry Street, Suite 300, Olym-

pia, WA 98504-0919, e-mail klatsch@perc.wa.gov, phone (360) 570-7320, fax (360) 570-7334.

Kenneth J. Latsch
 Rules Coordinator

WSR 05-17-071
PUBLIC RECORDS OFFICER
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed August 11, 2005, 2:43 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Department of Community, Trade and Economic Development (CTED) is Karen Dunn, Public Records Officer, Washington State Department of Community, Trade and Economic Development, P.O. Box 42525, Olympia, WA 98504-2525, e-mail Karend@cted.wa.gov, phone (360) 725-4021, fax (360) 586-8440.

Juli Wilkerson
 Director

WSR 05-17-072
PUBLIC RECORDS OFFICER
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES

[Filed August 11, 2005, 2:43 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Office of Minority and Women's Business Enterprises is Tammi Hazlitt, 406 South Water Street, Olympia, WA 98504-1160, e-mail thazlitt@omwbe.wa.gov, phone (360) 753-9691, fax (360) 586-1463.

Cathy V. Canorro
 Rules Coordinator

WSR 05-17-079
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Beef Commission)

[Memorandum—August 9, 2005]

The next board meeting of the Washington State Beef Commission is Wednesday, August 31, and is scheduled to be held in Ellensburg, Washington.

Should you have questions, please contact Rosalee Mohney at (206) 444-2902.

WSR 05-17-080**PUBLIC RECORDS OFFICER
TRANSPORTATION IMPROVEMENT BOARD**

[Filed August 12, 2005, 10:04 a.m.]

Following is the contact information for the public records officer of the Transportation Improvement Board: Eileen Bushman, Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, e-mail eileenb@tib.wa.gov, phone (360) 586-1146, fax (360) 586-1165.

Eileen Bushman
Executive Assistant

WSR 05-17-081**PUBLIC RECORDS OFFICER
ARTS COMMISSION**

[Filed August 12, 2005, 10:05 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington State Arts Commission is Mark Gerth, P.O. Box 42675, Olympia, WA 98504-2675, e-mail markg@arts.wa.gov, phone (360) 586-8093, fax (360) 586-5351.

Mark Gerth
Communications Manager

WSR 05-17-086**RULES COORDINATOR
BOARD OF TAX APPEALS**

[Filed August 12, 2005, 3:21 p.m.]

As of May 2004, Anne Solwick, 910 5th Avenue S.E., P.O. Box 40915, Olympia, WA 98504-0915, e-mail annes@bta.state.wa.us, phone (360) 753-5446, fax (360) 586-9020, is the agency rules coordinator.

Georgia A. Gardner
Chair

WSR 05-17-087**PUBLIC RECORDS OFFICER
BOARD OF TAX APPEALS**

[Filed August 12, 2005, 3:22 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Board of Tax Appeals is Jeanette Nelson, 910 5th Avenue S.E., P.O. Box 40915, Olympia, WA 98504-0915, e-mail jnelson@bta.state.wa.us, phone (360) 753-5446, fax (360) 586-9020.

Anne Solwick
Executive Director

WSR 05-17-090**NOTICE OF PUBLIC MEETINGS
BATES TECHNICAL COLLEGE**

[Memorandum—August 11, 2005]

Pursuant to RCW 42.30.075, this letter will notify you of Bates Technical College board of trustees' regularly scheduled meetings for the year 2005-2006.

The board of trustees of Bates Technical College regularly meets on the third Wednesday of each month except August. All meetings begin at 3 p.m.

Date (2005-06)	Location
September 15, 2005	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
October 19, 2005	Bates Technical College 2201 South 78th Tacoma, WA 98409 (South Campus)
November 16, 2005	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
December 21, 2005	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
January 18, 2006	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
February 15, 2006	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
March 15, 2006	Bates Technical College 2320 South 19th Street Tacoma, WA 98405-2946 (Mohler Campus)
April 19, 2006	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
May 17, 2006	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)
June 21, 2006	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)

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Date (2005-06)	Location
July 19, 2006	Bates Technical College 1101 South Yakima Avenue Tacoma, WA 98405-4895 (Clyde Hupp Board Room)

WSR 05-17-091

**PUBLIC RECORDS OFFICER
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed August 15, 2005, 8:52 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Department of Financial Institutions is Deborah Bortner, physical address 150 Israel Road S.W., Tumwater, WA 98501, mailing address P.O. Box 41200, Olympia, WA 98504-1200, e-mail dbortner@dfi.wa.gov, phone (360) 902-0511, fax (360) 704-7030.

Deborah Bortner
Regulatory Counsel

WSR 05-17-092

**PUBLIC RECORDS OFFICER
DEPARTMENT OF LICENSING**

[Filed August 15, 2005, 8:54 a.m.]

Effective immediately, Hannah Fultz, Administrative Services Section, Highways and Licenses Building, P.O. Box 9020, mailstop 48001, Olympia, WA 98507, phone (360) 902-3625, fax (360) 586-1351, hfultz@dol.wa.gov, is now the public records officer for the Department of Licensing.

Liz Luce
Director

WSR 05-17-101

**PUBLIC RECORDS OFFICER
HEALTH CARE FACILITIES AUTHORITY**

[Filed August 16, 2005, 8:45 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington Health Care Facilities Authority is Gary D. Wolfe, 410 11th Avenue S.E., P.O. Box 40935, Olympia, WA 98504-0935, e-mail garyw@whcfa.wa.gov, phone (360) 753-6185, fax (360) 586-9168.

Gary D. Wolfe
Rules Coordinator

WSR 05-17-102

**NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—August 16, 2005]

**BOARD OF TRUSTEES
August 19, 2005**

Open public session at 9:00 a.m. (TAW 215).
Executive session at 12:00 p.m. (PUB 261).

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) 359-6598.

WSR 05-17-108

**ATTORNEY GENERAL OPINION
ATTORNEY GENERAL'S OFFICE**

[Filed August 16, 2005, 2:42 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 September 14, 2005. 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 this date, 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) 664-3027, 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):

05-08-05 Request by:
Karl F. Sloan
Okanogan County Prosecuting Attorney

1. Does a properly permitted off-road vehicle (ORV) displaying a current ORV tag qualify as a "licensed" vehicle that may be operated over and along a public highway?
2. In the alternative, is an ORV that has a valid ORV use permit displaying a current ORV tag prohibited from

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operating over and along a public highway in the state of Washington?

3. Can a city, county, or other political subdivision of this state adopt regulations or ordinances to permit the operation of ORVs on streets or highways within its boundaries, where those streets or highways are "public highways" or are open to the use of the public for purposes of vehicular travel?

WSR 05-17-110
RULES COORDINATOR
SKAGIT VALLEY COLLEGE

[Filed August 17, 2005, 8:44 a.m.]

Please note a change in the designated rules coordinator for Community College District No. 4, Skagit Valley College. The new rules coordinator contact information is as follows: Lisa M. Radeleff, Executive Assistant, President's Office, Skagit Valley College, 2405 East College Way, Mount Vernon, WA 98273, phone (360) 416-7995, fax (360) 416-7773, e-mail Lisa.Radeleff@skagit.edu.

Gary Tollefson, Ed.D.
 President

WSR 05-17-111
PUBLIC RECORDS OFFICER
DEPARTMENT OF REVENUE

[Filed August 17, 2005, 8:44 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records office [officer] of the Department of Revenue is Maureen O'Connell, Public Records Designee, P.O. Box 47478, Olympia, WA 98504-7478, e-mail MaureenO@dor.wa.gov, phone (360) 705-6647, fax (360) 705-6655.

Mark Craig
 Program Manager
 Taxpayer Services Division
 Public Records Officer

WSR 05-17-112
PUBLIC RECORDS OFFICER
DEPARTMENT OF AGRICULTURE

[Filed August 17, 2005, 8:45 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Washington State Department of Agriculture is Dannie McQueen, Department of Agriculture, P.O. Box 42560, 1111 Washington Street S.E., Olympia, WA 98504-2560, phone (360) 902-1809, fax (360) 902-2092, e-mail dmcqueen@agr.wa.gov.

William E. Brookreson
 Deputy Director

WSR 05-17-114
PUBLIC RECORDS OFFICER
PARKS AND RECREATION
COMMISSION

[Filed August 17, 2005, 2:34 p.m.]

As required by section 3, chapter 483, Laws of 2005, Antonette (Toni) Benham, Forms and Records Analyst, Washington State Parks and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8636, fax (360) 902-8695, TDD (360) 664-3133, e-mail Toni.Benham@PARKS.WA.GOV, has been designated as the records officer for the state Parks and Recreation Commission.

Rex Derr
 Director

WSR 05-17-115
PUBLIC RECORDS OFFICER
SENTENCING GUIDELINES COMMISSION

[Filed August 17, 2005, 2:36 p.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Sentencing Guidelines Commission is Stevie Lucas, 4565 7th Avenue S.E., Olympia, WA 98504-0927, e-mail Steviel@sgc.wa.gov, phone (360) 407-1054, fax (360) 407-1043.

Stevie Lucas
 Rules Coordinator

WSR 05-17-124
RULES COORDINATOR
OFFICE OF THE
TREASURER

[Filed August 18, 2005, 8:52 a.m.]

Barton Potter, Communications Director, is agency rules coordinator for the Office of the State Treasurer. He may be contacted at the Office of the State Treasurer, Legislative Building, 416 14th Avenue S.W., 2nd Floor, Olympia, WA 98504 or (360) 902-9033. This appointment is effective until revoked or superseded in writing. All public inquiry relating to rule-making activities of the Office of the State Treasurer should be directed to the agency rules coordinator.

Michael J. Murphy
 State Treasurer

WSR 05-17-125
PUBLIC RECORDS OFFICER
OFFICE OF THE
TREASURER

[Filed August 18, 2005, 8:52 a.m.]

Barton Potter, Communications Director, is public records officer for the Office of the State Treasurer. He may

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be contacted at the Office of the State Treasurer, Legislative Building, 416 14th Avenue S.W., 2nd Floor, Olympia, WA 98504 or (360) 902-9033. This appointment is effective until revoked or superseded in writing. All public inquiry relating to rule-making activities of the Office of the State Treasurer should be directed to the agency rules coordinator.

Michael J. Murphy
State Treasurer

WSR 05-17-126

**PUBLIC RECORDS OFFICER
DEPARTMENT OF CORRECTIONS**

[Filed August 18, 2005, 8:53 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the contact information for the public records officer of the Department of Corrections is as follows: For public disclosure requests/information: Barbara L. Parry, 410 West 5th Avenue, 7th Floor, Mailstop 41118, Olympia, WA 98504-1118, e-mail blparry@doc1.wa.gov, phone (360) 753-2769, fax (360) 586-4469.

To appeal the denial of a disclosure request: Kay Wilson-Kirby, 410 West 5th Avenue, 1st Floor, Mailstop 41114, Olympia, WA 98504-1118, e-mail kwilson-kirby@doc1.wa.gov, phone (360) 753-2345, fax (360) 664-2009.

If you have any questions or need anything further, please do not hesitate to contact John Nispel at (360) 586-2160.

John R. Nispel
Rules Coordinator

WSR 05-17-127

**NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE**

[Memorandum—Filed August 17, 2005,]

The board of trustees of Shoreline Community College will hold a special session on Thursday, August 18, 2005, beginning at 5:00 p.m., in the Building 1000 Board Room. The board will convene immediately into special session, will reconvene into executive session, and will reconvene into open session, to adjourn the meeting no later than 8:00 p.m.

Please call (206) 546-6904 or e-mail Mary Sheaffer at msheaffe@shoreline.edu if you have further information.

WSR 05-17-133

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FISH AND WILDLIFE**

[Memorandum—August 17, 2005]

CHANGES TO 2005 MEETING LIST

Submitted on January 31, 2005, were the dates and locations for the Washington Fish and Wildlife Commission pub-

lic meetings and conference calls for 2005. There are two additions:

- August 27-28, 2005, commission work session in Skamania.
- September 16, 2005, commission special meeting in Olympia.

WSR 05-17-142

**DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Health and Recovery Services Administration)

(Alcohol and Substance Abuse)

[Filed August 19, 2005, 4:18 p.m.]

The public is invited to review the 2006 Washington state application for federal Substance Abuse Prevention and Treatment (SAPT) block grant funding. The application is submitted annually to the federal Centers for Substance Abuse Treatment and Substance Abuse Prevention. The 2006 application will result in approximately \$35 million in federal funds being awarded to the state of Washington for substance abuse prevention and treatment.

A public hearing to review the application and consider questions or comments will be held September 16, 2005, at 10:00 a.m. The location of the public hearing is The Northern Quest Casino, Pavilion East Room, North 100 Hayford Road, Airway Heights, WA 99201. The hearing is sponsored by The Citizens Advisory Council on Alcoholism and Drug Addiction (CAC). The CAC is a statutorily empowered body charged with the role of advising the Department of Social and Health Services on matters relating to the state substance abuse program.

The application is being prepared by the Department of Social and Health Services, Division of Alcohol and Substance Abuse. A summary of the SAPT block grant requirement and plan for award allocation is available to anyone interested upon request.

If you have any questions, or wish a copy of the review material, please contact Kathie J. Roberts, Federal Block Grant Administrator, Department of Social and Health Services, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, (360) 725-3808, fax (360) 438-8078, roberkj@dshs.wa.gov.

WSR 05-17-151

**PUBLIC RECORDS OFFICER
WHATCOM COMMUNITY COLLEGE**

[Filed August 22, 2005, 1:43 p.m.]

The following is the Public Records Officer at Whatcom Community College: Whatcom Community College, Public Records Officer, Keri Parriera, Executive Administrative Assistant, 237 West Kellogg Road, Bellingham, WA 98226,

(360) 676-2170 ext. 3205, fax (360) 676-2171, e-mail kparriera@whatcom.ctc.edu.

Trish Onion
Vice-President for
Educational Services

WSR 05-17-162

**PUBLIC RECORDS OFFICER
STATE INVESTMENT BOARD**

[Filed August 23, 2005, 7:43 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer for the Washington State Investment Board is Liz Mendizabal, 2100 Evergreen Park Drive S.W., P.O. Box 40916, Olympia, WA 98504-0916, e-mail Lmendizabal@SIB.WA.GOV, phone (360) 956-4616, fax (360) 956-4784.

Liz Mendizabal
Rules Coordinator

WSR 05-17-164

**ATTORNEY GENERAL OPINION
ATTORNEY GENERAL'S OFFICE**

[Filed August 23, 2005, 9:47 a.m.]

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 September 14, 2005. 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 this date, 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) 664-3027, 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):

05-08-04 Request by Bob Morton, State Senator, 7th District and Janea Holmquist, Representative, 13th District

1. May an agency interpret and apply statutory language differently over time due to its perceptions of changing societal needs for the agency's own evolving public policy perspective(s)?

2. Specifically related to stock-watering, does RCW 90.44.050 exempt stock-watering from the 5,000 gallons per day limit which it imposes on, for example, an "industrial purpose"?

3. If RCW 90.44.050 does not limit stock-watering to 5,000 gallons per day, may the Department of Ecology implement rules or policies restricting stock-watering to 5,000 gallons per day?

4. Finally, if RCW 90.44.050 does not limit stock-watering to 5,000 gallons per day, may a person seeking to use stock-water proceed with such exempt use?

WSR 05-17-165

**PUBLIC RECORDS OFFICER
EMPLOYMENT SECURITY DEPARTMENT**

[Filed August 23, 2005, 9:52 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Employment Security Department is Robert Page, P.O. Box 9046, Olympia, WA 98507-9046, e-mail rpage@esd.wa.gov, phone (360) 586-2132, fax (360) 586-2133.

Larry Oline
Rules Coordinator

WSR 05-17-171

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FISH AND WILDLIFE**

[Memorandum—August 23, 2005]

CHANGE TO 2005 MEETING LIST

In a letter dated, August 17, 2005, the location for the August 27-28, 2005, commission work session, was submitted as being in Skamania. It is being held in Stevenson.

WSR 05-17-185

**PUBLIC RECORDS OFFICER
SECRETARY OF STATE**

[Filed August 24, 2005, 8:56 a.m.]

Pursuant to section 3, chapter 483, Laws of 2005, the public records officer of the Office of Secretary of State is Brenda Galarza, P.O. Box 40224, Olympia, WA 98504-0224, e-mail bgalarza@secstate.wa.gov, phone (360) 586-4556, fax (360) 586-0121.

Brenda Galarza
Records/Public Disclosure Officer

WSR 05-17-190
PUBLIC RECORDS OFFICER
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed August 24, 2005, 9:37 a.m.]

The public records officer for the Department of Social and Health Services is Kristal K. Wiitala, DSHS Public Records/Privacy Officer, mailing address Government and Community Relations, P.O. Box 45115, Olympia, WA 98504-5115, physical address DSHS, Office Building 2, Fourth Floor, 1115 Washington Street, Olympia, WA, phone (360) 902-8484, fax (360) 902-7855, e-mail DSHSPublicDisclosure@dshs.wa.gov.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

WSR 05-17-196
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed August 24, 2005, 10:22 a.m.]

NOTICE OF AVAILABILITY FOR
PUBLIC REVIEW AND COMMENT OF
WASHINGTON STATE DEPARTMENT OF FISH AND WILDLIFE
HATCHERY AND GENETIC MANAGEMENT PLANS FOR
MIDDLE COLUMBIA, UPPER COLUMBIA, AND SNAKE RIVER
SALMON AND STEELHEAD HATCHERY PROGRAMS

(Memorandum—September 7, 2005)

Draft hatchery and genetic management plans (HGMPs) for twenty Washington Department of Fish and Wildlife (WDFW) artificial production programs are available for a sixty-day public review and comment period. The HGMPs describe, in a format prescribed by NOAA fisheries, the operation of artificial production programs for salmon and steelhead and the potential effects of each program on listed species. The public comments, WDFW's response, and any resultant modifications to HGMPs will subsequently be posted on the WDFW web site and provided to NOAA fisheries for its consideration.

Eleven of the HGMPs are for programs operating with Section 10 permits in the Middle Columbia and Upper Columbia recovery regions:

- The direct take and propagation of endangered steelhead in the Upper Columbia from Wells and East-bank hatcheries for the Wenatchee, Okanogan, Similkameen and Methow River systems (Section 10 (a)(1)(B) Permit Number: 1395).
- The direct take, propagation and research of endangered spring chinook for the Methow, Chewuch, Twisp, and Chiwawa (Wenatchee) river systems (Section 10 (a)(1)(B) Permit Number: 1196).
- The incidental take of listed fish during propagation of unlisted fish including Lake Wenatchee sockeye and summer and fall chinook programs from East-

bank, Wells, Turtle Rock and Priest Rapids hatcheries (Section 10 (a)(1)(B) Permit Number: 1347).

An HGMP for one program in the Upper Columbia recovery region currently not covered by a Section 10 permit is also provided for public review and comment. The White River (Wenatchee River) spring chinook captive brood program was not previously included as part of the endangered spring chinook Section 10 (a)(1)(B) Permit #1196. Consistent with the biological opinion for ESA Section 7 Consultation on Interim Operations for the Priest Rapids Hydroelectric Project (FERC No. 2114), an HGMP describing this program has been developed and will be submitted to NOAA fisheries for consideration after the public comment period.

Eight HGMPs for WDFW programs in the Snake River recovery region are provided for public review and comment. HGMPs for these programs were previously submitted (March 2001 to September 2002) to NOAA fisheries and the programs operated with Section 10 ESA permits (Section 10 (a)(1)(B) 1126 and 1129) until 2003.

The draft HGMPs may be accessed for review through one of the following means: (1) Electronically via the internet to the WDFW web site (wdfw.wa.gov); or (2) in-person through a scheduled appointment at the WDFW office in Olympia, Washington. To schedule an appointment, or to obtain more information, please call (360) 902-2802 or (360) 902-2700.

All comments must be received by WDFW by 9:00 a.m. on November 7, 2005. Comments must be submitted in writing to Dr. Jeff Koenings, Director, WDFW, (Attention: Andy Appleby, Fish Program), 600 Capitol Way North, Olympia, WA 98501-1091 or electronically through e-mail addressed to HGMP@dfw.wa.gov.

This notice can also be found on the Washington State Register web site at <http://slc.leg.wa.gov/>.

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
- X = Expedited rule making
- 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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3- 20-200	DECOD	05-15-036	16-218-030	REP-P	05-04-111	16-239-074	REP-P	05-07-120
3- 20-300	REP-P	05-05-100	16-218-030	REP	05-07-150	16-239-074	REP	05-11-058
3- 20-300	REP-W	05-07-126	16-218-035	NEW-P	05-04-111	16-239-075	REP-P	05-07-120
3- 20-300	REP-P	05-07-127	16-218-035	NEW	05-07-150	16-239-075	REP	05-11-058
3- 20-300	REP	05-11-046	16-218-040	NEW-P	05-04-111	16-239-076	REP-P	05-07-120
3- 20-390	NEW-P	05-05-100	16-218-040	NEW	05-07-150	16-239-076	REP	05-11-058
3- 20-390	NEW-W	05-07-126	16-228-1010	PREP	05-11-034	16-239-077	REP-P	05-07-120
3- 20-390	NEW-P	05-07-127	16-229-010	AMD	05-05-036	16-239-077	REP	05-11-058
3- 20-390	NEW	05-11-046	16-230-860	PREP-W	05-06-097	16-239-078	REP-P	05-07-120
3- 20-390	DECOD	05-15-036	16-237-195	AMD	05-07-080	16-239-078	REP	05-11-058
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3- 20-400	NEW-W	05-07-126	16-239-010	REP-P	05-07-120	16-239-079	REP	05-11-058
3- 20-400	NEW-P	05-07-127	16-239-010	REP	05-11-058	16-239-080	REP-P	05-07-120
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3- 20-400	DECOD	05-15-036	16-239-020	REP	05-11-058	16-239-0801	REP-P	05-07-120
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4- 25-530	AMD	05-10-046	16-239-050	REP	05-11-058	16-239-0804	REP-P	05-07-120
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10- 20-020	NEW	05-03-003	16-239-060	REP	05-11-058	16-239-0805	REP-P	05-07-120
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16- 54-030	AMD-E	05-10-040	16-239-062	REP	05-11-058	16-239-0807	REP-P	05-07-120
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16-218-010	REP	05-07-150	16-239-070	REP	05-11-058	16-239-0811	REP-P	05-07-120
16-218-015	NEW-P	05-04-111	16-239-071	REP-P	05-07-120	16-239-0811	REP	05-11-058
16-218-015	NEW	05-07-150	16-239-071	REP	05-11-058	16-239-0812	REP-P	05-07-120
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173-167-150	NEW-E	05-12-103	173-333-140	NEW-C	05-16-023	173-415-020	AMD	05-17-169
173-167-160	NEW-E	05-12-103	173-333-200	NEW-P	05-11-095	173-415-030	AMD-P	05-13-112
173-167-170	NEW-E	05-12-103	173-333-200	NEW-C	05-16-023	173-415-030	AMD	05-17-169
173-167-180	NEW-E	05-12-103	173-333-300	NEW-P	05-11-095	173-415-040	REP-P	05-13-112
173-167-200	NEW-E	05-12-103	173-333-300	NEW-C	05-16-023	173-415-040	REP	05-17-169
173-167-210	NEW-E	05-12-103	173-333-310	NEW-P	05-11-095	173-415-045	REP-P	05-13-112
173-167-220	NEW-E	05-12-103	173-333-310	NEW-C	05-16-023	173-415-045	REP	05-17-169
173-167-230	NEW-E	05-12-103	173-333-320	NEW-P	05-11-095	173-415-050	REP-P	05-13-112
173-167-240	NEW-E	05-12-103	173-333-320	NEW-C	05-16-023	173-415-050	REP	05-17-169
173-167-250	NEW-E	05-12-103	173-333-330	NEW-P	05-11-095	173-415-051	REP-P	05-13-112
173-167-260	NEW-E	05-12-103	173-333-330	NEW-C	05-16-023	173-415-051	REP	05-17-169
173-167-270	NEW-E	05-12-103	173-333-340	NEW-P	05-11-095	173-415-060	AMD-P	05-13-112
173-167-280	NEW-E	05-12-103	173-333-340	NEW-C	05-16-023	173-415-060	AMD	05-17-169
173-167-300	NEW-E	05-12-103	173-333-400	NEW-P	05-11-095	173-415-070	REP-P	05-13-112
173-167-310	NEW-E	05-12-103	173-333-400	NEW-C	05-16-023	173-415-070	REP	05-17-169
173-167-320	NEW-E	05-12-103	173-333-410	NEW-P	05-11-095	173-415-080	REP-P	05-13-112
173-167-330	NEW-E	05-12-103	173-333-410	NEW-C	05-16-023	173-415-080	REP	05-17-169
173-167-340	NEW-E	05-12-103	173-333-420	NEW-P	05-11-095	173-423	PREP	05-12-129
173-167-350	NEW-E	05-12-103	173-333-420	NEW-C	05-16-023	173-481	PREP	05-08-141
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173-167-410	NEW-E	05-12-103	173-333-430	NEW-C	05-16-023	173-481-020	AMD	05-17-169
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173-167-430	NEW-E	05-12-103	173-350-100	AMD	05-11-033	173-481-030	AMD	05-17-169
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173-503-051	NEW-P	05-04-108	173-546-040	NEW	05-16-114	173-565-530	NEW-W	05-14-128
173-503-051	NEW-W	05-17-100	173-546-050	NEW-P	05-06-117	173-565-540	NEW-W	05-14-128
173-503-060	AMD-P	05-04-108	173-546-050	NEW	05-16-114	173-565-550	NEW-W	05-14-128
173-503-060	AMD-W	05-17-100	173-546-060	NEW-P	05-06-117	173-565-552	NEW-W	05-14-128
173-503-071	NEW-P	05-04-108	173-546-060	NEW	05-16-114	173-565-560	NEW-W	05-14-128
173-503-071	NEW-W	05-17-100	173-546-070	NEW-P	05-06-117	173-565-562	NEW-W	05-14-128
173-503-073	NEW-P	05-04-108	173-546-070	NEW	05-16-114	173-565-564	NEW-W	05-14-128
173-503-073	NEW-W	05-17-100	173-546-080	NEW-P	05-06-117	173-565-570	NEW-W	05-14-128
173-503-074	NEW-P	05-04-108	173-546-080	NEW	05-16-114	173-565-600	NEW-W	05-14-128
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173-503-075	NEW-W	05-17-100	173-546-100	NEW-P	05-06-117	180- 08-025	NEW-P	05-15-063
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173-503-081	NEW-W	05-17-100	173-546-120	NEW-P	05-06-117	180- 16-242	RECOD	05-13-061
173-503-090	AMD-P	05-04-108	173-546-120	NEW	05-16-114	180- 16-243	RECOD	05-13-061
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173-503-100	AMD-P	05-04-108	173-546-130	NEW	05-16-114	180- 20-009	AMD-P	05-15-057
173-503-100	AMD-W	05-17-100	173-546-140	NEW-P	05-06-117	180- 20-021	AMD-P	05-15-057
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173-503-110	NEW-W	05-17-100	173-546-150	NEW-P	05-06-117	180- 20-101	AMD-P	05-04-018
173-503-120	NEW-P	05-04-108	173-546-150	NEW	05-16-114	180- 20-101	AMD	05-08-014
173-503-120	NEW-W	05-17-100	173-563-010	AMD-W	05-14-128	180- 20-101	AMD-P	05-15-057
173-503-130	NEW-P	05-04-108	173-563-020	AMD-W	05-14-128	180- 20-102	NEW-P	05-15-057
173-503-130	NEW-W	05-17-100	173-565-100	NEW-W	05-14-128	180- 20-103	NEW-P	05-15-057
173-503-140	NEW-P	05-04-108	173-565-110	NEW-W	05-14-128	180- 20-111	AMD-P	05-15-057
173-503-140	NEW-W	05-17-100	173-565-120	NEW-W	05-14-128	180- 20-112	NEW-P	05-15-057
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173-503-150	NEW-W	05-17-100	173-565-150	NEW-W	05-14-128	180- 20-135	AMD-P	05-15-057
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173-505-030	NEW-P	05-05-094	173-565-215	NEW-W	05-14-128	180- 24-195	AMD-P	05-15-139
173-505-040	NEW-P	05-05-094	173-565-220	NEW-W	05-14-128	180- 24-207	NEW-P	05-15-139
173-505-050	NEW-P	05-05-094	173-565-230	NEW-W	05-14-128	180- 24-209	NEW-P	05-15-139
173-505-060	NEW-P	05-05-094	173-565-300	NEW-W	05-14-128	180- 24-210	AMD-P	05-15-139
173-505-070	NEW-P	05-05-094	173-565-310	NEW-W	05-14-128	180- 24-213	NEW-P	05-15-139
173-505-080	NEW-P	05-05-094	173-565-320	NEW-W	05-14-128	180- 24-215	REP-P	05-15-139
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173-505-100	NEW-P	05-05-094	173-565-340	NEW-W	05-14-128	180- 24-410	DECOD	05-13-061
173-505-110	NEW-P	05-05-094	173-565-342	NEW-W	05-14-128	180- 24-415	DECOD	05-13-061
173-505-120	NEW-P	05-05-094	173-565-344	NEW-W	05-14-128	180- 25	PREP	05-12-154
173-505-130	NEW-P	05-05-094	173-565-350	NEW-W	05-14-128	180- 26	PREP	05-12-154
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173-505-160	NEW-P	05-05-094	173-565-360	NEW-W	05-14-128	180- 27-035	AMD-P	05-15-058
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173-505-180	NEW-P	05-05-094	173-565-364	NEW-W	05-14-128	180- 31	PREP	05-12-154
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173-526	PREP	05-06-114	173-565-372	NEW-W	05-14-128	180- 33	PREP	05-12-154
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173-528	PREP	05-06-116	173-565-400	NEW-W	05-14-128	180- 33-025	AMD-P	05-15-059
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173-546-020	NEW-P	05-06-117	173-565-440	NEW-W	05-14-128	180- 33-040	AMD-P	05-15-065
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180- 39	PREP	05-12-155	180- 78A-319	AMD	05-15-022	182- 08-196	AMD	05-16-046
180- 40	PREP	05-12-155	180- 78A-505	AMD-P	05-08-039	182- 08-197	NEW-P	05-12-050
180- 41	PREP	05-12-155	180- 78A-505	AMD-C	05-10-020	182- 08-197	NEW-C	05-13-093
180- 43	PREP	05-12-156	180- 78A-505	AMD	05-15-054	182- 08-197	NEW	05-16-046
180- 44	PREP	05-12-157	180- 78A-535	AMD-P	05-08-040	182- 08-198	NEW-P	05-12-050
180- 46	PREP	05-12-158	180- 78A-535	AMD-E	05-08-048	182- 08-198	NEW-C	05-13-093
180- 46-005	AMD-P	05-04-017	180- 78A-535	AMD-C	05-10-013	182- 08-198	NEW	05-16-046
180- 46-005	AMD	05-08-013	180- 78A-535	AMD	05-15-051	182- 12-115	AMD-E	05-10-083
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180- 46-009	NEW	05-08-013	180- 79A-011	AMD-P	05-08-043	182- 12-115	AMD	05-17-132
180- 46-010	REP-P	05-04-017	180- 79A-011	AMD-C	05-10-018	182- 12-116	NEW-P	05-12-050
180- 46-010	REP	05-08-013	180- 79A-011	AMD	05-15-054	182- 12-116	NEW-C	05-13-093
180- 46-015	REP-P	05-04-017	180- 79A-030	AMD	05-04-055	182- 12-116	NEW	05-16-046
180- 46-015	REP	05-08-013	180- 79A-123	AMD-P	05-08-042	182- 12-148	AMD-P	05-12-050
180- 46-020	AMD-P	05-04-017	180- 79A-123	AMD-E	05-08-051	182- 12-148	AMD-C	05-13-093
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180- 46-025	AMD	05-08-013	180- 79A-130	AMD-P	05-08-035	182- 12-171	AMD-C	05-13-093
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180- 46-050	REP-P	05-04-017	180- 79A-250	AMD-E	05-08-053	182- 12-260	AMD-C	05-13-093
180- 46-050	REP	05-08-013	180- 79A-250	AMD-C	05-10-017	182- 12-260	AMD	05-16-046
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180- 46-055	AMD	05-08-013	180- 79A-257	AMD	05-04-054	182- 12-265	AMD-C	05-13-093
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180- 55-015	AMD-P	05-04-075	180- 85-034	NEW-P	05-08-044	182- 16-050	AMD-C	05-13-093
180- 55-015	AMD	05-08-015	180- 85-034	NEW-C	05-10-021	182- 16-050	AMD	05-16-046
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180- 57	PREP	05-12-159	180- 87	PREP	05-12-149	182- 25-040	AMD-E	05-13-106
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180- 72	PREP	05-12-160	180- 95	PREP	05-12-151	192- 16	PREP	05-17-052
180- 77	PREP	05-12-161	180- 96	PREP	05-12-152	192- 23	PREP	05-17-052
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192- 32-095	REP-X	05-07-143	192-320-051	NEW-P	05-13-157	199- 08-565	NEW	05-07-045
192- 32-095	REP	05-13-155	192-320-060	REP-E	05-11-017	199- 08-570	NEW	05-07-045
192- 32-100	REP-X	05-07-143	192-320-060	REP-P	05-13-157	199- 08-580	NEW	05-07-045
192- 32-100	REP	05-13-155	196- 25-002	AMD-P	05-07-142	204- 41	PREP	05-08-115
192- 32-115	REP-X	05-07-143	196- 25-002	AMD	05-17-053	204- 41-080	NEW-P	05-12-048
192- 32-115	REP	05-13-155	196- 25-040	AMD-P	05-07-142	204- 41-080	NEW	05-16-093
192- 32-130	REP-X	05-07-143	196- 25-040	AMD	05-17-053	204- 50	PREP	05-08-116
192- 32-130	REP	05-13-155	199- 08-300	NEW	05-07-045	204- 50-030	AMD-P	05-12-049
192- 32-135	REP-X	05-07-143	199- 08-305	NEW	05-07-045	204- 50-030	AMD	05-17-065
192- 32-135	REP	05-13-155	199- 08-310	NEW	05-07-045	204- 50-040	AMD-P	05-12-049
192- 35-010	NEW	05-02-094	199- 08-315	NEW	05-07-045	204- 50-040	AMD	05-17-065
192- 35-020	NEW	05-02-094	199- 08-320	NEW	05-07-045	204- 50-050	AMD-P	05-12-049
192- 35-030	NEW	05-02-094	199- 08-325	NEW	05-07-045	204- 50-050	AMD	05-17-065
192- 35-040	NEW	05-02-094	199- 08-330	NEW	05-07-045	204- 50-070	AMD-P	05-12-049
192- 35-050	NEW	05-02-094	199- 08-335	NEW	05-07-045	204- 50-070	AMD	05-17-065
192- 35-060	NEW	05-02-094	199- 08-340	NEW	05-07-045	204- 50-080	AMD-P	05-12-049
192- 35-070	NEW	05-02-094	199- 08-345	NEW	05-07-045	204- 50-080	AMD	05-17-065
192- 35-080	NEW	05-02-094	199- 08-350	NEW	05-07-045	204- 50-090	AMD-P	05-12-049
192- 35-090	NEW	05-02-094	199- 08-355	NEW	05-07-045	204- 50-090	AMD	05-17-065
192- 35-100	NEW	05-02-094	199- 08-360	NEW	05-07-045	204- 50-110	AMD-P	05-12-049
192- 35-110	NEW	05-02-094	199- 08-365	NEW	05-07-045	204- 50-110	AMD	05-17-065
192- 35-120	NEW	05-02-094	199- 08-370	NEW	05-07-045	204- 50-120	AMD-P	05-12-049
192-110-015	AMD-E	05-03-011	199- 08-375	NEW	05-07-045	204- 50-120	AMD	05-17-065
192-110-015	AMD-E	05-11-017	199- 08-380	NEW	05-07-045	204- 50-130	AMD-P	05-12-049
192-110-015	AMD-P	05-13-158	199- 08-385	NEW	05-07-045	204- 50-130	AMD	05-17-065
192-110-017	NEW-E	05-03-011	199- 08-390	NEW	05-07-045	204- 90-120	PREP	05-14-126
192-110-017	NEW-E	05-11-017	199- 08-395	NEW	05-07-045	204- 90-120	AMD-P	05-17-130
192-110-017	NEW-P	05-13-158	199- 08-400	NEW	05-07-045	208-680A-040	AMD	05-03-038
192-150-112	NEW-P	05-07-144	199- 08-405	NEW-W	05-07-079	208-680E-025	NEW	05-03-038
192-150-112	NEW	05-13-156	199- 08-410	NEW-W	05-07-079	208-680F-020	AMD	05-03-038
192-150-113	NEW-P	05-07-144	199- 08-415	NEW-W	05-07-079	208-680G-050	AMD	05-03-037
192-150-113	NEW	05-13-156	199- 08-420	NEW-W	05-07-079	212- 17	PREP	05-17-198
192-170-060	NEW-E	05-03-011	199- 08-425	NEW	05-07-045	212- 17-025	AMD-P	05-07-102
192-170-060	NEW-P	05-07-144	199- 08-426	NEW-W	05-07-079	212- 17-025	AMD	05-12-033
192-170-060	NEW-E	05-11-017	199- 08-427	NEW-W	05-07-079	212- 17-030	AMD-P	05-07-102
192-170-060	NEW	05-13-156	199- 08-428	NEW-W	05-07-079	212- 17-030	AMD	05-12-033
192-170-070	NEW-P	05-13-158	199- 08-429	NEW-W	05-07-079	212- 17-032	NEW-P	05-07-102
192-180-013	NEW-E	05-03-011	199- 08-430	NEW	05-07-045	212- 17-032	NEW	05-12-033
192-180-013	NEW-E	05-11-017	199- 08-435	NEW	05-07-045	212- 17-035	AMD-P	05-07-102
192-180-013	NEW-P	05-13-158	199- 08-440	NEW	05-07-045	212- 17-035	AMD	05-12-033
192-180-014	NEW-P	05-07-144	199- 08-445	NEW	05-07-045	212- 17-040	AMD-P	05-07-102
192-180-014	NEW	05-13-156	199- 08-450	NEW	05-07-045	212- 17-040	AMD	05-12-033
192-300-050	AMD-E	05-03-011	199- 08-455	NEW	05-07-045	212- 17-042	NEW-P	05-07-102
192-300-050	AMD-E	05-11-017	199- 08-460	NEW	05-07-045	212- 17-042	NEW	05-12-033
192-300-050	AMD-P	05-13-157	199- 08-465	NEW	05-07-045	212- 17-050	AMD-P	05-07-102
192-310-010	AMD-E	05-11-017	199- 08-470	NEW	05-07-045	212- 17-050	AMD	05-12-033
192-310-010	AMD-P	05-13-157	199- 08-475	NEW	05-07-045	212- 17-055	AMD-P	05-07-102
192-310-030	AMD-E	05-03-011	199- 08-480	NEW	05-07-045	212- 17-055	AMD	05-12-033
192-310-030	AMD-E	05-11-017	199- 08-485	NEW	05-07-045	212- 17-060	AMD-P	05-07-102
192-310-030	AMD-P	05-13-157	199- 08-490	NEW	05-07-045	212- 17-060	AMD	05-12-033
192-320-005	NEW-E	05-03-011	199- 08-495	NEW	05-07-045	212- 17-070	AMD-P	05-07-102
192-320-005	NEW-E	05-11-017	199- 08-500	NEW	05-07-045	212- 17-085	AMD-P	05-07-102
192-320-005	NEW-P	05-13-157	199- 08-505	NEW	05-07-045	212- 17-085	AMD	05-12-033
192-320-010	NEW-E	05-03-011	199- 08-510	NEW	05-07-045	212- 17-125	AMD-P	05-07-102
192-320-010	NEW-E	05-11-017	199- 08-515	NEW	05-07-045	212- 17-170	AMD-P	05-07-102
192-320-010	NEW-P	05-13-157	199- 08-520	NEW	05-07-045	212- 17-185	AMD-P	05-07-102
192-320-020	NEW-E	05-03-011	199- 08-525	NEW	05-07-045	212- 17-185	AMD	05-12-033
192-320-020	NEW-E	05-11-017	199- 08-535	NEW-W	05-07-079	212- 17-198	AMD-P	05-07-102
192-320-020	NEW-P	05-13-157	199- 08-540	NEW	05-07-045	212- 17-198	AMD	05-12-033
192-320-050	AMD-E	05-11-017	199- 08-545	NEW	05-07-045	212- 17-21503	AMD-P	05-07-102

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
212- 17-21503	AMD	05-12-033	212- 17-365	NEW	05-12-033	212- 17-900	AMD	05-12-033
212- 17-21505	AMD-P	05-07-102	212- 17-370	NEW-P	05-07-102	212- 80	PREP	05-07-101
212- 17-21505	AMD	05-12-033	212- 17-370	NEW	05-12-033	212- 80-001	AMD	05-05-006
212- 17-21507	AMD-P	05-07-102	212- 17-375	NEW-P	05-07-102	212- 80-005	AMD	05-05-006
212- 17-21507	AMD	05-12-033	212- 17-375	NEW	05-12-033	212- 80-010	AMD	05-05-006
212- 17-21509	AMD-P	05-07-102	212- 17-380	NEW-P	05-07-102	212- 80-010	AMD-P	05-11-107
212- 17-21509	AMD	05-12-033	212- 17-380	NEW	05-12-033	212- 80-010	AMD	05-17-099
212- 17-21511	AMD-P	05-07-102	212- 17-385	NEW-P	05-07-102	212- 80-015	AMD	05-05-006
212- 17-21511	AMD	05-12-033	212- 17-385	NEW	05-12-033	212- 80-015	AMD-P	05-11-107
212- 17-21513	AMD-P	05-07-102	212- 17-390	NEW-P	05-07-102	212- 80-015	AMD	05-17-099
212- 17-21513	AMD	05-12-033	212- 17-390	NEW	05-12-033	212- 80-018	NEW	05-05-006
212- 17-21515	AMD-P	05-07-102	212- 17-395	NEW-P	05-07-102	212- 80-018	AMD-P	05-11-107
212- 17-21515	AMD	05-12-033	212- 17-395	NEW	05-12-033	212- 80-018	AMD	05-17-099
212- 17-21517	AMD-P	05-07-102	212- 17-400	NEW-P	05-07-102	212- 80-020	AMD-P	05-11-107
212- 17-21517	AMD	05-12-033	212- 17-400	NEW	05-12-033	212- 80-020	AMD	05-17-099
212- 17-21519	AMD-P	05-07-102	212- 17-405	NEW-P	05-07-102	212- 80-023	RECOD	05-05-006
212- 17-21519	AMD	05-12-033	212- 17-405	NEW	05-12-033	212- 80-025	AMD	05-05-006
212- 17-220	AMD-P	05-07-102	212- 17-410	NEW-P	05-07-102	212- 80-025	DECOD	05-05-006
212- 17-220	AMD	05-12-033	212- 17-410	NEW	05-12-033	212- 80-028	RECOD	05-05-006
212- 17-230	AMD-P	05-07-102	212- 17-415	NEW-P	05-07-102	212- 80-028	AMD-P	05-11-107
212- 17-230	AMD	05-12-033	212- 17-415	NEW	05-12-033	212- 80-028	AMD	05-17-099
212- 17-235	AMD-P	05-07-102	212- 17-420	NEW-P	05-07-102	212- 80-030	AMD	05-05-006
212- 17-235	AMD	05-12-033	212- 17-420	NEW	05-12-033	212- 80-030	DECOD	05-05-006
212- 17-250	AMD-P	05-07-102	212- 17-425	NEW-P	05-07-102	212- 80-033	RECOD	05-05-006
212- 17-250	AMD	05-12-033	212- 17-425	NEW	05-12-033	212- 80-035	AMD	05-05-006
212- 17-255	AMD-P	05-07-102	212- 17-430	NEW-P	05-07-102	212- 80-035	DECOD	05-05-006
212- 17-255	AMD	05-12-033	212- 17-430	NEW	05-12-033	212- 80-038	RECOD	05-05-006
212- 17-260	AMD-P	05-07-102	212- 17-435	NEW-P	05-07-102	212- 80-038	AMD-P	05-11-107
212- 17-260	AMD	05-12-033	212- 17-435	NEW	05-12-033	212- 80-038	AMD	05-17-099
212- 17-265	REP-P	05-07-102	212- 17-440	NEW-P	05-07-102	212- 80-040	AMD	05-05-006
212- 17-265	REP	05-12-033	212- 17-440	NEW	05-12-033	212- 80-040	DECOD	05-05-006
212- 17-270	AMD-P	05-07-102	212- 17-445	NEW-P	05-07-102	212- 80-043	RECOD	05-05-006
212- 17-270	AMD	05-12-033	212- 17-445	NEW	05-12-033	212- 80-043	AMD-P	05-11-107
212- 17-275	AMD-P	05-07-102	212- 17-450	NEW-P	05-07-102	212- 80-043	AMD	05-17-099
212- 17-275	AMD	05-12-033	212- 17-450	NEW	05-12-033	212- 80-045	AMD	05-05-006
212- 17-280	AMD-P	05-07-102	212- 17-455	NEW-P	05-07-102	212- 80-045	DECOD	05-05-006
212- 17-280	AMD	05-12-033	212- 17-455	NEW	05-12-033	212- 80-048	NEW	05-05-006
212- 17-285	AMD-P	05-07-102	212- 17-460	NEW-P	05-07-102	212- 80-050	AMD	05-05-006
212- 17-285	AMD	05-12-033	212- 17-460	NEW	05-12-033	212- 80-050	DECOD	05-05-006
212- 17-290	AMD-P	05-07-102	212- 17-465	NEW-P	05-07-102	212- 80-053	RECOD	05-05-006
212- 17-290	AMD	05-12-033	212- 17-465	NEW	05-12-033	212- 80-053	AMD-P	05-11-107
212- 17-295	AMD-P	05-07-102	212- 17-470	NEW-P	05-07-102	212- 80-053	AMD	05-17-099
212- 17-295	AMD	05-12-033	212- 17-470	NEW	05-12-033	212- 80-055	AMD	05-05-006
212- 17-300	AMD-P	05-07-102	212- 17-475	NEW-P	05-07-102	212- 80-055	DECOD	05-05-006
212- 17-300	AMD	05-12-033	212- 17-475	NEW	05-12-033	212- 80-058	RECOD	05-05-006
212- 17-310	AMD-P	05-07-102	212- 17-480	NEW-P	05-07-102	212- 80-060	AMD	05-05-006
212- 17-310	AMD	05-12-033	212- 17-480	NEW	05-12-033	212- 80-060	DECOD	05-05-006
212- 17-317	AMD-P	05-07-102	212- 17-485	NEW-P	05-07-102	212- 80-063	RECOD	05-05-006
212- 17-317	AMD	05-12-033	212- 17-485	NEW	05-12-033	212- 80-065	AMD	05-05-006
212- 17-335	AMD-P	05-07-102	212- 17-490	NEW-P	05-07-102	212- 80-065	DECOD	05-05-006
212- 17-335	AMD	05-12-033	212- 17-490	NEW	05-12-033	212- 80-068	RECOD	05-05-006
212- 17-342	NEW-P	05-07-102	212- 17-495	NEW-P	05-07-102	212- 80-070	AMD	05-05-006
212- 17-345	AMD-P	05-07-102	212- 17-495	NEW	05-12-033	212- 80-070	DECOD	05-05-006
212- 17-345	AMD	05-12-033	212- 17-500	NEW-P	05-07-102	212- 80-073	RECOD	05-05-006
212- 17-350	AMD-P	05-07-102	212- 17-500	NEW	05-12-033	212- 80-075	AMD	05-05-006
212- 17-350	AMD	05-12-033	212- 17-505	NEW-P	05-07-102	212- 80-075	DECOD	05-05-006
212- 17-352	AMD-P	05-07-102	212- 17-505	NEW	05-12-033	212- 80-078	RECOD	05-05-006
212- 17-355	AMD-P	05-07-102	212- 17-510	NEW-P	05-07-102	212- 80-078	AMD-P	05-11-107
212- 17-355	AMD	05-12-033	212- 17-510	NEW	05-12-033	212- 80-078	AMD	05-17-099
212- 17-360	AMD-P	05-07-102	212- 17-515	NEW-P	05-07-102	212- 80-080	AMD	05-05-006
212- 17-360	AMD	05-12-033	212- 17-515	NEW	05-12-033	212- 80-080	DECOD	05-05-006
212- 17-365	NEW-P	05-07-102	212- 17-900	AMD-P	05-07-102	212- 80-083	RECOD	05-05-006

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212-80-083	AMD-P	05-11-107	212-80-190	NEW-P	05-11-107	220-32-05100K	REP-E	05-14-117
212-80-083	AMD	05-17-099	212-80-190	NEW	05-17-099	220-32-05100K	REP-E	05-15-033
212-80-085	AMD	05-05-006	212-80-195	NEW-P	05-11-107	220-32-05100L	NEW-E	05-15-033
212-80-085	DECOD	05-05-006	212-80-195	NEW	05-17-099	220-32-05100L	REP-E	05-15-033
212-80-088	RECOD	05-05-006	212-80-200	RECOD	05-05-006	220-32-05100L	REP-E	05-16-016
212-80-090	AMD	05-05-006	212-80-200	AMD-P	05-11-107	220-32-05100M	NEW-E	05-16-016
212-80-090	DECOD	05-05-006	212-80-200	AMD	05-17-099	220-32-05100M	REP-E	05-16-016
212-80-093	RECOD	05-05-006	212-80-205	RECOD	05-05-006	220-32-05100N	NEW-E	05-17-146
212-80-093	AMD-P	05-11-107	212-80-205	AMD-P	05-11-107	220-32-05100N	REP-E	05-17-146
212-80-093	AMD	05-17-099	212-80-205	AMD	05-17-099	220-33-01000A	NEW-E	05-08-073
212-80-095	AMD	05-05-006	212-80-210	NEW	05-05-006	220-33-01000A	REP-E	05-09-098
212-80-095	DECOD	05-05-006	212-80-215	NEW	05-05-006	220-33-01000B	NEW-E	05-11-005
212-80-098	RECOD	05-05-006	212-80-220	NEW	05-05-006	220-33-01000B	REP-E	05-11-005
212-80-100	DECOD	05-05-006	212-80-225	NEW	05-05-006	220-33-01000C	NEW-E	05-11-032
212-80-103	RECOD	05-05-006	212-80-230	NEW	05-05-006	220-33-01000C	REP-E	05-11-032
212-80-105	AMD	05-05-006	212-80-235	NEW	05-05-006	220-33-01000D	NEW-E	05-13-194
212-80-105	DECOD	05-05-006	212-80-240	NEW	05-05-006	220-33-01000D	REP-E	05-13-194
212-80-108	RECOD	05-05-006	212-80-245	NEW	05-05-006	220-33-01000E	NEW-E	05-15-032
212-80-110	AMD	05-05-006	212-80-250	NEW	05-05-006	220-33-01000E	REP-E	05-15-032
212-80-110	DECOD	05-05-006	212-80-255	NEW	05-05-006	220-33-01000F	NEW-E	05-15-100
212-80-113	RECOD	05-05-006	212-80-260	NEW	05-05-006	220-33-01000F	REP-E	05-15-100
212-80-113	AMD-P	05-11-107	212-80-265	NEW	05-05-006	220-33-01000G	NEW-E	05-16-015
212-80-113	AMD	05-17-099	212-80-265	AMD-P	05-11-107	220-33-01000G	REP-E	05-16-015
212-80-115	AMD	05-05-006	212-80-265	AMD	05-17-099	220-33-01000H	NEW-E	05-16-104
212-80-115	DECOD	05-05-006	220-16-007	NEW-W	05-14-132	220-33-01000H	REP-E	05-16-104
212-80-118	RECOD	05-05-006	220-16-470	AMD-X	05-10-107	220-33-01000I	NEW-E	05-17-074
212-80-120	AMD	05-05-006	220-16-470	AMD	05-17-007	220-33-01000I	REP-E	05-17-074
212-80-120	DECOD	05-05-006	220-16-47000C	NEW-E	05-10-042	220-33-01000J	NEW-E	05-17-122
212-80-123	RECOD	05-05-006	220-16-820	NEW	05-09-009	220-33-01000J	REP-E	05-17-122
212-80-125	AMD	05-05-006	220-16-830	NEW	05-09-009	220-33-01000K	NEW-E	05-17-147
212-80-125	DECOD	05-05-006	220-16-840	NEW	05-09-009	220-33-01000S	NEW-E	05-05-091
212-80-128	RECOD	05-05-006	220-16-850	NEW	05-09-009	220-33-01000S	REP-E	05-06-010
212-80-130	AMD	05-05-006	220-16-860	NEW	05-09-009	220-33-01000T	NEW-E	05-06-010
212-80-130	DECOD	05-05-006	220-16-870	NEW	05-09-009	220-33-01000T	REP-E	05-06-072
212-80-133	NEW-P	05-11-107	220-20-010	AMD-P	05-03-117	220-33-01000U	NEW-E	05-06-072
212-80-133	NEW	05-17-099	220-20-010	AMD	05-08-056	220-33-01000U	REP-E	05-07-005
212-80-135	AMD	05-05-006	220-20-05100A	REP-E	05-03-013	220-33-01000V	NEW-E	05-07-005
212-80-135	DECOD	05-05-006	220-20-05100B	NEW-E	05-03-013	220-33-01000V	REP-E	05-07-026
212-80-138	NEW-P	05-11-107	220-20-05100B	REP-E	05-03-013	220-33-01000W	NEW-E	05-07-026
212-80-138	NEW	05-17-099	220-20-100	AMD	05-09-009	220-33-01000W	REP-E	05-07-043
212-80-140	NEW-P	05-11-107	220-22-40000G	NEW-E	05-13-092	220-33-01000X	NEW-E	05-07-043
212-80-140	NEW	05-17-099	220-24-04000U	NEW-E	05-10-051	220-33-01000X	REP-E	05-07-082
212-80-145	NEW-P	05-11-107	220-24-04000U	REP-E	05-12-021	220-33-01000Y	NEW-E	05-07-082
212-80-145	NEW	05-17-099	220-24-04000V	NEW-E	05-12-021	220-33-01000Y	REP-E	05-08-021
212-80-150	NEW-P	05-11-107	220-24-04000V	REP-E	05-13-002	220-33-01000Z	NEW-E	05-08-021
212-80-150	NEW	05-17-099	220-24-04000W	NEW-E	05-13-002	220-33-01000Z	REP-E	05-08-073
212-80-155	NEW-P	05-11-107	220-24-04000W	REP-E	05-13-068	220-33-03000V	NEW-E	05-11-031
212-80-155	NEW	05-17-099	220-24-04000X	NEW-E	05-13-068	220-33-03000V	REP-E	05-11-031
212-80-160	NEW-P	05-11-107	220-24-04000X	REP-E	05-17-028	220-33-03000V	REP-E	05-12-003
212-80-160	NEW	05-17-099	220-24-04000Y	NEW-E	05-17-028	220-33-03000W	NEW-E	05-12-003
212-80-165	NEW-P	05-11-107	220-24-04000Y	REP-E	05-17-028	220-33-03000W	REP-E	05-12-003
212-80-165	NEW	05-17-099	220-24-04000Y	REP-E	05-17-182	220-33-03000W	REP-E	05-13-195
212-80-170	NEW-P	05-11-107	220-32-05100G	REP-E	05-04-068	220-33-03000X	NEW-E	05-13-195
212-80-170	NEW	05-17-099	220-32-05100H	NEW-E	05-03-061	220-33-03000X	REP-E	05-13-195
212-80-175	NEW-P	05-11-107	220-32-05100H	REP-E	05-03-061	220-33-03000Y	NEW-E	05-14-059
212-80-175	NEW	05-17-099	220-32-05100H	REP-E	05-04-068	220-33-03000Y	REP-E	05-14-059
212-80-180	NEW-P	05-11-107	220-32-05100I	NEW-E	05-04-068	220-33-04000W	REP-E	05-06-042
212-80-180	NEW	05-17-099	220-32-05100I	REP-E	05-04-068	220-33-04000X	NEW-E	05-06-042
212-80-185	NEW-P	05-11-107	220-32-05100I	REP-E	05-07-084	220-33-04000X	REP-E	05-06-042
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212-80-188	NEW-P	05-11-107	220-32-05100J	REP-E	05-14-117	220-36-023	AMD	05-17-006
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220-44-05000E	NEW-E	05-08-055	220-52-05100L	REP-E	05-11-091	220-56-130	AMD	05-05-035
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220-47-001	AMD	05-17-002	220-52-05100P	REP-E	05-14-148	220-56-195	AMD	05-17-007
220-47-302	AMD-X	05-12-143	220-52-05100Q	NEW-E	05-14-148	220-56-19500N	NEW-E	05-10-042
220-47-302	AMD	05-17-002	220-52-05100Q	REP-E	05-15-048	220-56-25000H	NEW-E	05-06-008
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220-47-311	AMD	05-17-002	220-52-05100R	REP-E	05-16-048	220-56-255	AMD	05-14-035
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220-47-325	AMD	05-17-002	220-52-05100S	REP-E	05-16-062	220-56-25500S	REP-E	05-11-102
220-47-401	AMD-X	05-12-143	220-52-05100T	NEW-E	05-16-062	220-56-25500T	NEW-E	05-11-102
220-47-401	AMD	05-17-002	220-52-05100T	REP-E	05-17-016	220-56-25500T	REP-E	05-12-038
220-47-411	AMD-X	05-12-143	220-52-05100U	NEW-E	05-17-016	220-56-25500U	NEW-E	05-12-038
220-47-411	AMD	05-17-002	220-52-05100U	REP-E	05-17-032	220-56-25500U	REP-E	05-12-061
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220-48-00500I	NEW-E	05-11-027	220-52-05100X	REP-E	05-17-097	220-56-25500X	REP-E	05-17-134
220-48-01500V	NEW-E	05-05-090	220-52-05100Y	NEW-E	05-17-097	220-56-25500Y	NEW-E	05-17-134
220-48-01500V	REP-E	05-11-027	220-52-05100Y	REP-E	05-17-180	220-56-27000W	REP-E	05-06-043
220-48-01500W	NEW-E	05-11-027	220-52-05100Z	NEW-E	05-17-180	220-56-27000X	NEW-E	05-06-043
220-48-03200F	NEW-E	05-13-086	220-52-07100L	NEW-E	05-05-040	220-56-27000X	REP-E	05-06-043
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220-52-018	AMD-W	05-14-133	220-52-07100M	NEW-E	05-06-009	220-56-28200G	REP-E	05-08-071
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220-52-020	AMD-W	05-14-133	220-52-07100N	NEW-E	05-07-010	220-56-28200I	NEW-E	05-08-071
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220-52-04000F	REP-E	05-03-039	220-52-07100Q	REP-E	05-07-083	220-56-310	AMD-P	05-07-042
220-52-04000H	NEW-E	05-03-039	220-52-07100R	NEW-E	05-16-013	220-56-310	AMD	05-12-007
220-52-04000H	REP-E	05-06-034	220-52-07100R	REP-E	05-17-005	220-56-31000W	NEW-E	05-12-004
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220-52-04000I	REP-E	05-04-065	220-52-07100S	NEW-E	05-17-005	220-56-312	AMD-P	05-07-042
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220-52-04000J	REP-E	05-07-060	220-52-07100T	NEW-E	05-17-077	220-56-315	AMD-P	05-07-042
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220-52-04000K	REP-E	05-13-092	220-52-07300R	NEW-E	05-03-068	220-56-31500D	NEW-E	05-12-004
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220-56-32500X	NEW-E	05-10-078	220-88D-02000A	NEW-E	05-12-060	222-20-040	AMD-P	05-17-173
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220-56-32500Y	NEW-E	05-11-025	220-88D-030	NEW-W	05-14-133	222-20-050	AMD	05-12-119
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220-56-32500Z	NEW-E	05-11-044	220-88D-040	NEW-P	05-12-142	222-20-060	AMD-P	05-06-096
220-56-32500Z	REP-E	05-11-090	220-88D-040	NEW-W	05-14-133	222-20-060	AMD	05-12-119
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220-56-330	AMD	05-05-035	220-88D-050	NEW-P	05-12-142	222-20-075	NEW	05-12-119
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220-56-33000S	REP-E	05-12-004	220-95-110	AMD	05-17-027	222-22-020	AMD	05-12-119
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220-56-35000W	NEW-E	05-09-026	222-08-160	AMD	05-12-119	222-22-060	AMD	05-12-119
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220-56-36000E	NEW-E	05-02-047	222-10-030	AMD	05-12-119	222-22-070	AMD-S	05-08-085
220-56-36000E	REP-E	05-02-047	222-10-040	AMD-P	05-06-096	222-22-070	AMD	05-12-119
220-56-36000F	NEW-E	05-04-064	222-10-040	AMD	05-12-119	222-22-080	AMD-S	05-08-085
220-56-36000F	REP-E	05-04-064	222-12-010	AMD-S	05-08-085	222-22-080	AMD	05-12-119
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220-56-36000H	REP-E	05-08-006	222-12-045	AMD-P	05-06-096	222-23-020	AMD-P	05-06-096
220-56-36000I	NEW-E	05-08-119	222-12-045	AMD	05-12-119	222-23-020	AMD	05-12-119
220-56-36000I	REP-E	05-08-119	222-12-046	AMD-P	05-06-096	222-23-025	AMD-P	05-06-096
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220-88C-040	AMD	05-08-056	222-16-080	AMD-P	05-06-096	222-30-050	AMD	05-12-119
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230- 02-505	AMD-S	05-11-087	232- 28-273	AMD	05-11-022	232- 28-61900I	NEW-E	05-07-148
230- 02-505	AMD-S	05-13-117	232- 28-282	AMD-P	05-06-108	232- 28-61900I	REP-E	05-07-148
230- 02-505	AMD	05-17-107	232- 28-282	AMD	05-11-022	232- 28-61900I	NEW-E	05-14-116
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230- 04-255	AMD-P	05-07-115	232- 28-299	AMD	05-17-098	232- 28-61900K	REP-E	05-08-072
230- 04-255	AMD	05-11-086	232- 28-333	AMD	05-02-046	232- 28-61900K	NEW-E	05-15-099
230- 04-270	AMD-P	05-07-117	232- 28-333	AMD-P	05-06-108	232- 28-61900L	NEW-E	05-08-074
230- 04-270	AMD	05-11-085	232- 28-333	AMD	05-11-024	232- 28-61900L	REP-E	05-08-074
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230- 08-130	AMD	05-11-088	232- 28-337	AMD-P	05-06-108	232- 28-61900M	REP-E	05-09-016
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230- 08-140	AMD	05-11-088	232- 28-341	AMD-P	05-06-108	232- 28-61900M	REP-E	05-16-103
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230- 08-150	AMD	05-11-088	232- 28-351	AMD-P	05-06-106	232- 28-61900N	REP-E	05-09-037
230- 08-160	AMD-P	05-07-119	232- 28-351	AMD	05-11-022	232- 28-61900N	NEW-E	05-17-073
230- 08-160	AMD	05-11-088	232- 28-35100C	NEW-E	05-13-087	232- 28-61900P	NEW-E	05-09-024
230- 08-165	AMD-P	05-07-119	232- 28-35100D	NEW-E	05-16-057	232- 28-61900P	REP-E	05-09-024
230- 08-165	AMD	05-11-088	232- 28-352	AMD-P	05-06-107	232- 28-61900P	NEW-E	05-17-121
230- 12	PREP	05-13-042	232- 28-352	AMD	05-11-024	232- 28-61900P	REP-E	05-17-121
230- 12-305	AMD-P	05-07-119	232- 28-35200D	NEW-E	05-16-057	232- 28-61900Q	NEW-E	05-09-067
230- 12-305	AMD	05-11-088	232- 28-428	REP-P	05-13-197	232- 28-61900Q	REP-E	05-09-067
230- 12-310	AMD-P	05-07-119	232- 28-428	REP	05-17-098	232- 28-61900R	NEW-E	05-09-097
230- 12-310	AMD	05-11-088	232- 28-429	NEW-P	05-13-197	232- 28-61900R	REP-E	05-11-006
230- 12-320	REP-P	05-13-116	232- 28-429	NEW	05-17-098	232- 28-61900S	NEW-E	05-10-007
230- 12-330	REP-P	05-13-116	232- 28-619	AMD	05-03-005	232- 28-61900S	REP-E	05-10-007
230- 12-340	AMD-P	05-13-116	232- 28-619	AMD	05-05-035	232- 28-61900T	NEW-E	05-10-042
230- 12-345	REP-P	05-13-116	232- 28-619	AMD-X	05-10-107	232- 28-61900T	REP-E	05-14-116
230- 12-350	AMD-P	05-13-116	232- 28-619	AMD	05-17-007	232- 28-61900U	NEW-E	05-10-050
230- 20-115	AMD-P	05-03-115	232- 28-61900A	NEW-E	05-13-031	232- 28-61900U	REP-E	05-13-010
230- 20-115	AMD	05-07-106	232- 28-61900A	REP-E	05-13-031	232- 28-61900V	NEW-E	05-11-051
230- 20-325	AMD-P	05-13-115	232- 28-61900B	NEW-E	05-03-062	232- 28-61900V	REP-E	05-11-051
230- 20-335	AMD-P	05-03-114	232- 28-61900B	REP-E	05-07-061	232- 28-61900W	NEW-E	05-11-042
230- 20-335	AMD	05-07-107	232- 28-61900B	NEW-E	05-13-009	232- 28-61900W	REP-E	05-11-092
230- 20-335	AMD-P	05-13-115	232- 28-61900B	REP-E	05-13-009	232- 28-61900X	NEW-E	05-11-043
230- 30-033	AMD-W	05-08-105	232- 28-61900C	NEW-E	05-04-003	232- 28-61900X	REP-E	05-11-043
232- 12-021	AMD	05-02-046	232- 28-61900C	NEW-E	05-13-010	232- 28-61900Y	REP-E	05-03-062
232- 12-068	AMD-P	05-13-198	232- 28-61900C	REP-E	05-14-061	232- 28-61900Y	NEW-E	05-12-027
232- 12-068	AMD	05-17-098	232- 28-61900D	NEW-E	05-05-002	232- 28-61900Y	REP-E	05-12-027
232- 12-129	AMD	05-05-008	232- 28-61900D	REP-E	05-05-002	232- 28-61900Z	NEW-E	05-12-105
232- 12-421	NEW-P	05-13-193	232- 28-61900D	REP-E	05-08-072	232- 28-61900Z	REP-E	05-12-105
232- 12-422	NEW-P	05-13-193	232- 28-61900D	NEW-E	05-13-035	232- 28-620	AMD-X	05-10-107
232- 12-423	NEW-P	05-13-193	232- 28-61900D	REP-E	05-13-199	232- 28-620	AMD	05-17-007
232- 12-619	AMD	05-05-035	232- 28-61900E	NEW-E	05-05-089	232- 28-62000A	NEW-E	05-17-075
232- 12-619	AMD-X	05-10-107	232- 28-61900E	REP-E	05-05-089	232- 28-62000X	NEW-E	05-10-042
232- 12-619	AMD	05-17-007	232- 28-61900E	NEW-E	05-13-053	232- 28-62000X	REP-E	05-16-026
232- 12-61900W	NEW-E	05-10-042	232- 28-61900E	REP-E	05-13-053	232- 28-62000X	REP-E	05-16-049
232- 16-050	AMD-P	05-13-198	232- 28-61900F	NEW-E	05-07-077	232- 28-62000Y	NEW-E	05-16-026
232- 16-050	AMD	05-17-098	232- 28-61900F	REP-E	05-07-077	232- 28-62000Y	REP-E	05-16-026
232- 16-740	AMD-P	05-13-198	232- 28-61900F	REP-E	05-09-097	232- 28-62000Y	REP-E	05-16-049
232- 16-740	AMD	05-17-098	232- 28-61900F	NEW-E	05-13-199	232- 28-62000Z	NEW-E	05-16-049
232- 28-248	AMD	05-02-046	232- 28-61900F	REP-E	05-14-062	232- 28-62000Z	REP-E	05-16-049
232- 28-248	AMD-P	05-06-108	232- 28-61900G	NEW-E	05-07-061	232- 28-62000Z	REP-E	05-17-075

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
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232-28-621	AMD	05-17-007	246-100-207	AMD	05-11-110	246-272-08001	REP	05-15-119
232-28-62100R	NEW-E	05-10-042	246-100-208	AMD-P	05-06-123	246-272-09001	REP-P	05-02-082
232-28-62100R	REP-E	05-17-073	246-100-208	AMD	05-11-110	246-272-09001	REP	05-15-119
232-28-62100S	NEW-E	05-17-073	246-100-209	AMD-P	05-06-123	246-272-09501	REP-P	05-02-082
232-28-62100S	REP-E	05-17-073	246-100-209	AMD	05-11-110	246-272-09501	REP	05-15-119
236-22-010	AMD	05-04-072	246-101-015	AMD	05-03-055	246-272-11001	REP-P	05-02-082
236-22-010	DECOD	05-04-072	246-101-101	AMD	05-03-055	246-272-11001	REP	05-15-119
236-22-020	AMD	05-04-072	246-101-201	AMD	05-03-055	246-272-11501	REP	05-15-119
236-22-020	DECOD	05-04-072	246-101-301	AMD	05-03-055	246-272-12501	REP-P	05-02-082
236-22-030	AMD	05-04-072	246-101-505	AMD-P	05-06-123	246-272-12501	REP	05-15-119
236-22-030	DECOD	05-04-072	246-101-505	AMD	05-11-110	246-272-13501	REP-P	05-02-082
236-22-031	AMD	05-04-072	246-101-520	AMD-P	05-06-123	246-272-13501	REP	05-15-119
236-22-031	DECOD	05-04-072	246-101-520	AMD	05-11-110	246-272-14501	REP-P	05-02-082
236-22-032	DECOD	05-04-072	246-130	PREP	05-06-119	246-272-14501	REP	05-15-119
236-22-033	DECOD	05-04-072	246-140-001	NEW	05-04-112	246-272-15501	REP-P	05-02-082
236-22-034	AMD	05-04-072	246-140-010	NEW	05-04-112	246-272-15501	REP	05-15-119
236-22-034	DECOD	05-04-072	246-140-020	NEW	05-04-112	246-272-16501	REP-P	05-02-082
236-22-035	DECOD	05-04-072	246-203-120	PREP	05-10-096	246-272-16501	REP	05-15-119
236-22-036	AMD	05-04-072	246-217-010	PREP	05-16-050	246-272-17501	REP-P	05-02-082
236-22-036	DECOD	05-04-072	246-217-015	PREP	05-16-050	246-272-17501	REP	05-15-119
236-22-037	AMD	05-04-072	246-217-025	PREP	05-16-050	246-272-18501	REP-P	05-02-082
236-22-037	DECOD	05-04-072	246-224	PREP-W	05-17-042	246-272-18501	REP	05-15-119
236-22-038	AMD	05-04-072	246-225	PREP-W	05-17-042	246-272-19501	REP-P	05-02-082
236-22-038	DECOD	05-04-072	246-227	PREP-W	05-17-042	246-272-19501	REP	05-15-119
236-22-040	DECOD	05-04-072	246-228	PREP-W	05-17-042	246-272-20501	REP-P	05-02-082
236-22-050	AMD	05-04-072	246-229	PREP-W	05-17-042	246-272-20501	REP	05-15-119
236-22-050	DECOD	05-04-072	246-247	PREP	05-12-140	246-272-21501	REP-P	05-02-082
236-22-060	AMD	05-04-072	246-247-035	NEW-P	05-08-019	246-272-21501	REP	05-15-119
236-22-060	DECOD	05-04-072	246-247-035	NEW	05-12-059	246-272-22501	REP-P	05-02-082
236-22-070	AMD	05-04-072	246-249-001	AMD-P	05-17-189	246-272-22501	REP	05-15-119
236-22-070	DECOD	05-04-072	246-249-010	AMD-P	05-17-189	246-272-23501	REP-P	05-02-082
236-22-080	AMD	05-04-072	246-249-080	AMD-P	05-17-189	246-272-23501	REP	05-15-119
236-22-080	DECOD	05-04-072	246-249-090	AMD-P	05-17-189	246-272-24001	REP-P	05-02-082
236-22-100	AMD	05-04-072	246-260-031	AMD-X	05-03-057	246-272-24001	REP	05-15-119
236-22-100	DECOD	05-04-072	246-260-031	AMD	05-09-004	246-272-25001	REP-P	05-02-082
236-22-200	AMD	05-04-072	246-260-041	AMD-X	05-03-057	246-272-25001	REP	05-15-119
236-22-200	DECOD	05-04-072	246-260-041	AMD	05-09-004	246-272-26001	REP-P	05-02-082
236-22-210	AMD	05-04-072	246-260-061	AMD-X	05-03-057	246-272-26001	REP	05-15-119
236-22-210	DECOD	05-04-072	246-260-061	AMD	05-09-004	246-272-27001	REP-P	05-02-082
246-08-400	AMD-P	05-06-121	246-260-091	AMD-X	05-03-057	246-272-27001	REP	05-15-119
246-08-400	AMD	05-12-013	246-260-091	AMD	05-09-004	246-272-28001	REP-P	05-02-082
246-12-040	PREP	05-13-183	246-260-131	AMD-X	05-03-057	246-272-28001	REP	05-15-119
246-100-011	AMD-P	05-06-123	246-260-131	AMD	05-09-004	246-272A	AMD-C	05-09-002
246-100-011	AMD	05-11-110	246-260-171	AMD-X	05-03-057	246-272A-0001	NEW-P	05-02-082
246-100-072	AMD-P	05-06-123	246-260-171	AMD	05-09-004	246-272A-0001	NEW-S	05-11-109
246-100-072	AMD	05-11-110	246-272-00101	REP-P	05-02-082	246-272A-0001	NEW	05-15-119
246-100-166	PREP	05-03-054	246-272-00101	REP	05-15-119	246-272A-0005	NEW-P	05-02-082
246-100-166	AMD-P	05-04-113	246-272-00501	REP-P	05-02-082	246-272A-0005	NEW-S	05-11-109
246-100-166	AMD	05-08-094	246-272-00501	REP	05-15-119	246-272A-0005	NEW	05-15-119
246-100-166	AMD-P	05-12-139	246-272-01001	REP-P	05-02-082	246-272A-0010	NEW-P	05-02-082
246-100-166	AMD	05-16-051	246-272-01001	REP	05-15-119	246-272A-0010	NEW-S	05-11-109
246-100-202	NEW-P	05-06-123	246-272-02001	REP-P	05-02-082	246-272A-0010	NEW	05-15-119
246-100-202	NEW	05-11-110	246-272-02001	REP	05-15-119	246-272A-0015	NEW-P	05-02-082
246-100-203	NEW-P	05-06-123	246-272-03001	REP-P	05-02-082	246-272A-0015	NEW-S	05-11-109
246-100-203	NEW	05-11-110	246-272-03001	REP	05-15-119	246-272A-0015	NEW	05-15-119
246-100-204	NEW-P	05-06-123	246-272-04001	REP-P	05-02-082	246-272A-0020	NEW-P	05-02-082
246-100-204	NEW	05-11-110	246-272-04001	REP	05-15-119	246-272A-0020	NEW-S	05-11-109
246-100-205	NEW-P	05-06-123	246-272-05001	REP-P	05-02-082	246-272A-0020	NEW	05-15-119
246-100-205	NEW	05-11-110	246-272-05001	REP	05-15-119	246-272A-0025	NEW-P	05-02-082
246-100-206	AMD-P	05-06-123	246-272-07001	REP-P	05-02-082	246-272A-0025	NEW-S	05-11-109
246-100-206	AMD	05-11-110	246-272-07001	REP	05-15-119	246-272A-0025	NEW	05-15-119

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-272A-0100	NEW-P	05-02-082	246-272A-0260	NEW-S	05-11-109	246-310-262	AMD-W	05-13-051
246-272A-0100	NEW-S	05-11-109	246-272A-0260	NEW	05-15-119	246-310-990	AMD-W	05-13-085
246-272A-0100	NEW	05-15-119	246-272A-0265	NEW-P	05-02-082	246-314	PREP	05-17-118
246-272A-0110	NEW-P	05-02-082	246-272A-0265	NEW-S	05-11-109	246-320-990	AMD-P	05-14-156
246-272A-0110	NEW-S	05-11-109	246-272A-0265	NEW	05-15-119	246-322-990	AMD-P	05-14-156
246-272A-0110	NEW	05-15-119	246-272A-0270	NEW-P	05-02-082	246-323-010	REP-P	05-10-063
246-272A-0120	NEW-P	05-02-082	246-272A-0270	NEW-S	05-11-109	246-323-010	REP	05-15-157
246-272A-0120	NEW-S	05-11-109	246-272A-0270	NEW	05-15-119	246-323-020	REP-P	05-10-063
246-272A-0120	NEW	05-15-119	246-272A-0275	NEW-P	05-02-082	246-323-020	REP	05-15-157
246-272A-0125	NEW-P	05-02-082	246-272A-0275	NEW-S	05-11-109	246-323-022	REP-P	05-10-063
246-272A-0125	NEW-S	05-11-109	246-272A-0275	NEW	05-15-119	246-323-022	REP	05-15-157
246-272A-0125	NEW	05-15-119	246-272A-0280	NEW-P	05-02-082	246-323-030	REP-P	05-10-063
246-272A-0130	NEW-P	05-02-082	246-272A-0280	NEW-S	05-11-109	246-323-030	REP	05-15-157
246-272A-0130	NEW-S	05-11-109	246-272A-0280	NEW	05-15-119	246-323-040	REP-P	05-10-063
246-272A-0130	NEW	05-15-119	246-272A-0290	NEW-P	05-02-082	246-323-040	REP	05-15-157
246-272A-0130	PREP	05-17-117	246-272A-0290	NEW-S	05-11-109	246-323-050	REP-P	05-10-063
246-272A-0135	NEW-P	05-02-082	246-272A-0290	NEW	05-15-119	246-323-050	REP	05-15-157
246-272A-0135	NEW-S	05-11-109	246-272A-0300	NEW-P	05-02-082	246-323-060	REP-P	05-10-063
246-272A-0135	NEW	05-15-119	246-272A-0300	NEW-S	05-11-109	246-323-060	REP	05-15-157
246-272A-0140	NEW-P	05-02-082	246-272A-0300	NEW	05-15-119	246-323-070	REP-P	05-10-063
246-272A-0140	NEW-S	05-11-109	246-272A-0310	NEW-P	05-02-082	246-323-070	REP	05-15-157
246-272A-0140	NEW	05-15-119	246-272A-0310	NEW-S	05-11-109	246-323-080	REP-P	05-10-063
246-272A-0145	NEW-P	05-02-082	246-272A-0310	NEW	05-15-119	246-323-080	REP	05-15-157
246-272A-0145	NEW-S	05-11-109	246-272A-0320	NEW-P	05-02-082	246-323-090	REP-P	05-10-063
246-272A-0145	NEW	05-15-119	246-272A-0320	NEW-S	05-11-109	246-323-090	REP	05-15-157
246-272A-0150	NEW-P	05-02-082	246-272A-0320	NEW	05-15-119	246-323-990	REP-P	05-10-063
246-272A-0150	NEW-S	05-11-109	246-272A-0340	NEW-P	05-02-082	246-323-990	REP	05-15-157
246-272A-0150	NEW	05-15-119	246-272A-0340	NEW-S	05-11-109	246-324-990	AMD-P	05-14-156
246-272A-0170	NEW-P	05-02-082	246-272A-0340	NEW	05-15-119	246-325-010	REP-P	05-10-063
246-272A-0170	NEW-S	05-11-109	246-272A-0400	NEW-P	05-02-082	246-325-010	REP	05-15-157
246-272A-0170	NEW	05-15-119	246-272A-0400	NEW-S	05-11-109	246-325-012	REP-P	05-10-063
246-272A-0175	NEW-P	05-02-082	246-272A-0400	NEW	05-15-119	246-325-012	REP	05-15-157
246-272A-0175	NEW-S	05-11-109	246-272A-0410	NEW-P	05-02-082	246-325-015	REP-P	05-10-063
246-272A-0175	NEW	05-15-119	246-272A-0410	NEW-S	05-11-109	246-325-015	REP	05-15-157
246-272A-0200	NEW-P	05-02-082	246-272A-0410	NEW	05-15-119	246-325-020	REP-P	05-10-063
246-272A-0200	NEW-S	05-11-109	246-272A-0420	NEW-P	05-02-082	246-325-020	REP	05-15-157
246-272A-0200	NEW	05-15-119	246-272A-0420	NEW-S	05-11-109	246-325-022	REP-P	05-10-063
246-272A-0210	NEW-P	05-02-082	246-272A-0420	NEW	05-15-119	246-325-022	REP	05-15-157
246-272A-0210	NEW-S	05-11-109	246-272A-0425	NEW-P	05-02-082	246-325-025	REP-P	05-10-063
246-272A-0210	NEW	05-15-119	246-272A-0425	NEW-S	05-11-109	246-325-025	REP	05-15-157
246-272A-0220	NEW-P	05-02-082	246-272A-0425	NEW	05-15-119	246-325-030	REP-P	05-10-063
246-272A-0220	NEW-S	05-11-109	246-272A-0430	NEW-P	05-02-082	246-325-030	REP	05-15-157
246-272A-0220	NEW	05-15-119	246-272A-0430	NEW-S	05-11-109	246-325-035	REP-P	05-10-063
246-272A-0230	NEW-P	05-02-082	246-272A-0430	NEW	05-15-119	246-325-035	REP	05-15-157
246-272A-0230	NEW-S	05-11-109	246-272A-0440	NEW-P	05-02-082	246-325-040	REP-P	05-10-063
246-272A-0230	NEW	05-15-119	246-272A-0440	NEW-S	05-11-109	246-325-040	REP	05-15-157
246-272A-0232	NEW-P	05-02-082	246-272A-0440	NEW	05-15-119	246-325-045	REP-P	05-10-063
246-272A-0232	NEW-S	05-11-109	246-272A-0450	NEW-P	05-02-082	246-325-045	REP	05-15-157
246-272A-0232	NEW	05-15-119	246-272A-0450	NEW-S	05-11-109	246-325-050	REP-P	05-10-063
246-272A-0234	NEW-P	05-02-082	246-272A-0450	NEW	05-15-119	246-325-050	REP	05-15-157
246-272A-0234	NEW-S	05-11-109	246-272A-990	NEW-P	05-02-082	246-325-060	REP-P	05-10-063
246-272A-0234	NEW	05-15-119	246-272A-990	NEW-S	05-11-109	246-325-060	REP	05-15-157
246-272A-0238	NEW-P	05-02-082	246-272A-990	NEW	05-15-119	246-325-070	REP-P	05-10-063
246-272A-0238	NEW-S	05-11-109	246-282-990	AMD-P	05-14-158	246-325-070	REP	05-15-157
246-272A-0238	NEW	05-15-119	246-282-990	AMD	05-17-120	246-325-100	REP-P	05-10-063
246-272A-0240	NEW-P	05-02-082	246-292-010	AMD	05-06-122	246-325-100	REP	05-15-157
246-272A-0240	NEW-S	05-11-109	246-292-031	NEW	05-06-122	246-325-120	REP-P	05-10-063
246-272A-0240	NEW	05-15-119	246-292-085	AMD	05-06-122	246-325-120	REP	05-15-157
246-272A-0250	NEW-P	05-02-082	246-292-090	AMD	05-06-122	246-325-990	REP-P	05-10-063
246-272A-0250	NEW-S	05-11-109	246-292-100	AMD	05-06-122	246-325-990	REP	05-15-157
246-272A-0250	NEW	05-15-119	246-310-132	REP-W	05-13-085	246-326-010	REP-P	05-10-063
246-272A-0260	NEW-P	05-02-082	246-310-261	AMD-W	05-13-051	246-326-010	REP	05-15-157

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246-326-020	REP-P	05-10-063	246-337-095	NEW-P	05-10-063	246-808-510	PREP	05-10-062
246-326-020	REP	05-15-157	246-337-095	NEW	05-15-157	246-808-990	AMD-P	05-07-109
246-326-030	REP-P	05-10-063	246-337-100	NEW-P	05-10-063	246-808-990	AMD	05-12-012
246-326-030	REP	05-15-157	246-337-100	NEW	05-15-157	246-809	PREP-W	05-10-095
246-326-035	REP-P	05-10-063	246-337-105	NEW-P	05-10-063	246-809-990	AMD-P	05-07-109
246-326-035	REP	05-15-157	246-337-105	NEW	05-15-157	246-809-990	AMD	05-12-012
246-326-040	REP-P	05-10-063	246-337-110	NEW-P	05-10-063	246-810-990	AMD-P	05-07-109
246-326-040	REP	05-15-157	246-337-110	NEW	05-15-157	246-810-990	AMD	05-12-012
246-326-050	REP-P	05-10-063	246-337-115	NEW-P	05-10-063	246-811-990	AMD-P	05-07-109
246-326-050	REP	05-15-157	246-337-115	NEW	05-15-157	246-811-990	AMD	05-12-012
246-326-060	REP-P	05-10-063	246-337-120	NEW-P	05-10-063	246-812-020	NEW-P	05-17-048
246-326-060	REP	05-15-157	246-337-120	NEW	05-15-157	246-812-990	AMD-P	05-07-109
246-326-070	REP-P	05-10-063	246-337-125	NEW-P	05-10-063	246-812-990	AMD	05-12-012
246-326-070	REP	05-15-157	246-337-125	NEW	05-15-157	246-812-995	REP-P	05-07-109
246-326-080	REP-P	05-10-063	246-337-130	NEW-P	05-10-063	246-812-995	REP	05-12-012
246-326-080	REP	05-15-157	246-337-130	NEW	05-15-157	246-815-990	AMD-P	05-07-109
246-326-090	REP-P	05-10-063	246-337-135	NEW-P	05-10-063	246-815-990	AMD	05-12-012
246-326-090	REP	05-15-157	246-337-135	NEW	05-15-157	246-817-701	PREP	05-09-001
246-326-100	REP-P	05-10-063	246-337-140	NEW-P	05-10-063	246-817-710	PREP	05-09-001
246-326-100	REP	05-15-157	246-337-140	NEW	05-15-157	246-817-720	PREP	05-09-001
246-326-990	REP-P	05-10-063	246-337-145	NEW-P	05-10-063	246-817-730	PREP	05-09-001
246-326-990	REP	05-15-157	246-337-145	NEW	05-15-157	246-817-740	PREP	05-09-001
246-329-990	AMD-P	05-10-064	246-337-150	NEW-P	05-10-063	246-817-750	PREP	05-09-001
246-329-990	AMD	05-13-189	246-337-150	NEW	05-15-157	246-817-760	PREP	05-09-001
246-337-001	NEW-P	05-10-063	246-337-155	NEW-P	05-10-063	246-817-770	PREP	05-09-001
246-337-001	NEW	05-15-157	246-337-155	NEW	05-15-157	246-817-780	PREP	05-09-001
246-337-005	NEW-P	05-10-063	246-337-990	NEW-P	05-10-063	246-817-990	AMD-P	05-07-109
246-337-005	NEW	05-15-157	246-337-990	NEW	05-15-157	246-817-990	AMD	05-12-012
246-337-010	NEW-P	05-10-063	246-338-010	AMD	05-04-040	246-822-990	AMD-P	05-07-109
246-337-010	NEW	05-15-157	246-338-028	AMD	05-04-040	246-822-990	AMD	05-12-012
246-337-015	NEW-P	05-10-063	246-338-040	AMD	05-04-040	246-824-075	PREP	05-13-185
246-337-015	NEW	05-15-157	246-338-050	AMD	05-04-040	246-824-990	AMD-P	05-07-109
246-337-020	NEW-P	05-10-063	246-338-060	AMD	05-04-040	246-824-990	AMD	05-12-012
246-337-020	NEW	05-15-157	246-338-070	AMD	05-04-040	246-824-995	REP-P	05-07-109
246-337-025	NEW-P	05-10-063	246-338-080	AMD	05-04-040	246-824-995	REP	05-12-012
246-337-025	NEW	05-15-157	246-338-090	AMD	05-04-040	246-826-990	AMD-P	05-07-109
246-337-030	NEW-P	05-10-063	246-360-990	AMD	05-05-072	246-826-990	AMD	05-12-012
246-337-030	NEW	05-15-157	246-360-990	AMD-P	05-10-064	246-828-025	PREP	05-13-184
246-337-035	NEW-P	05-10-063	246-360-990	AMD	05-13-189	246-828-045	PREP	05-13-184
246-337-035	NEW	05-15-157	246-380-990	AMD-P	05-10-064	246-828-075	PREP	05-13-184
246-337-040	NEW-P	05-10-063	246-380-990	AMD	05-13-189	246-828-990	AMD-P	05-07-109
246-337-040	NEW	05-15-157	246-490-040	PREP	05-17-119	246-828-990	AMD	05-12-012
246-337-045	NEW-P	05-10-063	246-490-050	PREP	05-17-119	246-830-990	AMD-P	05-07-109
246-337-045	NEW	05-15-157	246-490-060	PREP	05-17-119	246-830-990	AMD	05-12-012
246-337-050	NEW-P	05-10-063	246-562	PREP	05-03-010	246-834-250	AMD	05-06-118
246-337-050	NEW	05-15-157	246-562-070	AMD-E	05-17-116	246-834-990	AMD-P	05-07-109
246-337-055	NEW-P	05-10-063	246-562-075	NEW-E	05-17-116	246-834-990	PREP-W	05-10-095
246-337-055	NEW	05-15-157	246-562-080	AMD-E	05-17-116	246-834-990	AMD	05-12-012
246-337-060	NEW-P	05-10-063	246-564-001	NEW-P	05-03-007	246-836	PREP	05-14-152
246-337-060	NEW	05-15-157	246-564-001	NEW	05-10-094	246-836	PREP	05-14-155
246-337-065	NEW-P	05-10-063	246-564-010	NEW-P	05-03-007	246-836-210	PREP	05-14-153
246-337-065	NEW	05-15-157	246-564-010	NEW	05-10-094	246-836-990	AMD-P	05-07-109
246-337-070	NEW-P	05-10-063	246-650	PREP	05-06-030	246-836-990	AMD	05-12-012
246-337-070	NEW	05-15-157	246-650-991	AMD-P	05-15-156	246-840-420	AMD-P	05-17-044
246-337-075	NEW-P	05-10-063	246-790	PREP	05-03-056	246-840-421	REP-P	05-17-044
246-337-075	NEW	05-15-157	246-802-060	AMD-P	05-06-120	246-840-422	REP-P	05-17-044
246-337-080	NEW-P	05-10-063	246-802-060	AMD	05-13-188	246-840-423	REP-P	05-17-044
246-337-080	NEW	05-15-157	246-802-130	AMD-P	05-06-120	246-840-424	REP-P	05-17-044
246-337-085	NEW-P	05-10-063	246-802-130	AMD	05-13-188	246-840-426	REP-P	05-17-044
246-337-085	NEW	05-15-157	246-802-990	AMD-P	05-07-109	246-840-427	REP-P	05-17-044
246-337-090	NEW-P	05-10-063	246-802-990	AMD	05-12-012	246-840-505	AMD	05-12-058
246-337-090	NEW	05-15-157	246-808-135	AMD-P	05-13-186	246-840-510	AMD	05-12-058

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246-840-515	NEW	05-12-058	246-907-030	AMD	05-12-012	246-930-431	AMD	05-12-014
246-840-520	AMD	05-12-058	246-907-995	REP-P	05-07-109	246-930-490	AMD	05-12-014
246-840-525	AMD	05-12-058	246-907-995	REP	05-12-012	246-930-990	AMD-P	05-07-109
246-840-530	AMD	05-12-058	246-915-020	PREP-W	05-17-043	246-930-990	AMD	05-12-012
246-840-535	AMD	05-12-058	246-915-030	PREP-W	05-17-043	246-930-990	AMD	05-12-014
246-840-545	AMD	05-12-058	246-915-040	AMD	05-06-022	246-930-995	REP-P	05-07-109
246-840-548	NEW	05-12-058	246-915-050	AMD	05-03-009	246-930-995	REP	05-12-014
246-840-550	AMD	05-12-058	246-915-100	AMD	05-06-020	246-933-590	AMD-P	05-07-109
246-840-555	AMD	05-12-058	246-915-105	NEW	05-06-021	246-933-590	AMD	05-12-012
246-840-560	AMD	05-12-058	246-915-120	PREP-W	05-17-043	246-933-990	AMD-P	05-07-109
246-840-565	AMD	05-12-058	246-915-150	REP	05-09-046	246-933-990	AMD	05-12-012
246-840-570	AMD	05-12-058	246-915-170	REP	05-09-046	246-935-990	AMD-P	05-07-109
246-840-575	AMD	05-12-058	246-915-180	AMD	05-06-023	246-935-990	AMD	05-12-012
246-840-840	PREP-W	05-10-095	246-915-350	NEW-P	05-03-008	246-937-990	AMD-P	05-07-109
246-840-850	PREP-W	05-10-095	246-915-350	NEW	05-09-003	246-937-990	AMD	05-12-012
246-840-860	PREP-W	05-10-095	246-915-990	AMD-P	05-03-008	246-939-990	AMD-P	05-07-109
246-840-870	PREP-W	05-10-095	246-915-990	AMD-P	05-07-109	246-939-990	AMD	05-12-012
246-840-880	PREP-W	05-10-095	246-915-990	AMD	05-09-003	246-976-010	PREP	05-14-154
246-840-890	PREP-W	05-10-095	246-915-990	AMD	05-12-012	246-976-021	PREP	05-14-154
246-840-990	AMD-P	05-07-109	246-918-410	NEW-P	05-17-188	246-976-031	PREP	05-14-154
246-840-990	PREP-W	05-10-095	246-918-420	NEW-P	05-17-188	246-976-041	PREP	05-14-154
246-840-990	AMD	05-12-012	246-918-990	AMD-P	05-07-109	246-976-141	PREP	05-14-154
246-840-990	AMD-P	05-15-115	246-918-990	AMD	05-12-012	246-976-151	PREP	05-14-154
246-841-990	AMD-P	05-07-109	246-919-330	AMD	05-07-024	246-976-161	PREP	05-14-154
246-841-990	AMD	05-12-012	246-919-600	REP	05-10-065	246-976-171	PREP	05-14-154
246-843-990	AMD-P	05-07-109	246-919-630	NEW-P	05-17-188	246-976-182	PREP	05-14-154
246-843-990	AMD	05-12-012	246-919-640	NEW-P	05-17-188	246-976-191	PREP	05-14-154
246-845-990	AMD-P	05-07-109	246-919-840	REP-P	05-17-047	246-976-260	PREP	05-14-154
246-845-990	AMD	05-12-012	246-919-841	REP-P	05-17-047	246-976-270	PREP	05-14-154
246-847-065	AMD-P	05-17-045	246-919-842	REP-P	05-17-047	246-976-290	PREP	05-14-154
246-847-170	AMD-P	05-17-051	246-919-843	REP-P	05-17-047	246-976-300	PREP	05-14-154
246-847-190	AMD-P	05-17-050	246-919-844	REP-P	05-17-047	246-976-310	PREP	05-14-154
246-847-210	NEW-P	05-17-049	246-919-845	REP-P	05-17-047	246-976-320	PREP	05-14-154
246-847-990	AMD-P	05-07-109	246-919-846	REP-P	05-17-047	246-976-330	PREP	05-14-154
246-847-990	AMD	05-12-012	246-919-990	AMD-P	05-07-109	246-976-340	PREP	05-14-154
246-849-990	AMD-P	05-07-109	246-919-990	AMD	05-12-012	246-976-390	PREP	05-14-154
246-849-990	AMD	05-12-012	246-922-990	AMD-P	05-07-109	246-976-400	PREP	05-14-154
246-849-995	REP-P	05-07-109	246-922-990	AMD	05-12-012	246-976-830	PREP	05-12-015
246-849-995	REP	05-12-012	246-922-995	REP-P	05-07-109	246-976-840	PREP	05-12-015
246-850-990	AMD-P	05-07-109	246-922-995	REP	05-12-012	246-976-850	PREP	05-12-015
246-850-990	AMD	05-12-012	246-924-354	AMD-P	05-13-187	246-976-860	PREP	05-12-015
246-851-990	AMD-P	05-07-109	246-924-990	AMD-P	05-07-109	246-976-881	PREP	05-12-015
246-851-990	AMD	05-12-012	246-924-990	AMD	05-12-012	246-976-920	PREP	05-14-154
246-853-221	REP-P	05-17-046	246-926-020	AMD-P	05-17-187	247- 02-050	AMD-X	05-06-045
246-853-222	REP-P	05-17-046	246-926-100	AMD-P	05-17-186	247- 02-050	AMD	05-11-048
246-853-223	REP-P	05-17-046	246-926-110	AMD-P	05-17-186	250- 83-010	NEW-P	05-05-073
246-853-224	REP-P	05-17-046	246-926-120	AMD-P	05-17-186	250- 83-020	NEW-P	05-05-073
246-853-225	REP-P	05-17-046	246-926-130	AMD-P	05-17-186	250- 83-030	NEW-P	05-05-073
246-853-226	REP-P	05-17-046	246-926-140	AMD-P	05-17-187	250- 83-040	NEW-P	05-05-073
246-853-227	REP-P	05-17-046	246-926-180	AMD-P	05-17-187	250- 83-050	NEW-P	05-05-073
246-853-990	AMD-P	05-07-109	246-926-190	AMD-P	05-17-187	250- 83-060	NEW-P	05-05-073
246-853-990	AMD	05-12-012	246-926-990	AMD-P	05-07-109	250- 83-070	NEW-P	05-05-073
246-869-095	REP	05-07-108	246-926-990	AMD	05-12-012	251- 01-005	REP-P	05-09-099
246-887-220	NEW-P	05-14-157	246-926-990	AMD-P	05-17-187	251- 01-005	REP	05-12-067
246-887-230	NEW-P	05-14-157	246-927-990	AMD-P	05-07-109	251- 01-014	REP-P	05-09-099
246-887-240	NEW-P	05-14-157	246-927-990	AMD	05-12-012	251- 01-014	REP	05-12-067
246-887-250	NEW-P	05-14-157	246-928-990	AMD-P	05-07-109	251- 01-015	REP-P	05-09-099
246-887-260	NEW-P	05-14-157	246-928-990	AMD	05-12-012	251- 01-015	REP	05-12-067
246-887-270	NEW-P	05-14-157	246-930-020	AMD	05-12-014	251- 01-018	REP-P	05-09-099
246-887-280	NEW-P	05-14-157	246-930-200	AMD	05-12-014	251- 01-018	REP	05-12-067
246-887-290	NEW-P	05-14-157	246-930-220	AMD	05-12-014	251- 01-020	REP-P	05-09-099
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251-01-025	REP	05-12-067	251-01-160	REP	05-12-067	251-01-305	REP	05-12-067
251-01-028	REP-P	05-09-099	251-01-165	REP-P	05-09-099	251-01-310	REP-P	05-09-099
251-01-028	REP	05-12-067	251-01-165	REP	05-12-067	251-01-310	REP	05-12-067
251-01-030	REP-P	05-09-099	251-01-170	REP-P	05-09-099	251-01-315	REP-P	05-09-099
251-01-030	REP	05-12-067	251-01-170	REP	05-12-067	251-01-315	REP	05-12-067
251-01-035	REP-P	05-09-099	251-01-172	REP-P	05-09-099	251-01-325	REP-P	05-09-099
251-01-035	REP	05-12-067	251-01-172	REP	05-12-067	251-01-325	REP	05-12-067
251-01-040	REP-P	05-09-099	251-01-175	REP-P	05-09-099	251-01-335	REP-P	05-09-099
251-01-040	REP	05-12-067	251-01-175	REP	05-12-067	251-01-335	REP	05-12-067
251-01-045	REP-P	05-09-099	251-01-185	REP-P	05-09-099	251-01-340	REP-P	05-09-099
251-01-045	REP	05-12-067	251-01-185	REP	05-12-067	251-01-340	REP	05-12-067
251-01-050	REP-P	05-09-099	251-01-190	REP-P	05-09-099	251-01-345	REP-P	05-09-099
251-01-050	REP	05-12-067	251-01-190	REP	05-12-067	251-01-345	REP	05-12-067
251-01-055	REP-P	05-09-099	251-01-195	REP-P	05-09-099	251-01-350	REP-P	05-09-099
251-01-055	REP	05-12-067	251-01-195	REP	05-12-067	251-01-350	REP	05-12-067
251-01-056	REP-P	05-09-099	251-01-200	REP-P	05-09-099	251-01-355	REP-P	05-09-099
251-01-056	REP	05-12-067	251-01-200	REP	05-12-067	251-01-355	REP	05-12-067
251-01-057	REP-P	05-09-099	251-01-201	REP-P	05-09-099	251-01-360	REP-P	05-09-099
251-01-057	REP	05-12-067	251-01-201	REP	05-12-067	251-01-360	REP	05-12-067
251-01-060	REP-P	05-09-099	251-01-210	REP-P	05-09-099	251-01-365	REP-P	05-09-099
251-01-060	REP	05-12-067	251-01-210	REP	05-12-067	251-01-365	REP	05-12-067
251-01-065	REP-P	05-09-099	251-01-215	REP-P	05-09-099	251-01-367	REP-P	05-09-099
251-01-065	REP	05-12-067	251-01-215	REP	05-12-067	251-01-367	REP	05-12-067
251-01-070	REP-P	05-09-099	251-01-220	REP-P	05-09-099	251-01-370	REP-P	05-09-099
251-01-070	REP	05-12-067	251-01-220	REP	05-12-067	251-01-370	REP	05-12-067
251-01-072	REP-P	05-09-099	251-01-225	REP-P	05-09-099	251-01-375	REP-P	05-09-099
251-01-072	REP	05-12-067	251-01-225	REP	05-12-067	251-01-375	REP	05-12-067
251-01-075	REP-P	05-09-099	251-01-230	REP-P	05-09-099	251-01-380	REP-P	05-09-099
251-01-075	REP	05-12-067	251-01-230	REP	05-12-067	251-01-380	REP	05-12-067
251-01-077	REP-P	05-09-099	251-01-235	REP-P	05-09-099	251-01-382	REP-P	05-09-099
251-01-077	REP	05-12-067	251-01-235	REP	05-12-067	251-01-382	REP	05-12-067
251-01-080	REP-P	05-09-099	251-01-240	REP-P	05-09-099	251-01-385	REP-P	05-09-099
251-01-080	REP	05-12-067	251-01-240	REP	05-12-067	251-01-385	REP	05-12-067
251-01-085	REP-P	05-09-099	251-01-245	REP-P	05-09-099	251-01-390	REP-P	05-09-099
251-01-085	REP	05-12-067	251-01-245	REP	05-12-067	251-01-390	REP	05-12-067
251-01-100	REP-P	05-09-099	251-01-250	REP-P	05-09-099	251-01-392	REP-P	05-09-099
251-01-100	REP	05-12-067	251-01-250	REP	05-12-067	251-01-392	REP	05-12-067
251-01-105	REP-P	05-09-099	251-01-255	REP-P	05-09-099	251-01-395	REP-P	05-09-099
251-01-105	REP	05-12-067	251-01-255	REP	05-12-067	251-01-395	REP	05-12-067
251-01-110	REP-P	05-09-099	251-01-258	REP-P	05-09-099	251-01-400	REP-P	05-09-099
251-01-110	REP	05-12-067	251-01-258	REP	05-12-067	251-01-400	REP	05-12-067
251-01-115	REP-P	05-09-099	251-01-260	REP-P	05-09-099	251-01-405	REP-P	05-09-099
251-01-115	REP	05-12-067	251-01-260	REP	05-12-067	251-01-405	REP	05-12-067
251-01-120	REP-P	05-09-099	251-01-265	REP-P	05-09-099	251-01-410	REP-P	05-09-099
251-01-120	REP	05-12-067	251-01-265	REP	05-12-067	251-01-410	REP	05-12-067
251-01-125	REP-P	05-09-099	251-01-268	REP-P	05-09-099	251-01-415	REP-P	05-09-099
251-01-125	REP	05-12-067	251-01-268	REP	05-12-067	251-01-415	REP	05-12-067
251-01-129	REP-P	05-09-099	251-01-270	REP-P	05-09-099	251-01-425	REP-P	05-09-099
251-01-129	REP	05-12-067	251-01-270	REP	05-12-067	251-01-425	REP	05-12-067
251-01-130	REP-P	05-09-099	251-01-275	REP-P	05-09-099	251-01-430	REP-P	05-09-099
251-01-130	REP	05-12-067	251-01-275	REP	05-12-067	251-01-430	REP	05-12-067
251-01-135	REP-P	05-09-099	251-01-280	REP-P	05-09-099	251-01-435	REP-P	05-09-099
251-01-135	REP	05-12-067	251-01-280	REP	05-12-067	251-01-435	REP	05-12-067
251-01-140	REP-P	05-09-099	251-01-285	REP-P	05-09-099	251-01-440	REP-P	05-09-099
251-01-140	REP	05-12-067	251-01-285	REP	05-12-067	251-01-440	REP	05-12-067
251-01-145	REP-P	05-09-099	251-01-290	REP-P	05-09-099	251-01-445	REP-P	05-09-099
251-01-145	REP	05-12-067	251-01-290	REP	05-12-067	251-01-445	REP	05-12-067
251-01-147	REP-P	05-09-099	251-01-295	REP-P	05-09-099	251-01-450	REP-P	05-09-099
251-01-147	REP	05-12-067	251-01-295	REP	05-12-067	251-01-450	REP	05-12-067
251-01-150	REP-P	05-09-099	251-01-300	REP-P	05-09-099	251-01-460	REP-P	05-09-099
251-01-150	REP	05-12-067	251-01-300	REP	05-12-067	251-01-460	REP	05-12-067

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
251-04-010	REP-P	05-09-099	251-07-030	REP-P	05-09-099	251-09-092	REP-P	05-09-099
251-04-010	REP	05-12-067	251-07-030	REP	05-12-067	251-09-092	REP	05-12-067
251-04-030	REP-P	05-09-099	251-07-040	REP-P	05-09-099	251-09-094	REP-P	05-09-099
251-04-030	REP	05-12-067	251-07-040	REP	05-12-067	251-09-094	REP	05-12-067
251-04-035	REP-P	05-09-099	251-07-050	REP-P	05-09-099	251-09-100	REP-P	05-09-099
251-04-035	REP	05-12-067	251-07-050	REP	05-12-067	251-09-100	REP	05-12-067
251-04-060	REP-P	05-09-099	251-07-060	REP-P	05-09-099	251-09-110	REP-P	05-09-099
251-04-060	REP	05-12-067	251-07-060	REP	05-12-067	251-09-110	REP	05-12-067
251-04-070	REP-P	05-09-099	251-07-100	REP-P	05-09-099	251-10-020	REP-P	05-09-099
251-04-070	REP	05-12-067	251-07-100	REP	05-12-067	251-10-020	REP	05-12-067
251-04-100	REP-P	05-09-099	251-08-005	REP-P	05-09-099	251-10-025	REP-P	05-09-099
251-04-100	REP	05-12-067	251-08-005	REP	05-12-067	251-10-025	REP	05-12-067
251-04-105	REP-P	05-09-099	251-08-007	REP-P	05-09-099	251-10-030	REP-P	05-09-099
251-04-105	REP	05-12-067	251-08-007	REP	05-12-067	251-10-030	REP	05-12-067
251-04-110	REP-P	05-09-099	251-08-021	REP-P	05-09-099	251-10-034	REP-P	05-09-099
251-04-110	REP	05-12-067	251-08-021	REP	05-12-067	251-10-034	REP	05-12-067
251-04-160	REP-P	05-09-099	251-08-031	REP-P	05-09-099	251-10-035	REP-P	05-09-099
251-04-160	REP	05-12-067	251-08-031	REP	05-12-067	251-10-035	REP	05-12-067
251-04-170	REP-P	05-09-099	251-08-070	REP-P	05-09-099	251-10-045	REP-P	05-09-099
251-04-170	REP	05-12-067	251-08-070	REP	05-12-067	251-10-045	REP	05-12-067
251-05-010	REP-P	05-09-099	251-08-075	REP-P	05-09-099	251-10-055	REP-P	05-09-099
251-05-010	REP	05-12-067	251-08-075	REP	05-12-067	251-10-055	REP	05-12-067
251-05-030	REP-P	05-09-099	251-08-080	REP-P	05-09-099	251-10-060	REP-P	05-09-099
251-05-030	REP	05-12-067	251-08-080	REP	05-12-067	251-10-060	REP	05-12-067
251-05-040	REP-P	05-09-099	251-08-090	REP-P	05-09-099	251-10-061	REP-P	05-09-099
251-05-040	REP	05-12-067	251-08-090	REP	05-12-067	251-10-061	REP	05-12-067
251-05-050	REP-P	05-09-099	251-08-100	REP-P	05-09-099	251-10-070	REP-P	05-09-099
251-05-050	REP	05-12-067	251-08-100	REP	05-12-067	251-10-070	REP	05-12-067
251-05-060	REP-P	05-09-099	251-08-110	REP-P	05-09-099	251-10-080	REP-P	05-09-099
251-05-060	REP	05-12-067	251-08-110	REP	05-12-067	251-10-080	REP	05-12-067
251-05-070	REP-P	05-09-099	251-08-112	REP-P	05-09-099	251-10-090	REP-P	05-09-099
251-05-070	REP	05-12-067	251-08-112	REP	05-12-067	251-10-090	REP	05-12-067
251-05-080	REP-P	05-09-099	251-08-115	REP-P	05-09-099	251-10-112	REP-P	05-09-099
251-05-080	REP	05-12-067	251-08-115	REP	05-12-067	251-10-112	REP	05-12-067
251-06-010	REP-P	05-09-099	251-08-120	REP-P	05-09-099	251-11-010	REP-P	05-09-099
251-06-010	REP	05-12-067	251-08-120	REP	05-12-067	251-11-010	REP	05-12-067
251-06-020	REP-P	05-09-099	251-08-130	REP-P	05-09-099	251-11-020	REP-P	05-09-099
251-06-020	REP	05-12-067	251-08-130	REP	05-12-067	251-11-020	REP	05-12-067
251-06-030	REP-P	05-09-099	251-08-150	REP-P	05-09-099	251-11-030	REP-P	05-09-099
251-06-030	REP	05-12-067	251-08-150	REP	05-12-067	251-11-030	REP	05-12-067
251-06-050	REP-P	05-09-099	251-08-160	REP-P	05-09-099	251-11-040	REP-P	05-09-099
251-06-050	REP	05-12-067	251-08-160	REP	05-12-067	251-11-040	REP	05-12-067
251-06-060	REP-P	05-09-099	251-09-010	REP-P	05-09-099	251-11-050	REP-P	05-09-099
251-06-060	REP	05-12-067	251-09-010	REP	05-12-067	251-11-050	REP	05-12-067
251-06-065	REP-P	05-09-099	251-09-020	REP-P	05-09-099	251-11-060	REP-P	05-09-099
251-06-065	REP	05-12-067	251-09-020	REP	05-12-067	251-11-060	REP	05-12-067
251-06-070	AMD	05-04-042	251-09-025	REP-P	05-09-099	251-11-070	REP-P	05-09-099
251-06-070	REP-P	05-09-099	251-09-025	REP	05-12-067	251-11-070	REP	05-12-067
251-06-070	REP	05-12-067	251-09-030	REP-P	05-09-099	251-11-080	REP-P	05-09-099
251-06-072	NEW	05-04-042	251-09-030	REP	05-12-067	251-11-080	REP	05-12-067
251-06-072	REP-P	05-09-099	251-09-035	REP-P	05-09-099	251-11-090	REP-P	05-09-099
251-06-072	REP	05-12-067	251-09-035	REP	05-12-067	251-11-090	REP	05-12-067
251-06-080	REP-P	05-09-099	251-09-040	REP-P	05-09-099	251-11-100	REP-P	05-09-099
251-06-080	REP	05-12-067	251-09-040	REP	05-12-067	251-11-100	REP	05-12-067
251-06-090	REP-P	05-09-099	251-09-060	REP-P	05-09-099	251-11-110	REP-P	05-09-099
251-06-090	REP	05-12-067	251-09-060	REP	05-12-067	251-11-110	REP	05-12-067
251-06-091	REP-P	05-09-099	251-09-070	REP-P	05-09-099	251-11-120	REP-P	05-09-099
251-06-091	REP	05-12-067	251-09-070	REP	05-12-067	251-11-120	REP	05-12-067
251-07-010	REP-P	05-09-099	251-09-080	REP-P	05-09-099	251-11-130	REP-P	05-09-099
251-07-010	REP	05-12-067	251-09-080	REP	05-12-067	251-11-130	REP	05-12-067
251-07-020	REP-P	05-09-099	251-09-090	REP-P	05-09-099	251-12-071	REP-P	05-09-099
251-07-020	REP	05-12-067	251-09-090	REP	05-12-067	251-12-071	REP	05-12-067

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
251-19-180	REP-P	05-09-099	251-22-190	REP-P	05-09-099	251-30-020	REP-P	05-09-099
251-19-180	REP	05-12-067	251-22-190	REP	05-12-067	251-30-020	REP	05-12-067
251-20-010	REP-P	05-09-099	251-22-195	REP-P	05-09-099	251-30-030	REP-P	05-09-099
251-20-010	REP	05-12-067	251-22-195	REP	05-12-067	251-30-030	REP	05-12-067
251-20-020	REP-P	05-09-099	251-22-200	REP-P	05-09-099	251-30-032	REP-P	05-09-099
251-20-020	REP	05-12-067	251-22-200	REP	05-12-067	251-30-032	REP	05-12-067
251-20-030	REP-P	05-09-099	251-22-210	REP-P	05-09-099	251-30-034	REP-P	05-09-099
251-20-030	REP	05-12-067	251-22-210	REP	05-12-067	251-30-034	REP	05-12-067
251-20-040	REP-P	05-09-099	251-22-220	REP-P	05-09-099	251-30-055	REP-P	05-09-099
251-20-040	REP	05-12-067	251-22-220	REP	05-12-067	251-30-055	REP	05-12-067
251-20-050	REP-P	05-09-099	251-22-240	REP-P	05-09-099	251-30-057	REP-P	05-09-099
251-20-050	REP	05-12-067	251-22-240	REP	05-12-067	251-30-057	REP	05-12-067
251-20-060	REP-P	05-09-099	251-22-245	REP-P	05-09-099	257-10-020	NEW-P	05-09-126
251-20-060	REP	05-12-067	251-22-245	REP	05-12-067	257-10-020	NEW	05-14-113
251-22-040	REP-P	05-09-099	251-22-250	REP-P	05-09-099	257-10-040	NEW-P	05-09-126
251-22-040	REP	05-12-067	251-22-250	REP	05-12-067	257-10-040	NEW	05-14-113
251-22-045	REP-P	05-09-099	251-22-260	REP-P	05-09-099	257-10-060	NEW-P	05-09-126
251-22-045	REP	05-12-067	251-22-260	REP	05-12-067	257-10-060	NEW	05-14-113
251-22-048	REP-P	05-09-099	251-22-270	REP-P	05-09-099	257-10-080	NEW-P	05-09-126
251-22-048	REP	05-12-067	251-22-270	REP	05-12-067	257-10-080	NEW	05-14-113
251-22-050	REP-P	05-09-099	251-22-280	REP-P	05-09-099	257-10-100	NEW-P	05-09-126
251-22-050	REP	05-12-067	251-22-280	REP	05-12-067	257-10-100	NEW	05-14-113
251-22-053	REP-P	05-09-099	251-22-290	REP-P	05-09-099	257-10-120	NEW-P	05-09-126
251-22-053	REP	05-12-067	251-22-290	REP	05-12-067	257-10-120	NEW	05-14-113
251-22-056	REP-P	05-09-099	251-22-300	REP-P	05-09-099	257-10-140	NEW-P	05-09-126
251-22-056	REP	05-12-067	251-22-300	REP	05-12-067	257-10-140	NEW	05-14-113
251-22-059	REP-P	05-09-099	251-23-010	REP-P	05-09-099	257-10-160	NEW-P	05-09-126
251-22-059	REP	05-12-067	251-23-010	REP	05-12-067	257-10-160	NEW	05-14-113
251-22-060	REP-P	05-09-099	251-23-015	REP-P	05-09-099	257-10-180	NEW-P	05-09-126
251-22-060	REP	05-12-067	251-23-015	REP	05-12-067	257-10-180	NEW	05-14-113
251-22-070	REP-P	05-09-099	251-23-020	REP-P	05-09-099	257-10-200	NEW-P	05-09-126
251-22-070	REP	05-12-067	251-23-020	REP	05-12-067	257-10-200	NEW	05-14-113
251-22-080	REP-P	05-09-099	251-23-030	REP-P	05-09-099	257-10-220	NEW-P	05-09-126
251-22-080	REP	05-12-067	251-23-030	REP	05-12-067	257-10-220	NEW	05-14-113
251-22-090	REP-P	05-09-099	251-23-040	REP-P	05-09-099	257-10-240	NEW-P	05-09-126
251-22-090	REP	05-12-067	251-23-040	REP	05-12-067	257-10-240	NEW	05-14-113
251-22-100	REP-P	05-09-099	251-23-050	REP-P	05-09-099	257-10-260	NEW-P	05-09-126
251-22-100	REP	05-12-067	251-23-050	REP	05-12-067	257-10-260	NEW	05-14-113
251-22-110	REP-P	05-09-099	251-23-060	REP-P	05-09-099	257-10-280	NEW-P	05-09-126
251-22-110	REP	05-12-067	251-23-060	REP	05-12-067	257-10-280	NEW	05-14-113
251-22-111	REP-P	05-09-099	251-24-010	REP-P	05-09-099	257-10-300	NEW-P	05-09-126
251-22-111	REP	05-12-067	251-24-010	REP	05-12-067	257-10-300	NEW	05-14-113
251-22-112	REP-P	05-09-099	251-24-030	REP-P	05-09-099	257-10-320	NEW-P	05-09-126
251-22-112	REP	05-12-067	251-24-030	REP	05-12-067	257-10-320	NEW	05-14-113
251-22-116	REP-P	05-09-099	251-24-035	REP-P	05-09-099	257-10-340	NEW-P	05-09-126
251-22-116	REP	05-12-067	251-24-035	REP	05-12-067	257-10-340	NEW	05-14-113
251-22-117	REP-P	05-09-099	251-24-050	REP-P	05-09-099	257-10-360	NEW-P	05-09-126
251-22-117	REP	05-12-067	251-24-050	REP	05-12-067	257-10-360	NEW	05-14-113
251-22-124	REP-P	05-09-099	251-24-200	REP-P	05-09-099	257-10-380	NEW-P	05-09-126
251-22-124	REP	05-12-067	251-24-200	REP	05-12-067	257-10-380	NEW	05-14-113
251-22-125	REP-P	05-09-099	251-25-010	REP-P	05-09-099	257-10-400	NEW-P	05-09-126
251-22-125	REP	05-12-067	251-25-010	REP	05-12-067	257-10-400	NEW	05-14-113
251-22-127	REP-P	05-09-099	251-25-020	REP-P	05-09-099	257-10-420	NEW-P	05-09-126
251-22-127	REP	05-12-067	251-25-020	REP	05-12-067	257-10-420	NEW	05-14-113
251-22-165	REP-P	05-09-099	251-25-030	REP-P	05-09-099	260	PREP	05-09-007
251-22-165	REP	05-12-067	251-25-030	REP	05-12-067	260-08-005	AMD	05-05-049
251-22-167	REP-P	05-09-099	251-25-040	REP-P	05-09-099	260-08-670	REP	05-05-049
251-22-167	REP	05-12-067	251-25-040	REP	05-12-067	260-08-671	NEW	05-05-049
251-22-170	REP-P	05-09-099	251-25-050	REP-P	05-09-099	260-08-673	NEW	05-05-049
251-22-170	REP	05-12-067	251-25-050	REP	05-12-067	260-08-675	NEW	05-05-049
251-22-180	REP-P	05-09-099	251-30-010	REP-P	05-09-099	260-08-677	NEW	05-05-049
251-22-180	REP	05-12-067	251-30-010	REP	05-12-067	260-08-680	REP	05-05-049

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
260-08-690	REP	05-05-049	260-34-130	REP-P	05-04-085	260-70-610	AMD	05-07-067
260-08-700	REP	05-05-049	260-34-130	REP	05-07-066	260-70-610	AMD-E	05-07-068
260-08-710	REP	05-05-049	260-34-140	REP-P	05-04-085	260-70-620	AMD-P	05-04-086
260-08-720	REP	05-05-049	260-34-140	REP	05-07-066	260-70-620	AMD	05-07-067
260-08-730	REP	05-05-049	260-34-150	REP-P	05-04-085	260-70-620	AMD-E	05-07-068
260-08-740	REP	05-05-049	260-34-150	REP	05-07-066	260-70-630	AMD-P	05-04-086
260-08-750	REP	05-05-049	260-34-160	REP-P	05-04-085	260-70-630	AMD	05-07-067
260-08-760	REP	05-05-049	260-34-160	REP	05-07-066	260-70-630	AMD-E	05-07-068
260-08-770	REP	05-05-049	260-34-170	REP-P	05-04-085	260-70-640	AMD-P	05-04-086
260-08-780	REP	05-05-049	260-34-170	REP	05-07-066	260-70-640	AMD	05-07-067
260-08-790	REP	05-05-049	260-34-180	AMD-P	05-04-085	260-70-640	AMD-E	05-07-068
260-08-800	REP	05-05-049	260-34-180	AMD	05-07-066	260-70-645	NEW-P	05-04-086
260-08-810	REP	05-05-049	260-34-190	REP-P	05-04-085	260-70-645	NEW	05-07-067
260-08-820	REP	05-05-049	260-34-190	REP	05-07-066	260-70-645	NEW-E	05-07-068
260-08-830	REP	05-05-049	260-36	PREP	05-07-093	260-70-650	AMD-P	05-04-086
260-12-160	REP	05-14-058	260-36-085	AMD-W	05-02-052	260-70-650	AMD	05-07-067
260-12-250	PREP	05-07-094	260-36-085	PREP	05-05-011	260-70-650	AMD-E	05-07-068
260-12-250	AMD-P	05-13-107	260-36-120	AMD	05-05-047	260-70-660	AMD-P	05-04-086
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296-855-40040	NEW	05-17-168	308- 18-020	AMD-P	05-06-004	308- 19-420	AMD-P	05-04-105
296-855-500	NEW-P	05-10-076	308- 18-020	AMD	05-09-036	308- 19-420	AMD	05-08-027
296-855-500	NEW	05-17-168	308- 18-240	AMD-P	05-06-004	308- 19-430	AMD-P	05-04-105
296-865-100	NEW-P	05-08-112	308- 18-240	AMD	05-09-036	308- 19-430	AMD	05-08-027
296-865-100	NEW	05-17-059	308- 18-300	AMD-P	05-06-004	308- 19-445	NEW-P	05-04-105
296-865-200	NEW-P	05-08-112	308- 18-300	AMD	05-09-036	308- 19-445	NEW	05-08-027
296-865-200	NEW	05-17-059	308- 18-305	NEW-P	05-06-004	308- 19-450	NEW-P	05-04-105
296-865-20005	NEW-P	05-08-112	308- 18-305	NEW	05-09-036	308- 19-450	NEW	05-08-027
296-865-20005	NEW	05-17-059	308- 19-010	AMD-P	05-04-105	308- 19-455	NEW-P	05-04-105
296-865-20010	NEW-P	05-08-112	308- 19-010	AMD	05-08-027	308- 19-455	NEW	05-08-027
296-865-20010	NEW	05-17-059	308- 19-020	AMD-P	05-04-105	308- 19-460	NEW-P	05-04-105
296-865-20015	NEW-P	05-08-112	308- 19-020	AMD	05-08-027	308- 19-460	NEW	05-08-027
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308-48-160	PREP	05-15-121	308-96A-314	AMD	05-07-151	314-02-033	NEW-P	05-12-141
308-48-180	PREP	05-15-121	308-96A-560	PREP	05-13-181	314-02-033	NEW-C	05-13-111
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308-48-800	PREP	05-15-121	308-108-010	NEW-W	05-08-106	314-02-045	AMD-C	05-13-111
308-48-800	AMD-P	05-15-122	308-108-010	NEW-P	05-11-099	314-02-050	REP-P	05-12-141
308-48-810	PREP	05-04-106	308-108-010	NEW	05-16-061	314-02-050	REP-C	05-13-111
308-48-810	AMD-P	05-16-003	308-108-020	NEW-W	05-08-106	314-02-055	AMD-P	05-12-141
308-48-815	NEW-P	05-16-003	308-108-020	NEW-P	05-11-099	314-02-055	AMD-C	05-13-111
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308-48-820	REP-P	05-16-003	308-108-080	NEW-W	05-08-106	314-07-005	NEW	05-07-012
308-48-830	PREP	05-04-106	308-108-080	NEW-P	05-11-099	314-07-010	NEW	05-07-012
308-48-830	REP-P	05-16-003	308-108-080	NEW	05-16-061	314-07-015	NEW	05-07-012
308-49-168	PREP	05-15-121	308-108-090	NEW-W	05-08-106	314-07-020	NEW	05-07-012
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308-56A-090	PREP	05-10-067	308-108-100	AMD-P	05-11-099	314-07-055	NEW	05-07-012
308-56A-090	AMD-X	05-13-099	308-108-100	AMD	05-16-061	314-07-065	NEW	05-07-012
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308-56A-410	AMD	05-14-092	308-108-110	NEW-P	05-11-099	314-07-080	NEW	05-07-012
308-56A-415	AMD	05-14-092	308-108-110	NEW	05-16-061	314-07-085	NEW	05-07-012
308-56A-420	AMD	05-14-092	308-108-120	NEW-W	05-08-106	314-07-090	NEW	05-07-012
308-56A-500	AMD-W	05-02-069A	308-108-120	NEW-P	05-11-099	314-07-095	NEW	05-07-012
308-56A-500	AMD-P	05-03-106	308-108-120	NEW	05-16-061	314-07-100	NEW	05-07-012
308-56A-500	AMD	05-07-152	308-108-130	NEW-W	05-08-106	314-07-110	NEW	05-07-012
308-56A-530	AMD-W	05-02-069A	308-108-130	NEW-P	05-11-099	314-07-120	NEW	05-07-012
308-56A-530	AMD-P	05-03-106	308-108-130	NEW	05-16-061	314-09-010	AMD	05-07-011
308-56A-530	AMD	05-07-152	308-108-140	NEW-W	05-08-106	314-09-015	AMD	05-07-011
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308-63-030	AMD	05-14-093	308-108-140	NEW	05-16-061	314-12-020	AMD	05-07-012
308-63-050	AMD	05-14-093	308-108-150	NEW-W	05-08-106	314-12-025	REP	05-07-012
308-63-060	AMD	05-14-093	308-108-150	NEW-P	05-11-099	314-12-060	REP	05-07-012
308-63-070	AMD	05-14-093	308-108-150	NEW	05-16-061	314-12-080	REP	05-07-012
308-63-080	AMD	05-14-093	308-108-160	NEW-W	05-08-106	314-12-100	REP	05-07-012
308-63-090	AMD	05-14-093	308-108-160	NEW-P	05-11-099	314-12-110	REP	05-07-012
308-63-100	AMD	05-14-093	308-108-160	NEW	05-16-061	314-16-190	REP-P	05-12-141
308-63-110	AMD	05-14-093	308-108-170	NEW-W	05-08-106	314-16-190	REP-C	05-13-111
308-63-130	AMD	05-14-093	308-108-170	NEW-P	05-11-099	314-16-195	AMD-P	05-12-141
308-66-110	PREP	05-07-044	308-108-170	NEW	05-16-061	314-16-196	REP-P	05-12-141
308-66-155	PREP	05-07-044	308-108-180	NEW-W	05-08-106	314-16-196	REP-C	05-13-111
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315- 10-035	AMD	05-11-049	315- 34-060	AMD-E	05-11-069	315- 37-050	REP-C	05-17-095
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315- 33A-050	AMD-E	05-04-019	315- 36-040	REP-P	05-17-096	315- 38-020	AMD-P	05-08-100
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315- 33A-050	AMD	05-07-100	315- 36-050	REP-P	05-17-096	315- 38-080	AMD-P	05-08-100
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315- 33A-060	AMD-P	05-04-080	315- 36-060	REP-P	05-17-096	315- 38-090	AMD-P	05-08-100
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316-85-090	AMD-X	05-14-051	356-05-065	REP	05-12-066	356-05-200	REP	05-12-066
316-85-100	AMD-X	05-14-051	356-05-070	REP-P	05-09-100	356-05-205	REP-P	05-09-100
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332-30-128	PREP	05-14-115	356-05-072	REP-P	05-09-100	356-05-207	REP-P	05-09-100
332-30-128	AMD-P	05-17-183	356-05-072	REP	05-12-066	356-05-207	REP	05-12-066
332-30-151	PREP	05-06-098	356-05-075	REP-P	05-09-100	356-05-210	REP-P	05-09-100
332-30-151	AMD-P	05-11-067	356-05-075	REP	05-12-066	356-05-210	REP	05-12-066
332-100-040	PREP	05-14-114	356-05-080	REP-P	05-09-100	356-05-211	REP-P	05-09-100
332-100-040	AMD-P	05-17-184	356-05-080	REP	05-12-066	356-05-211	REP	05-12-066
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332-120-040	AMD-P	05-08-067	356-05-085	REP	05-12-066	356-05-215	REP	05-12-066
332-120-040	AMD	05-13-104	356-05-090	REP-P	05-09-100	356-05-220	REP-P	05-09-100
332-130	PREP	05-02-073	356-05-090	REP	05-12-066	356-05-220	REP	05-12-066
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332-130-070	AMD-P	05-08-067	356-05-105	REP-P	05-09-100	356-05-231	REP-P	05-09-100
332-130-070	AMD	05-13-104	356-05-105	REP	05-12-066	356-05-231	REP	05-12-066
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352-12	PREP	05-13-044	356-05-110	REP	05-12-066	356-05-233	REP	05-12-066
352-20	PREP	05-13-044	356-05-115	REP-P	05-09-100	356-05-234	REP-P	05-09-100
352-28	PREP	05-06-125	356-05-115	REP	05-12-066	356-05-234	REP	05-12-066
352-28	AMD-C	05-11-114	356-05-120	REP-P	05-09-100	356-05-235	REP-P	05-09-100
352-28-010	AMD-P	05-10-071	356-05-120	REP	05-12-066	356-05-235	REP	05-12-066
352-28-010	AMD	05-17-105	356-05-125	REP-P	05-09-100	356-05-237	REP-P	05-09-100
352-28-030	NEW-P	05-10-071	356-05-125	REP	05-12-066	356-05-237	REP	05-12-066
352-28-030	NEW	05-17-105	356-05-128	REP-P	05-09-100	356-05-238	REP-P	05-09-100
352-32	PREP	05-13-044	356-05-128	REP	05-12-066	356-05-238	REP	05-12-066
352-32-252	REP-W	05-10-066	356-05-130	REP-P	05-09-100	356-05-240	REP-P	05-09-100
352-37	PREP	05-13-044	356-05-130	REP	05-12-066	356-05-240	REP	05-12-066
356-03-010	REP-P	05-09-100	356-05-135	REP-P	05-09-100	356-05-245	REP-P	05-09-100
356-03-010	REP	05-12-066	356-05-135	REP	05-12-066	356-05-245	REP	05-12-066
356-05-001	REP-P	05-09-100	356-05-140	REP-P	05-09-100	356-05-250	REP-P	05-09-100
356-05-001	REP	05-12-066	356-05-140	REP	05-12-066	356-05-250	REP	05-12-066
356-05-010	REP-P	05-09-100	356-05-145	REP-P	05-09-100	356-05-260	REP-P	05-09-100
356-05-010	REP	05-12-066	356-05-145	REP	05-12-066	356-05-260	REP	05-12-066
356-05-012	REP-P	05-09-100	356-05-148	REP-P	05-09-100	356-05-300	REP-P	05-09-100
356-05-012	REP	05-12-066	356-05-148	REP	05-12-066	356-05-300	REP	05-12-066
356-05-013	REP-P	05-09-100	356-05-150	REP-P	05-09-100	356-05-305	REP-P	05-09-100
356-05-013	REP	05-12-066	356-05-150	REP	05-12-066	356-05-305	REP	05-12-066
356-05-015	REP-P	05-09-100	356-05-155	REP-P	05-09-100	356-05-310	REP-P	05-09-100
356-05-015	REP	05-12-066	356-05-155	REP	05-12-066	356-05-310	REP	05-12-066
356-05-020	REP-P	05-09-100	356-05-160	REP-P	05-09-100	356-05-315	REP-P	05-09-100
356-05-020	REP	05-12-066	356-05-160	REP	05-12-066	356-05-315	REP	05-12-066
356-05-025	REP-P	05-09-100	356-05-165	REP-P	05-09-100	356-05-320	REP-P	05-09-100
356-05-025	REP	05-12-066	356-05-165	REP	05-12-066	356-05-320	REP	05-12-066
356-05-030	REP-P	05-09-100	356-05-170	REP-P	05-09-100	356-05-325	REP-P	05-09-100
356-05-030	REP	05-12-066	356-05-170	REP	05-12-066	356-05-325	REP	05-12-066
356-05-035	REP-P	05-09-100	356-05-173	REP-P	05-09-100	356-05-332	REP-P	05-09-100
356-05-035	REP	05-12-066	356-05-173	REP	05-12-066	356-05-332	REP	05-12-066
356-05-040	REP-P	05-09-100	356-05-175	REP-P	05-09-100	356-05-333	REP-P	05-09-100
356-05-040	REP	05-12-066	356-05-175	REP	05-12-066	356-05-333	REP	05-12-066
356-05-045	REP-P	05-09-100	356-05-178	REP-P	05-09-100	356-05-335	REP-P	05-09-100
356-05-045	REP	05-12-066	356-05-178	REP	05-12-066	356-05-335	REP	05-12-066
356-05-050	REP-P	05-09-100	356-05-185	REP-P	05-09-100	356-05-340	REP-P	05-09-100
356-05-050	REP	05-12-066	356-05-185	REP	05-12-066	356-05-340	REP	05-12-066
356-05-055	REP-P	05-09-100	356-05-195	REP-P	05-09-100	356-05-345	REP-P	05-09-100
356-05-055	REP	05-12-066	356-05-195	REP	05-12-066	356-05-345	REP	05-12-066
356-05-060	REP-P	05-09-100	356-05-198	REP-P	05-09-100	356-05-350	REP-P	05-09-100

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356-05-350	REP	05-12-066	356-05-470	REP	05-12-066	356-09-010	REP	05-12-066
356-05-353	REP-P	05-09-100	356-05-475	REP-P	05-09-100	356-09-020	REP-P	05-09-100
356-05-353	REP	05-12-066	356-05-475	REP	05-12-066	356-09-020	REP	05-12-066
356-05-355	REP-P	05-09-100	356-05-477	REP-P	05-09-100	356-09-030	REP-P	05-09-100
356-05-355	REP	05-12-066	356-05-477	REP	05-12-066	356-09-030	REP	05-12-066
356-05-358	REP-P	05-09-100	356-05-479	REP-P	05-09-100	356-09-040	REP-P	05-09-100
356-05-358	REP	05-12-066	356-05-479	REP	05-12-066	356-09-040	REP	05-12-066
356-05-360	REP-P	05-09-100	356-05-480	REP-P	05-09-100	356-09-050	REP-P	05-09-100
356-05-360	REP	05-12-066	356-05-480	REP	05-12-066	356-09-050	REP	05-12-066
356-05-365	REP-P	05-09-100	356-05-485	REP-P	05-09-100	356-10-010	REP-P	05-09-100
356-05-365	REP	05-12-066	356-05-485	REP	05-12-066	356-10-010	REP	05-12-066
356-05-370	REP-P	05-09-100	356-05-490	REP-P	05-09-100	356-10-020	REP-P	05-09-100
356-05-370	REP	05-12-066	356-05-490	REP	05-12-066	356-10-020	REP	05-12-066
356-05-375	REP-P	05-09-100	356-05-493	REP-P	05-09-100	356-10-030	REP-P	05-09-100
356-05-375	REP	05-12-066	356-05-493	REP	05-12-066	356-10-030	REP	05-12-066
356-05-380	REP-P	05-09-100	356-05-495	REP-P	05-09-100	356-10-040	REP-P	05-09-100
356-05-380	REP	05-12-066	356-05-495	REP	05-12-066	356-10-040	REP	05-12-066
356-05-385	REP-P	05-09-100	356-05-500	REP-P	05-09-100	356-10-045	REP-P	05-09-100
356-05-385	REP	05-12-066	356-05-500	REP	05-12-066	356-10-045	REP	05-12-066
356-05-387	REP-P	05-09-100	356-05-505	REP-P	05-09-100	356-10-050	REP-P	05-09-100
356-05-387	REP	05-12-066	356-05-505	REP	05-12-066	356-10-050	REP	05-12-066
356-05-389	REP-P	05-09-100	356-06-001	REP-P	05-09-100	356-10-060	AMD	05-04-043
356-05-389	REP	05-12-066	356-06-001	REP	05-12-066	356-10-060	REP-P	05-09-100
356-05-390	REP-P	05-09-100	356-06-002	REP-P	05-09-100	356-10-060	REP	05-12-066
356-05-390	REP	05-12-066	356-06-002	REP	05-12-066	356-10-065	NEW	05-04-043
356-05-395	REP-P	05-09-100	356-06-003	REP-P	05-09-100	356-10-065	REP-P	05-09-100
356-05-395	REP	05-12-066	356-06-003	REP	05-12-066	356-10-065	REP	05-12-066
356-05-397	REP-P	05-09-100	356-06-030	REP-P	05-09-100	356-14-010	REP-P	05-09-100
356-05-397	REP	05-12-066	356-06-030	REP	05-12-066	356-14-010	REP	05-12-066
356-05-400	REP-P	05-09-100	356-06-040	REP-P	05-09-100	356-14-026	REP-P	05-09-100
356-05-400	REP	05-12-066	356-06-040	REP	05-12-066	356-14-026	REP	05-12-066
356-05-405	REP-P	05-09-100	356-06-045	REP-P	05-09-100	356-14-031	REP-P	05-09-100
356-05-405	REP	05-12-066	356-06-045	REP	05-12-066	356-14-031	REP	05-12-066
356-05-410	REP-P	05-09-100	356-06-050	REP-P	05-09-100	356-14-045	REP-P	05-09-100
356-05-410	REP	05-12-066	356-06-050	REP	05-12-066	356-14-045	REP	05-12-066
356-05-415	REP-P	05-09-100	356-06-055	REP-P	05-09-100	356-14-062	REP-P	05-09-100
356-05-415	REP	05-12-066	356-06-055	REP	05-12-066	356-14-062	REP	05-12-066
356-05-420	REP-P	05-09-100	356-06-065	REP-P	05-09-100	356-14-065	REP-P	05-09-100
356-05-420	REP	05-12-066	356-06-065	REP	05-12-066	356-14-065	REP	05-12-066
356-05-425	REP-P	05-09-100	356-06-100	REP-P	05-09-100	356-14-067	REP-P	05-09-100
356-05-425	REP	05-12-066	356-06-100	REP	05-12-066	356-14-067	REP	05-12-066
356-05-430	REP-P	05-09-100	356-06-110	REP-P	05-09-100	356-14-070	REP-P	05-09-100
356-05-430	REP	05-12-066	356-06-110	REP	05-12-066	356-14-070	REP	05-12-066
356-05-435	REP-P	05-09-100	356-06-120	REP-P	05-09-100	356-14-075	REP-P	05-09-100
356-05-435	REP	05-12-066	356-06-120	REP	05-12-066	356-14-075	REP	05-12-066
356-05-440	REP-P	05-09-100	356-07-010	REP-P	05-09-100	356-14-080	REP-P	05-09-100
356-05-440	REP	05-12-066	356-07-010	REP	05-12-066	356-14-080	REP	05-12-066
356-05-445	REP-P	05-09-100	356-07-020	REP-P	05-09-100	356-14-085	REP-P	05-09-100
356-05-445	REP	05-12-066	356-07-020	REP	05-12-066	356-14-085	REP	05-12-066
356-05-447	REP-P	05-09-100	356-07-030	REP-P	05-09-100	356-14-090	REP-P	05-09-100
356-05-447	REP	05-12-066	356-07-030	REP	05-12-066	356-14-090	REP	05-12-066
356-05-450	REP-P	05-09-100	356-07-040	REP-P	05-09-100	356-14-100	REP-P	05-09-100
356-05-450	REP	05-12-066	356-07-040	REP	05-12-066	356-14-100	REP	05-12-066
356-05-456	REP-P	05-09-100	356-07-050	REP-P	05-09-100	356-14-110	REP-P	05-09-100
356-05-456	REP	05-12-066	356-07-050	REP	05-12-066	356-14-110	REP	05-12-066
356-05-460	REP-P	05-09-100	356-07-055	REP-P	05-09-100	356-14-120	REP-P	05-09-100
356-05-460	REP	05-12-066	356-07-055	REP	05-12-066	356-14-120	REP	05-12-066
356-05-461	REP-P	05-09-100	356-07-060	REP-P	05-09-100	356-14-130	REP-P	05-09-100
356-05-461	REP	05-12-066	356-07-060	REP	05-12-066	356-14-130	REP	05-12-066
356-05-465	REP-P	05-09-100	356-07-070	REP-P	05-09-100	356-14-140	REP-P	05-09-100
356-05-465	REP	05-12-066	356-07-070	REP	05-12-066	356-14-140	REP	05-12-066
356-05-470	REP-P	05-09-100	356-09-010	REP-P	05-09-100	356-14-150	REP-P	05-09-100

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356-14-150	REP	05-12-066	356-15-130	REP	05-12-066	356-22-040	REP	05-12-066
356-14-160	REP-P	05-09-100	356-15-140	REP-P	05-09-100	356-22-050	REP-P	05-09-100
356-14-160	REP	05-12-066	356-15-140	REP	05-12-066	356-22-050	REP	05-12-066
356-14-170	REP-P	05-09-100	356-18-020	REP-P	05-09-100	356-22-060	REP-P	05-09-100
356-14-170	REP	05-12-066	356-18-020	REP	05-12-066	356-22-060	REP	05-12-066
356-14-180	REP-P	05-09-100	356-18-025	REP-P	05-09-100	356-22-070	REP-P	05-09-100
356-14-180	REP	05-12-066	356-18-025	REP	05-12-066	356-22-070	REP	05-12-066
356-14-190	REP-P	05-09-100	356-18-030	REP-P	05-09-100	356-22-080	REP-P	05-09-100
356-14-190	REP	05-12-066	356-18-030	REP	05-12-066	356-22-080	REP	05-12-066
356-14-200	REP-P	05-09-100	356-18-040	REP-P	05-09-100	356-22-090	REP-P	05-09-100
356-14-200	REP	05-12-066	356-18-040	REP	05-12-066	356-22-090	REP	05-12-066
356-14-210	REP-P	05-09-100	356-18-050	REP-P	05-09-100	356-22-100	REP-P	05-09-100
356-14-210	REP	05-12-066	356-18-050	REP	05-12-066	356-22-100	REP	05-12-066
356-14-220	REP-P	05-09-100	356-18-060	REP-P	05-09-100	356-22-111	REP-P	05-09-100
356-14-220	REP	05-12-066	356-18-060	REP	05-12-066	356-22-111	REP	05-12-066
356-14-230	REP-P	05-09-100	356-18-070	REP-P	05-09-100	356-22-120	REP-P	05-09-100
356-14-230	REP	05-12-066	356-18-070	REP	05-12-066	356-22-120	REP	05-12-066
356-14-240	REP-P	05-09-100	356-18-075	REP-P	05-09-100	356-22-125	REP-P	05-09-100
356-14-240	REP	05-12-066	356-18-075	REP	05-12-066	356-22-125	REP	05-12-066
356-14-250	REP-P	05-09-100	356-18-080	REP-P	05-09-100	356-22-130	REP-P	05-09-100
356-14-250	REP	05-12-066	356-18-080	REP	05-12-066	356-22-130	REP	05-12-066
356-14-260	REP-P	05-09-100	356-18-090	REP-P	05-09-100	356-22-132	REP-P	05-09-100
356-14-260	REP	05-12-066	356-18-090	REP	05-12-066	356-22-132	REP	05-12-066
356-14-265	REP-P	05-09-100	356-18-095	REP-P	05-09-100	356-22-135	REP-P	05-09-100
356-14-265	REP	05-12-066	356-18-095	REP	05-12-066	356-22-135	REP	05-12-066
356-14-300	REP-P	05-09-100	356-18-100	REP-P	05-09-100	356-22-140	REP-P	05-09-100
356-14-300	REP	05-12-066	356-18-100	REP	05-12-066	356-22-140	REP	05-12-066
356-15-010	REP-P	05-09-100	356-18-110	REP-P	05-09-100	356-22-150	REP-P	05-09-100
356-15-010	REP	05-12-066	356-18-110	REP	05-12-066	356-22-150	REP	05-12-066
356-15-020	REP-P	05-09-100	356-18-112	REP-P	05-09-100	356-22-160	REP-P	05-09-100
356-15-020	REP	05-12-066	356-18-112	REP	05-12-066	356-22-160	REP	05-12-066
356-15-030	REP-P	05-09-100	356-18-115	REP-P	05-09-100	356-22-180	REP-P	05-09-100
356-15-030	REP	05-12-066	356-18-115	REP	05-12-066	356-22-180	REP	05-12-066
356-15-035	REP-P	05-09-100	356-18-116	REP-P	05-09-100	356-22-190	REP-P	05-09-100
356-15-035	REP	05-12-066	356-18-116	REP	05-12-066	356-22-190	REP	05-12-066
356-15-040	REP-P	05-09-100	356-18-120	REP-P	05-09-100	356-22-200	REP-P	05-09-100
356-15-040	REP	05-12-066	356-18-120	REP	05-12-066	356-22-200	REP	05-12-066
356-15-050	REP-P	05-09-100	356-18-140	REP-P	05-09-100	356-22-210	REP-P	05-09-100
356-15-050	REP	05-12-066	356-18-140	REP	05-12-066	356-22-210	REP	05-12-066
356-15-060	REP-P	05-09-100	356-18-145	REP-P	05-09-100	356-22-220	REP-P	05-09-100
356-15-060	REP	05-12-066	356-18-145	REP	05-12-066	356-22-220	REP	05-12-066
356-15-061	REP-P	05-09-100	356-18-150	REP-P	05-09-100	356-22-230	REP-P	05-09-100
356-15-061	REP	05-12-066	356-18-150	REP	05-12-066	356-22-230	REP	05-12-066
356-15-063	REP-P	05-09-100	356-18-160	REP-P	05-09-100	356-22-240	REP-P	05-09-100
356-15-063	REP	05-12-066	356-18-160	REP	05-12-066	356-22-240	REP	05-12-066
356-15-070	REP-P	05-09-100	356-18-170	REP-P	05-09-100	356-26-010	REP-P	05-09-100
356-15-070	REP	05-12-066	356-18-170	REP	05-12-066	356-26-010	REP	05-12-066
356-15-080	REP-P	05-09-100	356-18-200	REP-P	05-09-100	356-26-020	REP-P	05-09-100
356-15-080	REP	05-12-066	356-18-200	REP	05-12-066	356-26-020	REP	05-12-066
356-15-085	REP-P	05-09-100	356-18-220	REP-P	05-09-100	356-26-030	REP-P	05-09-100
356-15-085	REP	05-12-066	356-18-220	REP	05-12-066	356-26-030	REP	05-12-066
356-15-090	REP-P	05-09-100	356-22-010	REP-P	05-09-100	356-26-040	REP-P	05-09-100
356-15-090	REP	05-12-066	356-22-010	REP	05-12-066	356-26-040	REP	05-12-066
356-15-095	REP-P	05-09-100	356-22-020	REP-P	05-09-100	356-26-050	REP-P	05-09-100
356-15-095	REP	05-12-066	356-22-020	REP	05-12-066	356-26-050	REP	05-12-066
356-15-100	REP-P	05-09-100	356-22-030	REP-P	05-09-100	356-26-060	REP-P	05-09-100
356-15-100	REP	05-12-066	356-22-030	REP	05-12-066	356-26-060	REP	05-12-066
356-15-110	REP-P	05-09-100	356-22-035	REP-P	05-09-100	356-26-070	REP-P	05-09-100
356-15-110	REP	05-12-066	356-22-035	REP	05-12-066	356-26-070	REP	05-12-066
356-15-125	REP-P	05-09-100	356-22-036	REP-P	05-09-100	356-26-075	REP-P	05-09-100
356-15-125	REP	05-12-066	356-22-036	REP	05-12-066	356-26-075	REP	05-12-066
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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356-26-080	REP	05-12-066	356-30-190	REP	05-12-066	356-34-080	REP	05-12-066
356-26-090	REP-P	05-09-100	356-30-200	REP-P	05-09-100	356-34-090	REP-P	05-09-100
356-26-090	REP	05-12-066	356-30-200	REP	05-12-066	356-34-090	REP	05-12-066
356-26-100	REP-P	05-09-100	356-30-210	REP-P	05-09-100	356-34-100	REP-P	05-09-100
356-26-100	REP	05-12-066	356-30-210	REP	05-12-066	356-34-100	REP	05-12-066
356-26-110	REP-P	05-09-100	356-30-220	REP-P	05-09-100	356-34-260	REP-P	05-09-100
356-26-110	REP	05-12-066	356-30-220	REP	05-12-066	356-34-260	REP	05-12-066
356-26-120	REP-P	05-09-100	356-30-230	REP-P	05-09-100	356-35-010	REP-P	05-09-100
356-26-120	REP	05-12-066	356-30-230	REP	05-12-066	356-35-010	REP	05-12-066
356-26-130	REP-P	05-09-100	356-30-240	REP-P	05-09-100	356-37-010	REP-P	05-09-100
356-26-130	REP	05-12-066	356-30-240	REP	05-12-066	356-37-010	REP	05-12-066
356-26-140	REP-P	05-09-100	356-30-250	REP-P	05-09-100	356-37-020	REP-P	05-09-100
356-26-140	REP	05-12-066	356-30-250	REP	05-12-066	356-37-020	REP	05-12-066
356-30-005	REP-P	05-09-100	356-30-255	REP-P	05-09-100	356-37-030	REP-P	05-09-100
356-30-005	REP	05-12-066	356-30-255	REP	05-12-066	356-37-030	REP	05-12-066
356-30-007	REP-P	05-09-100	356-30-260	REP-P	05-09-100	356-37-040	REP-P	05-09-100
356-30-007	REP	05-12-066	356-30-260	REP	05-12-066	356-37-040	REP	05-12-066
356-30-010	REP-P	05-09-100	356-30-270	REP-P	05-09-100	356-37-050	REP-P	05-09-100
356-30-010	REP	05-12-066	356-30-270	REP	05-12-066	356-37-050	REP	05-12-066
356-30-012	REP-P	05-09-100	356-30-280	REP-P	05-09-100	356-37-060	REP-P	05-09-100
356-30-012	REP	05-12-066	356-30-280	REP	05-12-066	356-37-060	REP	05-12-066
356-30-015	REP-P	05-09-100	356-30-285	REP-P	05-09-100	356-37-070	REP-P	05-09-100
356-30-015	REP	05-12-066	356-30-285	REP	05-12-066	356-37-070	REP	05-12-066
356-30-025	REP-P	05-09-100	356-30-290	REP-P	05-09-100	356-37-080	REP-P	05-09-100
356-30-025	REP	05-12-066	356-30-290	REP	05-12-066	356-37-080	REP	05-12-066
356-30-050	REP-P	05-09-100	356-30-300	REP-P	05-09-100	356-37-090	REP-P	05-09-100
356-30-050	REP	05-12-066	356-30-300	REP	05-12-066	356-37-090	REP	05-12-066
356-30-060	REP-P	05-09-100	356-30-305	REP-P	05-09-100	356-37-100	REP-P	05-09-100
356-30-060	REP	05-12-066	356-30-305	REP	05-12-066	356-37-100	REP	05-12-066
356-30-065	REP-P	05-09-100	356-30-310	REP-P	05-09-100	356-37-110	REP-P	05-09-100
356-30-065	REP	05-12-066	356-30-310	REP	05-12-066	356-37-110	REP	05-12-066
356-30-067	REP-P	05-09-100	356-30-315	REP-P	05-09-100	356-37-120	REP-P	05-09-100
356-30-067	REP	05-12-066	356-30-315	REP	05-12-066	356-37-120	REP	05-12-066
356-30-075	REP-P	05-09-100	356-30-320	REP-P	05-09-100	356-37-130	REP-P	05-09-100
356-30-075	REP	05-12-066	356-30-320	REP	05-12-066	356-37-130	REP	05-12-066
356-30-090	REP-P	05-09-100	356-30-330	REP-P	05-09-100	356-37-140	REP-P	05-09-100
356-30-090	REP	05-12-066	356-30-330	REP	05-12-066	356-37-140	REP	05-12-066
356-30-100	REP-P	05-09-100	356-30-331	REP-P	05-09-100	356-37-150	REP-P	05-09-100
356-30-100	REP	05-12-066	356-30-331	REP	05-12-066	356-37-150	REP	05-12-066
356-30-110	REP-P	05-09-100	356-30-335	REP-P	05-09-100	356-37-160	REP-P	05-09-100
356-30-110	REP	05-12-066	356-30-335	REP	05-12-066	356-37-160	REP	05-12-066
356-30-120	REP-P	05-09-100	356-34-010	REP-P	05-09-100	356-37-170	REP-P	05-09-100
356-30-120	REP	05-12-066	356-34-010	REP	05-12-066	356-37-170	REP	05-12-066
356-30-130	REP-P	05-09-100	356-34-011	REP-P	05-09-100	356-39-010	REP-P	05-09-100
356-30-130	REP	05-12-066	356-34-011	REP	05-12-066	356-39-010	REP	05-12-066
356-30-135	REP-P	05-09-100	356-34-012	REP-P	05-09-100	356-39-020	REP-P	05-09-100
356-30-135	REP	05-12-066	356-34-012	REP	05-12-066	356-39-020	REP	05-12-066
356-30-140	REP-P	05-09-100	356-34-020	REP-P	05-09-100	356-39-030	REP-P	05-09-100
356-30-140	REP	05-12-066	356-34-020	REP	05-12-066	356-39-030	REP	05-12-066
356-30-143	REP-P	05-09-100	356-34-030	REP-P	05-09-100	356-39-040	REP-P	05-09-100
356-30-143	REP	05-12-066	356-34-030	REP	05-12-066	356-39-040	REP	05-12-066
356-30-145	REP-P	05-09-100	356-34-040	REP-P	05-09-100	356-39-050	REP-P	05-09-100
356-30-145	REP	05-12-066	356-34-040	REP	05-12-066	356-39-050	REP	05-12-066
356-30-150	REP-P	05-09-100	356-34-045	REP-P	05-09-100	356-39-060	REP-P	05-09-100
356-30-150	REP	05-12-066	356-34-045	REP	05-12-066	356-39-060	REP	05-12-066
356-30-160	REP-P	05-09-100	356-34-050	REP-P	05-09-100	356-39-070	REP-P	05-09-100
356-30-160	REP	05-12-066	356-34-050	REP	05-12-066	356-39-070	REP	05-12-066
356-30-170	REP-P	05-09-100	356-34-060	REP-P	05-09-100	356-39-080	REP-P	05-09-100
356-30-170	REP	05-12-066	356-34-060	REP	05-12-066	356-39-080	REP	05-12-066
356-30-180	REP-P	05-09-100	356-34-070	REP-P	05-09-100	356-39-090	REP-P	05-09-100
356-30-180	REP	05-12-066	356-34-070	REP	05-12-066	356-39-090	REP	05-12-066
356-30-190	REP-P	05-09-100	356-34-080	REP-P	05-09-100	356-39-100	REP-P	05-09-100

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356-39-100	REP	05-12-066	356-46-145	REP	05-12-066	356-56-220	REP	05-12-066
356-39-110	REP-P	05-09-100	356-46-150	REP-P	05-09-100	356-56-230	REP-P	05-09-100
356-39-110	REP	05-12-066	356-46-150	REP	05-12-066	356-56-230	REP	05-12-066
356-39-120	REP-P	05-09-100	356-48-010	REP-P	05-09-100	356-56-255	REP-P	05-09-100
356-39-120	REP	05-12-066	356-48-010	REP	05-12-066	356-56-255	REP	05-12-066
356-39-130	REP-P	05-09-100	356-48-020	REP-P	05-09-100	356-56-400	REP-P	05-09-100
356-39-130	REP	05-12-066	356-48-020	REP	05-12-066	356-56-400	REP	05-12-066
356-39-140	REP-P	05-09-100	356-48-030	REP-P	05-09-100	356-56-410	REP-P	05-09-100
356-39-140	REP	05-12-066	356-48-030	REP	05-12-066	356-56-410	REP	05-12-066
356-42-010	REP-P	05-09-100	356-48-040	REP-P	05-09-100	356-56-420	REP-P	05-09-100
356-42-010	REP	05-12-066	356-48-040	REP	05-12-066	356-56-420	REP	05-12-066
356-42-042	REP-P	05-09-100	356-48-050	REP-P	05-09-100	356-56-440	REP-P	05-09-100
356-42-042	REP	05-12-066	356-48-050	REP	05-12-066	356-56-440	REP	05-12-066
356-42-043	REP-P	05-09-100	356-48-060	REP-P	05-09-100	356-56-500	REP-P	05-09-100
356-42-043	REP	05-12-066	356-48-060	REP	05-12-066	356-56-500	REP	05-12-066
356-42-045	REP-P	05-09-100	356-49-010	REP-P	05-09-100	356-56-550	REP-P	05-09-100
356-42-045	REP	05-12-066	356-49-010	REP	05-12-066	356-56-550	REP	05-12-066
356-42-047	REP-P	05-09-100	356-49-020	REP-P	05-09-100	356-56-600	REP-P	05-09-100
356-42-047	REP	05-12-066	356-49-020	REP	05-12-066	356-56-600	REP	05-12-066
356-42-050	REP-P	05-09-100	356-49-030	REP-P	05-09-100	356-56-610	REP-P	05-09-100
356-42-050	REP	05-12-066	356-49-030	REP	05-12-066	356-56-610	REP	05-12-066
356-42-055	REP-P	05-09-100	356-49-040	REP-P	05-09-100	356-56-630	REP-P	05-09-100
356-42-055	REP	05-12-066	356-49-040	REP	05-12-066	356-56-630	REP	05-12-066
356-42-090	REP-P	05-09-100	356-56-001	REP-P	05-09-100	356-56-650	REP-P	05-09-100
356-42-090	REP	05-12-066	356-56-001	REP	05-12-066	356-56-650	REP	05-12-066
356-42-100	REP-P	05-09-100	356-56-002	REP-P	05-09-100	356-56-660	REP-P	05-09-100
356-42-100	REP	05-12-066	356-56-002	REP	05-12-066	356-56-660	REP	05-12-066
356-42-105	REP-P	05-09-100	356-56-010	REP-P	05-09-100	356-60-010	REP-P	05-09-100
356-42-105	REP	05-12-066	356-56-010	REP	05-12-066	356-60-010	REP	05-12-066
356-42-110	REP-P	05-09-100	356-56-015	REP-P	05-09-100	356-60-020	REP-P	05-09-100
356-42-110	REP	05-12-066	356-56-015	REP	05-12-066	356-60-020	REP	05-12-066
356-46-010	REP-P	05-09-100	356-56-020	REP-P	05-09-100	356-60-030	REP-P	05-09-100
356-46-010	REP	05-12-066	356-56-020	REP	05-12-066	356-60-030	REP	05-12-066
356-46-020	REP-P	05-09-100	356-56-030	REP-P	05-09-100	356-60-032	REP-P	05-09-100
356-46-020	REP	05-12-066	356-56-030	REP	05-12-066	356-60-032	REP	05-12-066
356-46-030	REP-P	05-09-100	356-56-035	REP-P	05-09-100	356-60-034	REP-P	05-09-100
356-46-030	REP	05-12-066	356-56-035	REP	05-12-066	356-60-034	REP	05-12-066
356-46-040	REP-P	05-09-100	356-56-050	REP-P	05-09-100	356-60-055	REP-P	05-09-100
356-46-040	REP	05-12-066	356-56-050	REP	05-12-066	356-60-055	REP	05-12-066
356-46-050	REP-P	05-09-100	356-56-070	REP-P	05-09-100	356-60-057	REP-P	05-09-100
356-46-050	REP	05-12-066	356-56-070	REP	05-12-066	356-60-057	REP	05-12-066
356-46-060	REP-P	05-09-100	356-56-100	REP-P	05-09-100	357-01-022	NEW-P	05-09-120
356-46-060	REP	05-12-066	356-56-100	REP	05-12-066	357-01-022	NEW	05-12-093
356-46-070	REP-P	05-09-100	356-56-105	REP-P	05-09-100	357-01-023	NEW-P	05-09-120
356-46-070	REP	05-12-066	356-56-105	REP	05-12-066	357-01-023	NEW	05-12-093
356-46-080	REP-P	05-09-100	356-56-115	REP-P	05-09-100	357-01-072	NEW-P	05-09-120
356-46-080	REP	05-12-066	356-56-115	REP	05-12-066	357-01-072	NEW	05-12-093
356-46-090	REP-P	05-09-100	356-56-118	REP-P	05-09-100	357-01-115	AMD-P	05-16-036
356-46-090	REP	05-12-066	356-56-118	REP	05-12-066	357-01-138	NEW-P	05-09-120
356-46-100	REP-P	05-09-100	356-56-120	REP-P	05-09-100	357-01-138	NEW	05-12-093
356-46-100	REP	05-12-066	356-56-120	REP	05-12-066	357-01-172	NEW-P	05-09-120
356-46-110	REP-P	05-09-100	356-56-200	REP-P	05-09-100	357-01-172	NEW	05-12-093
356-46-110	REP	05-12-066	356-56-200	REP	05-12-066	357-01-173	NEW-P	05-08-128
356-46-120	REP-P	05-09-100	356-56-203	REP-P	05-09-100	357-01-173	NEW	05-12-074
356-46-120	REP	05-12-066	356-56-203	REP	05-12-066	357-01-174	NEW-P	05-09-120
356-46-125	REP-P	05-09-100	356-56-205	REP-P	05-09-100	357-01-174	NEW	05-12-093
356-46-125	REP	05-12-066	356-56-205	REP	05-12-066	357-01-182	NEW-P	05-09-120
356-46-135	REP-P	05-09-100	356-56-210	REP-P	05-09-100	357-01-182	NEW	05-12-093
356-46-135	REP	05-12-066	356-56-210	REP	05-12-066	357-01-202	NEW-P	05-09-120
356-46-140	REP-P	05-09-100	356-56-215	REP-P	05-09-100	357-01-202	NEW	05-12-093
356-46-140	REP	05-12-066	356-56-215	REP	05-12-066	357-01-227	NEW-P	05-09-120
356-46-145	REP-P	05-09-100	356-56-220	REP-P	05-09-100	357-01-227	NEW	05-12-093

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357-01-228	NEW-P	05-09-120	357-19-191	NEW-C	05-09-107	357-31-135	NEW	05-08-136
357-01-228	NEW	05-12-093	357-19-191	NEW	05-12-097	357-31-140	NEW	05-08-136
357-01-229	NEW-P	05-09-120	357-19-300	NEW-P	05-08-130	357-31-145	NEW	05-08-136
357-01-229	NEW	05-12-093	357-19-300	NEW	05-12-076	357-31-150	NEW	05-08-136
357-01-255	NEW-W	05-02-061	357-19-301	NEW-P	05-08-130	357-31-155	NEW	05-08-136
357-01-301	NEW	05-08-134	357-19-301	NEW	05-12-076	357-31-160	NEW	05-08-136
357-01-301	AMD-P	05-09-119	357-19-302	NEW-P	05-08-130	357-31-165	NEW	05-08-137
357-01-301	AMD	05-12-092	357-19-302	NEW	05-12-076	357-31-165	AMD-P	05-09-104
357-01-348	NEW-P	05-09-120	357-19-303	NEW-P	05-08-130	357-31-165	AMD	05-12-080
357-01-348	NEW	05-12-093	357-19-303	NEW	05-12-076	357-31-170	NEW	05-08-137
357-01-360	NEW-P	05-09-118	357-19-350	NEW-P	05-09-114	357-31-175	NEW	05-08-137
357-01-360	NEW	05-12-091	357-19-350	NEW	05-12-094	357-31-180	NEW	05-08-137
357-01-365	NEW-P	05-09-118	357-19-353	NEW-P	05-09-114	357-31-185	NEW	05-08-137
357-01-365	NEW	05-12-091	357-19-353	NEW	05-12-094	357-31-190	NEW	05-08-137
357-04-105	AMD-P	05-09-103	357-19-375	AMD-P	05-08-130	357-31-195	NEW	05-08-137
357-04-105	AMD	05-12-079	357-19-375	AMD	05-12-076	357-31-200	NEW	05-08-137
357-13-090	AMD-P	05-09-105	357-19-388	AMD-P	05-08-131	357-31-205	NEW	05-08-137
357-13-090	AMD	05-12-088	357-19-388	AMD	05-12-077	357-31-210	NEW	05-08-137
357-16-110	AMD-P	05-08-131	357-19-395	AMD-P	05-09-115	357-31-215	NEW	05-08-137
357-16-110	AMD	05-12-077	357-19-395	AMD	05-12-095	357-31-220	NEW	05-08-137
357-16-130	AMD-P	05-09-109	357-19-475	AMD-P	05-08-131	357-31-225	NEW	05-08-137
357-16-130	AMD	05-12-083	357-19-475	AMD	05-12-077	357-31-230	NEW	05-08-137
357-16-135	AMD-P	05-12-127	357-28-035	AMD-P	05-12-125	357-31-235	NEW	05-08-137
357-16-135	AMD	05-16-043	357-28-035	AMD	05-16-041	357-31-240	NEW	05-08-137
357-19-025	AMD-P	05-08-131	357-28-070	AMD-P	05-08-131	357-31-245	NEW	05-08-137
357-19-025	AMD	05-12-077	357-28-070	AMD	05-12-077	357-31-250	NEW	05-08-137
357-19-030	AMD-P	05-16-090	357-28-165	AMD-P	05-08-131	357-31-255	NEW	05-08-137
357-19-035	NEW-P	05-16-090	357-28-165	AMD	05-12-077	357-31-260	NEW	05-08-137
357-19-080	AMD-P	05-08-131	357-28-200	AMD-P	05-09-110	357-31-265	NEW	05-08-137
357-19-080	AMD	05-12-077	357-28-200	AMD	05-12-084	357-31-270	NEW	05-08-137
357-19-090	AMD-P	05-16-090	357-28-300	AMD-P	05-08-131	357-31-275	NEW	05-08-137
357-19-115	AMD-P	05-08-131	357-28-300	AMD	05-12-077	357-31-280	NEW	05-08-137
357-19-115	AMD	05-12-077	357-31-001	NEW	05-08-136	357-31-285	NEW	05-08-137
357-19-125	NEW-P	05-09-116	357-31-001	REP-P	05-09-120	357-31-290	NEW	05-08-137
357-19-125	NEW	05-12-089	357-31-001	REP	05-12-093	357-31-295	NEW	05-08-137
357-19-181	NEW-P	05-09-111	357-31-005	NEW	05-08-136	357-31-300	NEW	05-08-137
357-19-181	NEW	05-12-085	357-31-010	NEW	05-08-136	357-31-305	NEW	05-08-137
357-19-181	AMD-P	05-16-090	357-31-015	NEW	05-08-136	357-31-310	NEW	05-08-138
357-19-183	NEW-P	05-08-126	357-31-020	NEW	05-08-136	357-31-315	NEW	05-08-138
357-19-183	NEW-C	05-09-107	357-31-025	NEW	05-08-136	357-31-320	NEW	05-08-138
357-19-183	NEW	05-12-097	357-31-030	NEW	05-08-136	357-31-325	NEW	05-08-138
357-19-184	NEW-P	05-08-126	357-31-035	NEW	05-08-136	357-31-330	NEW	05-08-138
357-19-184	NEW-C	05-09-107	357-31-040	NEW	05-08-136	357-31-335	NEW	05-08-138
357-19-184	NEW	05-12-097	357-31-045	NEW	05-08-136	357-31-340	NEW	05-08-138
357-19-185	NEW-P	05-08-126	357-31-050	NEW	05-08-136	357-31-345	NEW	05-08-138
357-19-185	NEW-C	05-09-107	357-31-055	NEW	05-08-136	357-31-346	NEW-P	05-09-108
357-19-185	NEW	05-12-097	357-31-060	NEW	05-08-136	357-31-346	NEW	05-12-081
357-19-186	NEW-P	05-08-126	357-31-065	NEW	05-08-136	357-31-347	NEW-P	05-09-108
357-19-186	NEW-C	05-09-107	357-31-070	NEW	05-08-136	357-31-347	NEW	05-12-081
357-19-186	NEW	05-12-097	357-31-075	NEW	05-08-136	357-31-350	NEW	05-08-138
357-19-187	NEW-P	05-08-126	357-31-080	NEW	05-08-136	357-31-355	NEW	05-08-138
357-19-187	NEW-C	05-09-107	357-31-090	NEW	05-08-136	357-31-360	NEW	05-08-138
357-19-187	NEW	05-12-097	357-31-095	NEW	05-08-136	357-31-370	NEW	05-08-138
357-19-188	NEW-P	05-08-126	357-31-095	AMD-P	05-12-128	357-31-375	NEW	05-08-138
357-19-188	NEW-C	05-09-107	357-31-095	AMD	05-16-044	357-31-380	NEW	05-08-139
357-19-188	NEW	05-12-097	357-31-100	NEW	05-08-136	357-31-385	NEW-W	05-08-125
357-19-189	NEW-P	05-08-126	357-31-105	NEW	05-08-136	357-31-390	NEW	05-08-139
357-19-189	NEW-C	05-09-107	357-31-110	NEW	05-08-136	357-31-395	NEW	05-08-139
357-19-189	NEW	05-12-097	357-31-115	NEW	05-08-136	357-31-400	NEW	05-08-139
357-19-190	REP-P	05-09-111	357-31-120	NEW	05-08-136	357-31-405	NEW	05-08-139
357-19-190	REP	05-12-085	357-31-125	NEW	05-08-136	357-31-410	NEW	05-08-139
357-19-191	NEW-P	05-08-126	357-31-130	NEW	05-08-136	357-31-415	NEW	05-08-139

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357- 31-425	NEW	05-08-139	357- 46-065	NEW	05-12-074	357- 55-285	NEW	05-08-133
357- 31-430	NEW	05-08-139	357- 46-066	NEW-P	05-08-128	357- 55-310	NEW	05-08-133
357- 31-435	NEW	05-08-139	357- 46-066	NEW	05-12-074	357- 55-320	NEW	05-08-133
357- 31-440	NEW	05-08-139	357- 46-067	NEW-P	05-08-128	357- 55-330	NEW	05-08-133
357- 31-445	NEW	05-08-139	357- 46-067	NEW	05-12-074	357- 55-410	NEW	05-08-133
357- 31-450	NEW	05-08-139	357- 46-068	NEW-P	05-08-128	357- 55-415	NEW	05-08-133
357- 31-455	NEW	05-08-139	357- 46-068	NEW	05-12-074	357- 55-420	NEW	05-08-133
357- 31-460	NEW	05-08-140	357- 46-095	AMD-P	05-08-131	357- 55-425	NEW	05-08-133
357- 31-465	NEW	05-08-140	357- 46-095	AMD	05-12-077	357- 55-430	NEW	05-08-133
357- 31-470	NEW	05-08-140	357- 46-100	AMD-P	05-16-037	357- 55-510	NEW	05-08-133
357- 31-475	NEW	05-08-140	357- 46-110	AMD-P	05-08-131	357- 55-515	NEW	05-08-133
357- 31-480	NEW	05-08-140	357- 46-110	AMD	05-12-077	357- 55-520	NEW	05-08-133
357- 31-485	NEW	05-08-140	357- 46-125	AMD-P	05-09-102	357- 55-610	NEW	05-08-133
357- 31-490	NEW	05-08-140	357- 46-125	AMD	05-12-078	357- 55-615	NEW	05-08-133
357- 31-495	NEW	05-08-140	357- 46-145	AMD-P	05-12-126	357- 55-620	NEW	05-08-133
357- 31-500	NEW	05-08-140	357- 46-145	AMD	05-16-042	357- 55-625	NEW	05-08-133
357- 31-505	NEW	05-08-140	357- 46-170	AMD-P	05-16-089	357- 55-630	NEW	05-08-133
357- 31-510	NEW	05-08-140	357- 46-200	AMD-P	05-16-089	357- 55-635	NEW	05-08-133
357- 31-515	NEW	05-08-140	357- 46-215	AMD-P	05-16-091	357- 55-640	NEW	05-08-133
357- 31-520	NEW	05-08-140	357- 46-220	AMD-P	05-16-091	357- 55-645	NEW	05-08-133
357- 31-525	NEW	05-08-140	357- 46-222	NEW-P	05-16-091	357- 58-005	NEW-P	05-04-087
357- 31-525	AMD-P	05-09-112	357- 46-225	AMD-P	05-16-091	357- 58-005	NEW	05-12-068
357- 31-525	AMD	05-12-086	357- 49-010	AMD-P	05-09-106	357- 58-010	NEW-P	05-04-087
357- 31-530	NEW	05-08-140	357- 49-010	AMD	05-12-082	357- 58-010	NEW	05-12-068
357- 31-530	AMD-P	05-09-117	357- 49-010	AMD-E	05-16-067	357- 58-015	NEW-P	05-04-087
357- 31-530	AMD	05-12-090	357- 49-010	AMD-P	05-16-092	357- 58-015	NEW	05-12-068
357- 31-535	NEW	05-08-140	357- 49-017	NEW-E	05-16-067	357- 58-020	NEW-P	05-04-087
357- 31-540	NEW	05-08-140	357- 49-017	NEW-P	05-16-092	357- 58-020	NEW	05-12-068
357- 31-545	NEW	05-08-140	357- 49-018	NEW-E	05-16-067	357- 58-025	NEW-P	05-04-087
357- 31-550	NEW	05-08-140	357- 49-018	NEW-P	05-16-092	357- 58-025	NEW	05-12-068
357- 31-555	NEW	05-08-140	357- 49-019	NEW-P	05-16-092	357- 58-030	NEW-P	05-04-087
357- 31-560	NEW	05-08-140	357- 49-022	NEW-P	05-16-092	357- 58-030	NEW	05-12-068
357- 31-565	NEW	05-08-140	357- 49-025	NEW-P	05-16-092	357- 58-035	NEW-P	05-04-087
357- 37-200	NEW-C	05-09-101	357- 49-035	NEW-P	05-16-092	357- 58-035	NEW	05-12-068
357- 37-200	NEW	05-12-096	357- 52-010	AMD-E	05-16-067	357- 58-040	NEW-P	05-04-087
357- 40-050	NEW-P	05-09-103	357- 52-010	AMD-P	05-16-092	357- 58-040	NEW	05-12-068
357- 40-050	NEW	05-12-079	357- 52-190	AMD-P	05-16-092	357- 58-045	NEW-P	05-04-087
357- 43-008	NEW-W	05-09-053	357- 52-193	NEW-P	05-16-092	357- 58-045	NEW	05-12-068
357- 43-008	NEW-P	05-16-040	357- 52-207	NEW-P	05-09-113	357- 58-050	NEW-P	05-04-087
357- 43-045	NEW-W	05-02-062	357- 52-207	NEW	05-12-087	357- 58-050	NEW	05-12-068
357- 43-120	NEW-P	05-16-038	357- 52-208	NEW-P	05-09-113	357- 58-055	NEW-P	05-04-087
357- 46-010	AMD-W	05-09-054	357- 52-208	NEW	05-12-087	357- 58-055	NEW	05-12-068
357- 46-010	AMD-P	05-16-039	357- 55-010	NEW	05-08-132	357- 58-060	NEW-P	05-04-087
357- 46-012	NEW-W	05-09-054	357- 55-020	NEW	05-08-132	357- 58-060	NEW	05-12-068
357- 46-012	NEW-P	05-16-039	357- 55-030	NEW	05-08-132	357- 58-065	NEW-P	05-04-087
357- 46-050	AMD-P	05-09-110	357- 55-040	NEW	05-08-132	357- 58-065	NEW	05-12-068
357- 46-050	AMD	05-12-084	357- 55-110	NEW	05-08-132	357- 58-070	NEW-P	05-04-087
357- 46-053	NEW-P	05-08-129	357- 55-210	NEW	05-08-132	357- 58-070	NEW	05-12-068
357- 46-053	NEW	05-12-075	357- 55-215	NEW	05-08-132	357- 58-075	NEW-P	05-04-087
357- 46-055	NEW	05-08-135	357- 55-220	NEW	05-08-132	357- 58-075	NEW	05-12-068
357- 46-056	NEW	05-08-135	357- 55-225	NEW	05-08-132	357- 58-080	NEW-P	05-04-087
357- 46-057	NEW-P	05-08-127	357- 55-230	NEW	05-08-132	357- 58-080	NEW	05-12-068
357- 46-057	NEW	05-12-073	357- 55-235	NEW	05-08-132	357- 58-085	NEW-P	05-04-087
357- 46-058	NEW-P	05-08-127	357- 55-240	NEW	05-08-132	357- 58-085	NEW	05-12-068
357- 46-058	NEW	05-12-073	357- 55-245	NEW	05-08-132	357- 58-090	NEW-P	05-04-087
357- 46-060	AMD-P	05-08-131	357- 55-250	NEW	05-08-132	357- 58-090	NEW	05-12-068
357- 46-060	AMD	05-12-077	357- 55-255	NEW	05-08-132	357- 58-095	NEW-P	05-04-087
357- 46-063	NEW-P	05-08-128	357- 55-260	NEW	05-08-132	357- 58-095	NEW	05-12-068
357- 46-063	NEW	05-12-074	357- 55-265	NEW	05-08-133	357- 58-100	NEW-P	05-04-087
357- 46-064	NEW-P	05-08-128	357- 55-270	NEW	05-08-133	357- 58-100	NEW	05-12-068
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357-58-110	NEW-P	05-04-087	357-58-265	NEW-P	05-04-089	357-58-415	NEW-P	05-04-091
357-58-110	NEW	05-12-068	357-58-265	NEW	05-12-070	357-58-415	NEW	05-12-071
357-58-115	NEW-P	05-04-087	357-58-270	NEW-P	05-04-089	357-58-420	NEW-P	05-04-091
357-58-115	NEW	05-12-068	357-58-270	NEW	05-12-070	357-58-420	NEW	05-12-071
357-58-120	NEW-P	05-04-088	357-58-275	NEW-P	05-04-089	357-58-425	NEW-P	05-04-091
357-58-120	NEW	05-12-069	357-58-275	NEW	05-12-070	357-58-425	NEW	05-12-071
357-58-125	NEW-P	05-04-088	357-58-280	NEW-P	05-04-089	357-58-430	NEW-P	05-04-091
357-58-125	NEW	05-12-069	357-58-280	NEW-P	05-09-114	357-58-430	NEW	05-12-071
357-58-130	NEW-P	05-04-088	357-58-280	NEW-W	05-12-065	357-58-435	NEW-P	05-04-091
357-58-130	NEW	05-12-069	357-58-280	NEW	05-12-094	357-58-435	NEW	05-12-071
357-58-135	NEW-P	05-04-088	357-58-285	NEW-P	05-04-089	357-58-440	NEW-P	05-04-091
357-58-135	NEW	05-12-069	357-58-285	NEW	05-12-070	357-58-440	NEW	05-12-071
357-58-140	NEW-P	05-04-088	357-58-290	NEW-P	05-04-089	357-58-445	NEW-P	05-04-091
357-58-140	NEW	05-12-069	357-58-290	NEW	05-12-070	357-58-445	NEW	05-12-071
357-58-145	NEW-P	05-04-088	357-58-295	NEW-P	05-04-089	357-58-450	NEW-P	05-04-091
357-58-145	NEW	05-12-069	357-58-295	NEW	05-12-070	357-58-450	NEW	05-12-071
357-58-150	NEW-P	05-04-088	357-58-300	NEW-P	05-04-089	357-58-455	NEW-P	05-04-091
357-58-150	NEW	05-12-069	357-58-300	NEW	05-12-070	357-58-455	NEW	05-12-071
357-58-155	NEW-P	05-04-088	357-58-305	NEW-P	05-04-089	357-58-460	NEW-P	05-04-091
357-58-155	NEW	05-12-069	357-58-305	NEW	05-12-070	357-58-460	NEW	05-12-071
357-58-160	NEW-P	05-04-088	357-58-310	NEW-P	05-04-089	357-58-465	NEW-P	05-04-091
357-58-160	NEW	05-12-069	357-58-310	NEW	05-12-070	357-58-465	NEW	05-12-071
357-58-165	NEW-P	05-04-088	357-58-315	NEW-P	05-04-089	357-58-465	AMD-E	05-16-068
357-58-165	NEW	05-12-069	357-58-315	NEW	05-12-070	357-58-470	NEW-P	05-04-091
357-58-170	NEW-P	05-04-088	357-58-320	NEW-P	05-04-089	357-58-470	NEW	05-12-071
357-58-170	NEW	05-12-069	357-58-320	NEW	05-12-070	357-58-475	NEW-P	05-04-091
357-58-175	NEW-P	05-04-088	357-58-325	NEW-P	05-04-089	357-58-475	NEW	05-12-071
357-58-175	NEW	05-12-069	357-58-325	NEW	05-12-070	357-58-480	NEW-P	05-04-091
357-58-180	NEW-P	05-04-088	357-58-330	NEW-P	05-04-089	357-58-480	NEW	05-12-071
357-58-180	NEW	05-12-069	357-58-330	NEW	05-12-070	357-58-485	NEW-P	05-04-091
357-58-185	NEW-P	05-04-088	357-58-335	NEW-P	05-04-089	357-58-485	NEW	05-12-071
357-58-185	NEW	05-12-069	357-58-335	NEW	05-12-070	357-58-490	NEW-P	05-04-091
357-58-190	NEW-P	05-04-088	357-58-340	NEW-P	05-04-089	357-58-490	NEW	05-12-071
357-58-190	NEW	05-12-069	357-58-340	NEW	05-12-070	357-58-495	NEW-P	05-04-091
357-58-195	NEW-P	05-04-088	357-58-345	NEW-P	05-04-089	357-58-495	NEW-W	05-12-098
357-58-195	NEW	05-12-069	357-58-345	NEW	05-12-070	357-58-500	NEW-P	05-04-090
357-58-200	NEW-P	05-04-088	357-58-350	NEW-P	05-04-089	357-58-500	NEW	05-12-072
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357-58-205	NEW	05-12-069	357-58-355	NEW	05-12-070	357-58-510	NEW-P	05-04-090
357-58-210	NEW-P	05-04-088	357-58-360	NEW-P	05-04-089	357-58-510	NEW	05-12-072
357-58-210	NEW	05-12-069	357-58-360	NEW	05-12-070	357-58-515	NEW-P	05-04-090
357-58-215	NEW-P	05-04-088	357-58-365	NEW-P	05-04-089	357-58-515	NEW	05-12-072
357-58-215	NEW	05-12-069	357-58-365	NEW	05-12-070	357-58-520	NEW-P	05-04-090
357-58-220	NEW-P	05-04-088	357-58-370	NEW-P	05-04-089	357-58-520	NEW	05-12-072
357-58-220	NEW	05-12-069	357-58-370	NEW	05-12-070	357-58-525	NEW-P	05-04-090
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357-58-230	NEW-P	05-04-088	357-58-380	NEW-P	05-04-089	357-58-530	NEW	05-12-072
357-58-230	NEW	05-12-069	357-58-380	NEW-W	05-12-065	357-58-535	NEW-P	05-04-090
357-58-235	NEW-P	05-04-088	357-58-385	NEW-P	05-04-089	357-58-535	NEW-W	05-12-099
357-58-235	NEW	05-12-069	357-58-385	NEW	05-12-070	357-58-540	NEW-P	05-04-090
357-58-240	NEW-P	05-04-089	357-58-390	NEW-P	05-04-089	357-58-540	NEW	05-12-072
357-58-240	NEW	05-12-070	357-58-390	NEW	05-12-070	357-58-545	NEW-P	05-04-090
357-58-245	NEW-P	05-04-089	357-58-395	NEW-P	05-04-089	357-58-545	NEW	05-12-072
357-58-245	NEW	05-12-070	357-58-395	NEW	05-12-070	363-116	PREP	05-04-094
357-58-250	NEW-P	05-04-089	357-58-400	NEW-P	05-04-089	363-116-065	NEW-P	05-14-110
357-58-250	NEW	05-12-070	357-58-400	NEW	05-12-070	363-116-075	AMD-P	05-14-110
357-58-255	NEW-P	05-04-089	357-58-405	NEW-P	05-04-091	363-116-0751	NEW-P	05-14-110
357-58-255	NEW	05-12-070	357-58-405	NEW	05-12-071	363-116-076	NEW-P	05-14-110
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363-116-082	AMD	05-04-028	388- 14A-3304	AMD	05-07-059	388- 25-0228	NEW	05-06-091
363-116-082	AMD-P	05-14-110	388- 14A-3310	AMD-P	05-03-095	388- 25-0228	NEW-E	05-06-093
363-116-083	AMD-P	05-14-110	388- 14A-3310	AMD	05-07-059	388- 25-0229	NEW-P	05-03-082
363-116-175	AMD-P	05-14-110	388- 14A-3317	NEW-P	05-03-095	388- 25-0229	NEW	05-06-091
363-116-185	AMD-P	05-10-069	388- 14A-3317	NEW	05-07-059	388- 25-0229	NEW-E	05-06-093
363-116-185	AMD	05-14-029	388- 14A-3320	AMD-P	05-03-095	388- 25-0230	REP-P	05-03-082
363-116-300	AMD-P	05-08-063	388- 14A-3320	AMD	05-07-059	388- 25-0230	REP	05-06-091
363-116-300	AMD	05-12-055	388- 14A-3321	NEW-E	05-03-095	388- 25-0230	REP-E	05-06-093
363-116-300	AMD-P	05-14-110	388- 14A-3321	NEW	05-07-059	388- 25-0231	NEW-P	05-03-082
365-110-035	AMD-W	05-06-057	388- 14A-3350	AMD-P	05-11-080	388- 25-0231	NEW	05-06-091
365-205-010	NEW-P	05-17-199	388- 14A-3350	AMD	05-14-099	388- 25-0231	NEW-E	05-06-093
365-205-020	NEW-P	05-17-199	388- 14A-3350	PREP	05-17-139	388- 25-1000	NEW-P	05-06-086
365-205-030	NEW-P	05-17-199	388- 14A-3600	AMD-P	05-11-079	388- 25-1000	NEW-E	05-06-094
365-205-040	NEW-P	05-17-199	388- 14A-3600	AMD	05-14-102	388- 25-1000	NEW	05-11-016
365-205-050	NEW-P	05-17-199	388- 14A-3810	AMD-P	05-11-081	388- 25-1010	NEW-P	05-06-086
365-205-060	NEW-P	05-17-199	388- 14A-3810	AMD	05-14-101	388- 25-1010	NEW-E	05-06-094
365-205-070	NEW-P	05-17-199	388- 14A-4119	NEW-E	05-03-094	388- 25-1010	NEW	05-11-016
365-205-080	NEW-P	05-17-199	388- 14A-4119	NEW-P	05-05-082	388- 25-1020	NEW-P	05-06-086
365-205-090	NEW-P	05-17-199	388- 14A-4119	NEW	05-08-060	388- 25-1020	NEW-E	05-06-094
371- 08-305	AMD-E	05-05-005	388- 14A-4180	NEW-E	05-03-094	388- 25-1020	NEW	05-11-016
371- 08-305	AMD-P	05-08-022	388- 14A-4180	NEW-P	05-05-082	388- 25-1030	NEW-P	05-06-086
371- 08-305	AMD	05-15-017	388- 14A-4180	NEW	05-08-060	388- 25-1030	NEW-E	05-06-094
371- 08-335	AMD-E	05-05-005	388- 14A-4304	AMD	05-07-087	388- 25-1030	NEW	05-11-016
371- 08-335	AMD-P	05-08-022	388- 14A-5000	AMD-P	05-02-063	388- 25-1040	NEW-P	05-06-086
371- 08-335	AMD	05-15-017	388- 14A-5000	AMD	05-06-014	388- 25-1040	NEW-E	05-06-094
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371- 08-345	AMD-P	05-08-022	388- 14A-5001	AMD	05-06-014	388- 25-1050	NEW-P	05-06-086
371- 08-345	AMD	05-15-017	388- 14A-5005	AMD-P	05-02-063	388- 25-1050	NEW-E	05-06-094
371- 08-445	AMD-P	05-08-022	388- 14A-5005	AMD	05-06-014	388- 25-1050	NEW	05-11-016
371- 08-445	AMD	05-15-017	388- 14A-5008	AMD-P	05-02-063	388- 71	PREP	05-16-079
371- 08-450	AMD-P	05-08-022	388- 14A-5008	AMD	05-06-014	388- 71-0194	REP-P	05-03-096
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374- 60-070	AMD-P	05-15-109	388- 14A-6300	AMD	05-14-102	388- 71-0205	REP-P	05-03-096
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374- 60-090	AMD-P	05-15-109	388- 14A-7100	AMD	05-07-059	388- 71-0210	NEW-P	05-03-096
374- 60-100	AMD-P	05-15-109	388- 14A-7110	NEW-E	05-03-095	388- 71-0210	NEW	05-11-082
374- 60-110	AMD-P	05-15-109	388- 14A-7110	NEW	05-07-059	388- 71-0215	NEW-P	05-03-096
374- 60-120	AMD-P	05-15-109	388- 14A-7115	NEW-E	05-03-095	388- 71-0215	NEW	05-11-082
388	PREP	05-08-090	388- 14A-7115	NEW	05-07-059	388- 71-0220	NEW-P	05-03-096
388- 01-180	PREP	05-13-128	388- 14A-7117	NEW-E	05-03-095	388- 71-0220	NEW	05-11-082
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388- 02	PREP	05-13-128	388- 14A-7120	NEW-E	05-03-095	388- 71-0225	NEW	05-11-082
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388- 02-0215	PREP	05-06-081	388- 14A-8100	AMD-E	05-07-034	388- 71-0230	NEW	05-11-082
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388- 14A-3102	AMD-P	05-09-082	388- 25-0226	NEW	05-06-091	388- 71-0255	NEW-P	05-03-096
388- 14A-3102	AMD	05-12-136	388- 25-0226	NEW-E	05-06-093	388- 71-0255	NEW	05-11-082
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388- 71-0405	REP	05-11-082	388- 71-0710	AMD	05-11-082	388- 71-0960	REP-P	05-03-096
388- 71-0410	REP-P	05-03-096	388- 71-0716	AMD-P	05-03-096	388- 71-0960	REP-W	05-11-071
388- 71-0410	REP	05-11-082	388- 71-0716	AMD	05-11-082	388- 71-0960	PREP	05-14-073
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388- 71-0415	REP	05-11-082	388- 71-0720	AMD	05-11-082	388- 71-0965	REP-W	05-11-071
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388- 71-0425	REP-P	05-03-096	388- 71-0800	REP	05-11-082	388- 71-1000	REP	05-11-082
388- 71-0425	REP	05-11-082	388- 71-0805	REP-P	05-03-096	388- 71-1005	REP-P	05-03-096
388- 71-0430	REP-P	05-03-096	388- 71-0805	REP	05-11-082	388- 71-1005	REP	05-11-082
388- 71-0430	REP	05-11-082	388- 71-0810	REP-P	05-03-096	388- 71-1010	REP-P	05-03-096
388- 71-0435	REP-P	05-03-096	388- 71-0810	REP	05-11-082	388- 71-1010	REP	05-11-082
388- 71-0435	REP	05-11-082	388- 71-0815	REP-P	05-03-096	388- 71-1015	REP-P	05-03-096
388- 71-0440	REP-P	05-03-096	388- 71-0815	REP	05-11-082	388- 71-1015	REP	05-11-082
388- 71-0440	REP	05-11-082	388- 71-0820	REP-P	05-03-096	388- 71-1020	REP-P	05-03-096
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388- 71-0442	REP	05-11-082	388- 71-0825	REP-P	05-03-096	388- 71-1025	REP-P	05-03-096
388- 71-0445	REP-P	05-03-096	388- 71-0825	REP	05-11-082	388- 71-1025	REP	05-11-082
388- 71-0445	REP	05-11-082	388- 71-0830	REP-P	05-03-096	388- 71-1030	REP-P	05-03-096
388- 71-0450	REP-P	05-03-096	388- 71-0830	REP	05-11-082	388- 71-1030	REP	05-11-082
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388- 71-0455	REP-P	05-03-096	388- 71-0835	REP	05-11-082	388- 71-1035	REP	05-11-082
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388- 71-0460	REP	05-11-082	388- 71-0845	REP-P	05-03-096	388- 71-1070	REP-P	05-03-096
388- 71-0465	REP-P	05-03-096	388- 71-0845	REP	05-11-082	388- 71-1070	REP	05-11-082
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388- 71-0470	REP-P	05-03-096	388- 71-0900	REP-W	05-11-071	388- 71-1075	REP	05-11-082
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388- 71-0480	REP-P	05-03-096	388- 71-0905	REP-P	05-03-096	388- 71-1080	REP	05-11-082
388- 71-0480	REP	05-11-082	388- 71-0905	REP-W	05-11-071	388- 71-1085	REP-P	05-03-096
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388- 71-0500	AMD	05-11-082	388- 71-0910	REP-P	05-03-096	388- 71-1090	REP-P	05-03-096
388- 71-0515	AMD-P	05-03-096	388- 71-0910	REP-W	05-11-071	388- 71-1090	REP	05-11-082
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388- 71-0540	AMD-P	05-03-096	388- 71-0915	PREP	05-14-073	388- 71-1100	REP	05-11-082
388- 71-0540	AMD	05-11-082	388- 71-0920	REP-P	05-03-096	388- 71-1105	REP-P	05-03-096
388- 71-05832	NEW-P	05-03-096	388- 71-0920	REP-W	05-11-071	388- 71-1105	REP	05-11-082
388- 71-05832	NEW	05-11-082	388- 71-0920	PREP	05-14-073	388- 71-1110	REP-P	05-03-096
388- 71-0600	REP-P	05-03-096	388- 71-0925	REP-P	05-03-096	388- 71-1110	REP	05-11-082
388- 71-0600	REP	05-11-082	388- 71-0925	REP-W	05-11-071	388- 72A-0005	REP-P	05-03-096
388- 71-0605	REP-P	05-03-096	388- 71-0925	PREP	05-14-073	388- 72A-0005	REP	05-11-082
388- 71-0605	REP	05-11-082	388- 71-0930	REP-P	05-03-096	388- 72A-0010	REP-P	05-03-096
388- 71-0610	REP-P	05-03-096	388- 71-0930	REP-W	05-11-071	388- 72A-0010	REP	05-11-082
388- 71-0610	REP	05-11-082	388- 71-0930	PREP	05-14-073	388- 72A-0015	REP-P	05-03-096
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388- 71-0613	REP	05-11-082	388- 71-0935	REP-W	05-11-071	388- 72A-0020	REP-P	05-03-096
388- 71-0615	REP-P	05-03-096	388- 71-0935	PREP	05-14-073	388- 72A-0020	REP	05-11-082
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388- 71-0700	REP	05-11-082	388- 71-0945	REP-W	05-11-071	388- 72A-0035	REP-P	05-03-096
388- 71-0704	AMD-P	05-03-096	388- 71-0945	PREP	05-14-073	388- 72A-0035	REP	05-11-082
388- 71-0704	AMD	05-11-082	388- 71-0950	REP-P	05-03-096	388- 72A-0036	REP-P	05-03-096
388- 71-0706	AMD-P	05-03-096	388- 71-0950	REP-W	05-11-071	388- 72A-0036	REP	05-11-082
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388-72A-0038	REP	05-11-082	388-76-540	AMD	05-17-158	388-101-1205	RECOD	05-07-138
388-72A-0039	REP-P	05-03-096	388-76-560	AMD-P	05-13-126	388-101-1210	RECOD	05-05-077
388-72A-0039	REP	05-11-082	388-76-560	AMD	05-17-158	388-101-1220	RECOD	05-05-077
388-72A-0041	REP-P	05-03-096	388-76-575	AMD-P	05-13-126	388-101-1220	AMD-P	05-07-136
388-72A-0041	REP	05-11-082	388-76-575	AMD	05-17-158	388-101-1220	AMD	05-10-086
388-72A-0042	REP-P	05-03-096	388-76-585	AMD-P	05-13-126	388-101-1230	RECOD	05-05-077
388-72A-0042	REP	05-11-082	388-76-585	AMD	05-17-158	388-101-1240	RECOD	05-05-077
388-72A-0043	REP-P	05-03-096	388-76-59020	REP-P	05-13-126	388-101-1250	RECOD	05-05-077
388-72A-0043	REP	05-11-082	388-76-59020	REP	05-17-158	388-101-1260	RECOD	05-05-077
388-72A-0045	REP-P	05-03-096	388-76-595	AMD-P	05-13-126	388-101-1260	AMD-P	05-07-136
388-72A-0045	REP	05-11-082	388-76-595	AMD	05-17-158	388-101-1260	AMD	05-10-086
388-72A-0050	REP-P	05-03-096	388-76-64005	REP-P	05-13-126	388-101-1400	RECOD	05-05-077
388-72A-0050	REP	05-11-082	388-76-64005	REP	05-17-158	388-101-1400	AMD-P	05-07-136
388-72A-0053	REP-P	05-03-096	388-76-655	AMD-P	05-13-126	388-101-1400	AMD	05-10-086
388-72A-0053	REP	05-11-082	388-76-655	AMD	05-17-158	388-101-1410	RECOD	05-05-077
388-72A-0055	REP-P	05-03-096	388-76-685	AMD-P	05-13-126	388-101-1420	RECOD	05-05-077
388-72A-0055	REP	05-11-082	388-76-685	AMD	05-17-158	388-101-1420	AMD-P	05-07-136
388-72A-0057	REP-P	05-03-096	388-76-715	AMD-P	05-13-126	388-101-1420	AMD	05-10-086
388-72A-0057	REP	05-11-082	388-76-715	AMD	05-17-158	388-101-1430	RECOD	05-05-077
388-72A-0058	REP-P	05-03-096	388-76-76505	AMD-P	05-04-058	388-101-1440	RECOD	05-05-077
388-72A-0058	REP	05-11-082	388-76-76505	AMD	05-07-137	388-101-1460	RECOD	05-05-077
388-72A-0060	REP-P	05-03-096	388-76-9970	REP-P	05-13-126	388-101-1470	RECOD	05-05-077
388-72A-0060	REP	05-11-082	388-76-9970	REP	05-17-158	388-101-1470	AMD-P	05-07-136
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388-72A-0065	REP	05-11-082	388-76-9972	REP	05-17-158	388-101-1480	RECOD	05-05-077
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388-72A-0069	REP	05-11-082	388-76-9974	REP	05-17-158	388-101-1500	RECOD	05-05-077
388-72A-0070	REP-P	05-03-096	388-76-9976	REP-P	05-13-126	388-101-1510	RECOD	05-05-077
388-72A-0070	REP	05-11-082	388-76-9976	REP	05-17-158	388-101-1520	RECOD	05-05-077
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388-72A-0080	REP	05-11-082	388-76-9978	REP	05-17-158	388-101-1540	RECOD	05-05-077
388-72A-0081	REP-P	05-03-096	388-76-9980	REP-P	05-13-126	388-101-1550	RECOD	05-05-077
388-72A-0081	REP	05-11-082	388-76-9980	REP	05-17-158	388-101-1600	RECOD	05-05-077
388-72A-0082	REP-P	05-03-096	388-78A-2020	PREP	05-10-085	388-101-1610	RECOD	05-05-077
388-72A-0082	REP	05-11-082	388-78A-2050	PREP	05-10-085	388-101-1620	RECOD	05-05-077
388-72A-0083	REP-P	05-03-096	388-78A-2260	PREP	05-10-085	388-101-1630	RECOD	05-05-077
388-72A-0083	REP	05-11-082	388-78A-2270	PREP	05-10-085	388-101-1640	RECOD	05-05-077
388-72A-0084	REP-P	05-03-096	388-78A-2280	PREP	05-10-085	388-101-1650	RECOD	05-05-077
388-72A-0084	REP	05-11-082	388-78A-2300	PREP	05-10-085	388-101-1660	RECOD	05-05-077
388-72A-0085	REP-P	05-03-096	388-78A-2340	PREP	05-10-085	388-101-1670	RECOD	05-05-077
388-72A-0085	REP	05-11-082	388-78A-2360	PREP	05-10-085	388-101-1670	AMD-P	05-07-136
388-72A-0086	REP-P	05-03-096	388-78A-2470	PREP	05-10-085	388-101-1670	AMD	05-10-086
388-72A-0086	REP	05-11-082	388-78A-2480	PREP	05-10-085	388-101-1680	RECOD	05-05-077
388-72A-0087	REP-P	05-03-096	388-78A-2490	PREP	05-10-085	388-101-1690	RECOD	05-05-077
388-72A-0087	REP	05-11-082	388-78A-2500	PREP	05-10-085	388-101-1700	RECOD	05-05-077
388-72A-0090	REP-P	05-03-096	388-78A-2510	PREP	05-10-085	388-101-1710	RECOD	05-05-077
388-72A-0090	REP	05-11-082	388-78A-2520	PREP	05-10-085	388-101-1720	RECOD	05-05-077
388-72A-0092	REP-P	05-03-096	388-78A-2700	PREP	05-10-085	388-101-1730	RECOD	05-05-077
388-72A-0092	REP	05-11-082	388-78A-2840	PREP	05-10-085	388-101-1740	RECOD	05-05-077
388-72A-0095	REP-P	05-03-096	388-78A-2910	PREP	05-10-085	388-101-1750	RECOD	05-05-077
388-72A-0095	REP	05-11-082	388-78A-2930	PREP	05-10-085	388-101-1750	AMD-P	05-07-136
388-72A-0100	REP-P	05-03-096	388-78A-2940	PREP	05-10-085	388-101-1750	AMD	05-10-086
388-72A-0100	REP	05-11-082	388-78A-2960	PREP	05-10-085	388-101-1760	RECOD	05-05-077
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388-72A-0110	REP-P	05-03-096	388-101-1020	RECOD	05-05-077	388-101-1790	RECOD	05-05-077
388-72A-0110	REP	05-11-082	388-101-1020	AMD-P	05-07-136	388-101-1800	RECOD	05-05-077
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388-72A-0115	REP	05-11-082	388-101-1100	RECOD	05-05-077	388-101-1820	RECOD	05-05-077
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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-101-1840	RECOD	05-05-077	388-106-0005	NEW	05-11-082	388-106-0213	NEW	05-11-082
388-101-1850	RECOD	05-05-077	388-106-0010	NEW-P	05-03-096	388-106-0220	NEW-P	05-03-096
388-101-1860	RECOD	05-05-077	388-106-0010	NEW	05-11-082	388-106-0220	NEW	05-11-082
388-101-1870	RECOD	05-05-077	388-106-0015	NEW-P	05-03-096	388-106-0225	NEW-P	05-03-096
388-101-1880	RECOD	05-05-077	388-106-0015	NEW	05-11-082	388-106-0225	NEW	05-11-082
388-101-1890	RECOD	05-05-077	388-106-0015	AMD-P	05-16-084	388-106-0230	NEW-P	05-03-096
388-101-1900	RECOD	05-05-077	388-106-0020	NEW-P	05-03-096	388-106-0230	NEW	05-11-082
388-101-2000	RECOD	05-05-077	388-106-0020	NEW	05-11-082	388-106-0235	NEW-P	05-03-096
388-101-2010	RECOD	05-05-077	388-106-0025	NEW-P	05-03-096	388-106-0235	NEW	05-11-082
388-101-2020	RECOD	05-05-077	388-106-0025	NEW	05-11-082	388-106-0300	NEW-P	05-03-096
388-101-2030	RECOD	05-05-077	388-106-0030	NEW-P	05-03-096	388-106-0300	NEW	05-11-082
388-101-2040	RECOD	05-05-077	388-106-0030	NEW	05-11-082	388-106-0305	NEW-P	05-03-096
388-101-2050	RECOD	05-05-077	388-106-0035	NEW-P	05-03-096	388-106-0305	NEW	05-11-082
388-101-2060	RECOD	05-05-077	388-106-0035	NEW	05-11-082	388-106-0310	NEW-P	05-03-096
388-101-2070	RECOD	05-05-077	388-106-0040	NEW-P	05-03-096	388-106-0310	NEW	05-11-082
388-101-2080	RECOD	05-05-077	388-106-0040	NEW	05-11-082	388-106-0315	NEW-P	05-03-096
388-101-2090	RECOD	05-05-077	388-106-0045	NEW-P	05-03-096	388-106-0315	NEW	05-11-082
388-101-2100	RECOD	05-05-077	388-106-0045	NEW	05-11-082	388-106-0320	NEW-P	05-03-096
388-101-2110	RECOD	05-05-077	388-106-0047	NEW-P	05-15-146	388-106-0320	NEW	05-11-082
388-101-2120	RECOD	05-05-077	388-106-0050	NEW-P	05-03-096	388-106-0325	NEW-P	05-03-096
388-101-2130	RECOD	05-05-077	388-106-0050	NEW	05-11-082	388-106-0325	NEW	05-11-082
388-101-2140	RECOD	05-05-077	388-106-0055	NEW-P	05-03-096	388-106-0330	NEW-P	05-03-096
388-101-2150	RECOD	05-05-077	388-106-0055	NEW	05-11-082	388-106-0330	NEW	05-11-082
388-101-2150	AMD-P	05-07-136	388-106-0060	NEW-P	05-03-096	388-106-0335	NEW-P	05-03-096
388-101-2150	AMD	05-10-086	388-106-0060	NEW	05-11-082	388-106-0335	NEW	05-11-082
388-101-2160	RECOD	05-05-077	388-106-0065	NEW-P	05-03-096	388-106-0350	NEW-P	05-03-096
388-101-2300	RECOD	05-05-077	388-106-0065	NEW	05-11-082	388-106-0350	NEW	05-11-082
388-101-2310	RECOD	05-05-077	388-106-0070	NEW-P	05-03-096	388-106-0355	NEW-P	05-03-096
388-101-2310	AMD-P	05-07-136	388-106-0070	NEW	05-11-082	388-106-0355	NEW	05-11-082
388-101-2310	DECOD	05-07-138	388-106-0075	NEW-P	05-03-096	388-106-0360	NEW-P	05-03-096
388-101-2320	RECOD	05-05-077	388-106-0075	NEW	05-11-082	388-106-0360	NEW	05-11-082
388-101-2320	DECOD	05-07-138	388-106-0080	NEW-P	05-03-096	388-106-0400	NEW-P	05-03-096
388-101-2330	RECOD	05-05-077	388-106-0080	NEW	05-11-082	388-106-0400	NEW	05-11-082
388-101-2340	RECOD	05-05-077	388-106-0085	NEW-P	05-03-096	388-106-0410	NEW-P	05-03-096
388-101-2350	RECOD	05-05-077	388-106-0085	NEW	05-11-082	388-106-0410	NEW	05-11-082
388-101-2360	RECOD	05-05-077	388-106-0090	NEW-P	05-03-096	388-106-0415	NEW-P	05-03-096
388-101-2370	RECOD	05-05-077	388-106-0090	NEW	05-11-082	388-106-0415	NEW	05-11-082
388-101-2380	RECOD	05-05-077	388-106-0095	NEW-P	05-03-096	388-106-0420	NEW-P	05-03-096
388-101-2400	RECOD	05-07-138	388-106-0095	NEW	05-11-082	388-106-0420	NEW	05-11-082
388-101-2410	RECOD	05-07-138	388-106-0100	NEW-P	05-03-096	388-106-0425	NEW-P	05-03-096
388-101-2410	AMD	05-10-086	388-106-0100	NEW	05-11-082	388-106-0425	NEW	05-11-082
388-101-2420	RECOD	05-07-138	388-106-0105	NEW-P	05-03-096	388-106-0430	NEW-P	05-03-096
388-101-2430	RECOD	05-07-138	388-106-0105	NEW	05-11-082	388-106-0430	NEW	05-11-082
388-101-2440	RECOD	05-07-138	388-106-0110	NEW-P	05-03-096	388-106-0435	NEW-P	05-03-096
388-101-2450	RECOD	05-07-138	388-106-0110	NEW	05-11-082	388-106-0435	NEW	05-11-082
388-101-2460	RECOD	05-07-138	388-106-0115	NEW-P	05-03-096	388-106-0500	NEW-P	05-03-096
388-101-2470	RECOD	05-07-138	388-106-0115	NEW	05-11-082	388-106-0500	NEW	05-11-082
388-101-2480	RECOD	05-07-138	388-106-0120	NEW-P	05-03-096	388-106-0510	NEW-P	05-03-096
388-101-2490	RECOD	05-07-138	388-106-0120	NEW	05-11-082	388-106-0510	NEW	05-11-082
388-101-2500	RECOD	05-07-138	388-106-0125	NEW-P	05-03-096	388-106-0515	NEW-P	05-03-096
388-101-2510	RECOD	05-07-138	388-106-0125	NEW	05-11-082	388-106-0515	NEW	05-11-082
388-101-2520	RECOD	05-07-138	388-106-0130	NEW-P	05-03-096	388-106-0520	NEW-P	05-03-096
388-101-2530	RECOD	05-07-138	388-106-0130	NEW	05-11-082	388-106-0520	NEW	05-11-082
388-101-2540	RECOD	05-07-138	388-106-0135	NEW-P	05-03-096	388-106-0525	NEW-P	05-03-096
388-105	PREP	05-13-127	388-106-0135	NEW	05-11-082	388-106-0525	NEW	05-11-082
388-105-0035	AMD-E	05-14-078	388-106-0140	NEW-P	05-03-096	388-106-0530	NEW-P	05-03-096
388-106	PREP	05-05-080	388-106-0140	NEW	05-11-082	388-106-0530	NEW	05-11-082
388-106	PREP	05-06-082	388-106-0200	NEW-P	05-03-096	388-106-0535	NEW-P	05-03-096
388-106	PREP	05-06-083	388-106-0200	NEW	05-11-082	388-106-0535	NEW	05-11-082
388-106	PREP	05-14-073	388-106-0210	NEW-P	05-03-096	388-106-0600	NEW-P	05-03-096
388-106	PREP	05-16-079	388-106-0210	NEW	05-11-082	388-106-0600	NEW	05-11-082
388-106-0005	NEW-P	05-03-096	388-106-0213	NEW-P	05-03-096	388-106-0610	NEW-P	05-03-096

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-106-0610	NEW	05-11-082	388-106-1035	NEW-W	05-11-071	388-290-0035	AMD-P	05-17-193
388-106-0615	NEW-P	05-03-096	388-106-1040	NEW-P	05-03-096	388-290-0075	PREP	05-06-078
388-106-0615	NEW	05-11-082	388-106-1040	NEW-W	05-11-071	388-290-0095	PREP	05-06-078
388-106-0620	NEW-P	05-03-096	388-106-1045	NEW-P	05-03-096	388-290-0100	PREP	05-06-078
388-106-0620	NEW	05-11-082	388-106-1045	NEW-W	05-11-071	388-290-0105	PREP	05-06-078
388-106-0625	NEW-P	05-03-096	388-106-1050	NEW-P	05-03-096	388-290-0110	PREP	05-06-078
388-106-0625	NEW	05-11-082	388-106-1050	NEW-W	05-11-071	388-290-0120	PREP	05-06-078
388-106-0630	NEW-P	05-03-096	388-106-1055	NEW-P	05-03-096	388-290-0130	AMD-P	05-17-193
388-106-0630	NEW	05-11-082	388-106-1055	NEW-W	05-11-071	388-290-0135	AMD-P	05-17-193
388-106-0650	NEW-P	05-03-096	388-106-1100	NEW-P	05-03-096	388-290-0138	NEW-P	05-17-193
388-106-0650	NEW	05-11-082	388-106-1100	NEW	05-11-082	388-290-0140	AMD-P	05-17-193
388-106-0655	NEW-P	05-03-096	388-106-1105	NEW-P	05-03-096	388-290-0155	AMD-P	05-17-193
388-106-0655	NEW	05-11-082	388-106-1105	NEW	05-11-082	388-290-0180	PREP	05-13-175
388-106-0700	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096	388-290-0180	AMD-P	05-17-192
388-106-0700	NEW	05-11-082	388-106-1110	NEW	05-11-082	388-290-0190	PREP	05-13-175
388-106-0705	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096	388-290-0190	AMD-P	05-17-192
388-106-0705	NEW	05-11-082	388-106-1115	NEW	05-11-082	388-290-0200	AMD-E	05-05-024
388-106-0710	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096	388-290-0200	AMD-E	05-13-040
388-106-0710	NEW	05-11-082	388-106-1120	NEW	05-11-082	388-290-0200	PREP	05-13-175
388-106-0715	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096	388-290-0200	PREP-W	05-17-161
388-106-0715	NEW	05-11-082	388-106-1200	NEW	05-11-082	388-290-0200	AMD-P	05-17-192
388-106-0720	NEW-E	05-14-074	388-106-1205	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024
388-106-0720	NEW-P	05-16-084	388-106-1205	NEW	05-11-082	388-290-0205	AMD-E	05-13-040
388-106-0725	NEW-E	05-14-074	388-106-1210	NEW-P	05-03-096	388-290-0205	PREP	05-13-175
388-106-0725	NEW-P	05-16-084	388-106-1210	NEW	05-11-082	388-290-0205	PREP-W	05-17-161
388-106-0730	NEW-E	05-14-074	388-106-1215	NEW-P	05-03-096	388-290-0205	AMD-P	05-17-192
388-106-0730	NEW-P	05-16-084	388-106-1215	NEW	05-11-082	388-290-0240	PREP	05-13-176
388-106-0735	NEW-E	05-14-074	388-106-1220	NEW-P	05-03-096	388-290-0240	AMD-P	05-17-193
388-106-0735	NEW-P	05-16-084	388-106-1220	NEW	05-11-082	388-290-0245	PREP	05-13-175
388-106-0740	NEW-E	05-14-074	388-106-1225	NEW-P	05-03-096	388-290-0247	PREP	05-13-175
388-106-0740	NEW-P	05-16-084	388-106-1225	NEW	05-11-082	388-290-0250	PREP	05-13-175
388-106-0800	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096	388-290-0250	REP-P	05-17-192
388-106-0800	NEW	05-11-082	388-106-1230	NEW	05-11-082	388-290-0255	PREP	05-13-176
388-106-0805	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096	388-290-0255	REP-P	05-17-193
388-106-0805	NEW	05-11-082	388-106-1300	NEW	05-11-082	388-290-0260	PREP	05-13-176
388-106-0810	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096	388-290-0260	AMD-P	05-17-193
388-106-0810	NEW	05-11-082	388-106-1305	NEW	05-11-082	388-290-0271	PREP	05-13-176
388-106-0815	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096	388-290-0271	AMD-P	05-17-193
388-106-0815	NEW	05-11-082	388-106-1310	NEW	05-11-082	388-290-0273	PREP	05-13-176
388-106-0900	NEW-P	05-03-096	388-110	PREP	05-16-079	388-290-0273	AMD-P	05-17-193
388-106-0900	NEW	05-11-082	388-112-0210	PREP	05-16-080	388-290-0274	NEW-P	05-17-193
388-106-0905	NEW-P	05-03-096	388-112-0255	PREP	05-16-080	388-295	PREP	05-08-059
388-106-0905	NEW	05-11-082	388-145-0100	AMD-P	05-07-134	388-296	PREP	05-07-131
388-106-0950	NEW-P	05-03-096	388-145-0100	AMD	05-11-008	388-296	PREP-W	05-08-058
388-106-0950	NEW	05-11-082	388-145-0230	AMD-P	05-07-134	388-310-0600	PREP	05-07-074
388-106-0955	NEW-P	05-03-096	388-145-0230	AMD	05-11-008	388-310-0600	AMD-P	05-13-125
388-106-0955	NEW	05-11-082	388-160-0075	AMD-P	05-09-079	388-310-0600	AMD	05-16-107
388-106-1000	NEW-P	05-03-096	388-160-0195	AMD	05-14-013	388-310-1400	AMD-P	05-08-121
388-106-1000	NEW-W	05-11-071	388-160-0195	AMD-P	05-09-079	388-310-1400	AMD	05-13-030
388-106-1005	NEW-P	05-03-096	388-160-0195	AMD	05-14-013	388-400	PREP	05-08-091
388-106-1005	NEW-W	05-11-071	388-273-0035	AMD-E	05-06-024	388-400-0005	AMD-P	05-09-083
388-106-1010	NEW-P	05-03-096	388-273-0035	PREP	05-06-077	388-400-0005	AMD	05-14-100
388-106-1010	NEW-W	05-11-071	388-273-0035	AMD-P	05-12-133	388-400-0010	PREP	05-13-136
388-106-1015	NEW-P	05-03-096	388-273-0035	AMD-E	05-13-172	388-400-0010	AMD-P	05-17-194
388-106-1015	NEW-W	05-11-071	388-273-0035	AMD	05-15-152	388-406	PREP	05-08-091
388-106-1020	NEW-P	05-03-096	388-290-0010	PREP	05-06-078	388-406-0055	AMD-P	05-16-054
388-106-1020	NEW-W	05-11-071	388-290-0020	AMD-P	05-17-193	388-408	PREP	05-08-091
388-106-1025	NEW-P	05-03-096	388-290-0025	PREP	05-06-078	388-408-0035	AMD-P	05-16-110
388-106-1025	NEW-W	05-11-071	388-290-0030	PREP	05-13-176	388-408-0055	AMD-P	05-15-079
388-106-1030	NEW-P	05-03-096	388-290-0030	AMD-P	05-17-193	388-410	PREP	05-08-091
388-106-1030	NEW-W	05-11-071	388-290-0032	PREP	05-13-176	388-410-0001	AMD-P	05-05-081
388-106-1035	NEW-P	05-03-096	388-290-0032	AMD-P	05-17-193	388-410-0001	AMD	05-08-124

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388-412	PREP	05-08-091	388-470	PREP	05-08-091	388-502-0260	PREP-W	05-16-066
388-412-0025	PREP	05-07-130	388-473-0010	AMD-P	05-15-078	388-503-0510	AMD	05-07-097
388-412-0025	AMD-P	05-13-171	388-473-0020	AMD-P	05-15-078	388-505-0210	PREP	05-13-135
388-412-0025	AMD	05-17-089	388-473-0030	REP-P	05-15-078	388-505-0210	AMD-E	05-14-077
388-414	PREP	05-08-091	388-474-0012	AMD	05-07-031	388-505-0220	AMD-P	05-13-170
388-416-0005	AMD-P	05-05-081	388-475-0550	AMD-E	05-05-088	388-505-0220	AMD	05-16-127
388-416-0005	AMD	05-08-124	388-475-0550	AMD-E	05-13-074	388-513-1300	RESCIND	05-13-064
388-416-0005	AMD-P	05-16-054	388-475-0700	AMD-E	05-05-088	388-513-1325	PREP-W	05-02-068
388-416-0015	PREP	05-05-079	388-475-0700	AMD-E	05-13-074	388-513-1340	PREP-W	05-02-068
388-416-0015	AMD-E	05-10-038	388-475-0800	AMD-E	05-05-088	388-513-1350	AMD-P	05-03-109
388-416-0015	AMD-P	05-16-126	388-475-0800	AMD-E	05-13-074	388-513-1350	AMD	05-07-033
388-416-0020	PREP-W	05-16-065	388-475-0820	AMD-E	05-05-088	388-513-1350	PREP	05-11-072
388-418	PREP	05-08-091	388-475-0820	AMD-E	05-13-074	388-513-1350	PREP	05-13-139
388-418-0005	AMD-P	05-06-089	388-475-0860	AMD-E	05-05-088	388-513-1350	PREP-W	05-13-140
388-418-0005	AMD	05-09-021	388-475-0860	AMD-E	05-13-074	388-513-1350	AMD-E	05-14-079
388-418-0005	AMD-E	05-15-081	388-478	PREP	05-08-091	388-513-1360	PREP	05-13-131
388-418-0005	AMD-P	05-16-054	388-478-0015	PREP	05-16-081	388-513-1380	AMD-P	05-03-109
388-418-0007	AMD-P	05-08-120	388-478-0055	PREP	05-13-173	388-513-1380	AMD	05-07-033
388-418-0007	AMD	05-11-074	388-478-0055	AMD-E	05-14-076	388-513-1380	AMD-E	05-10-053
388-418-0011	PREP	05-05-079	388-478-0060	PREP	05-12-131	388-513-1380	PREP	05-11-073
388-418-0011	AMD-P	05-06-088	388-478-0065	AMD-P	05-11-075	388-513-1380	AMD-E	05-13-062
388-418-0011	AMD	05-09-020	388-478-0065	AMD	05-15-080	388-513-1380	PREP	05-13-063
388-418-0011	AMD-E	05-10-038	388-478-0070	AMD-P	05-02-091	388-513-1380	PREP-W	05-13-065
388-418-0020	AMD-P	05-06-088	388-478-0070	AMD	05-06-090	388-513-1380	PREP-W	05-13-137
388-418-0020	AMD	05-09-020	388-478-0075	PREP	05-07-095	388-513-1380	PREP	05-13-138
388-418-0025	PREP	05-13-135	388-478-0075	AMD-E	05-07-098	388-513-1380	AMD-E	05-14-075
388-418-0025	AMD-E	05-14-077	388-478-0075	PREP	05-13-135	388-515-1505	AMD	05-03-077
388-422	PREP	05-08-091	388-478-0075	AMD-P	05-14-122	388-515-1505	PREP	05-06-084
388-424	PREP	05-08-091	388-478-0075	AMD-E	05-15-082	388-515-1505	PREP	05-13-129
388-424-0006	AMD-P	05-12-134	388-478-0075	AMD	05-17-157	388-515-1505	PREP-W	05-13-130
388-424-0006	AMD	05-16-055	388-478-0080	AMD-P	05-02-091	388-515-1540	AMD-P	05-03-096
388-424-0010	PREP	05-13-135	388-478-0080	AMD	05-06-090	388-515-1540	AMD	05-11-082
388-432	PREP	05-08-091	388-478-0085	PREP	05-07-095	388-515-1550	AMD-P	05-03-096
388-434	PREP	05-08-091	388-478-0085	AMD-E	05-07-098	388-515-1550	AMD	05-11-082
388-436	PREP	05-08-091	388-478-0085	AMD-P	05-14-122	388-517	PREP	05-17-137
388-442-0010	PREP	05-13-136	388-478-0085	AMD-E	05-15-082	388-517-0300	AMD-P	05-11-076
388-442-0010	AMD-P	05-17-194	388-478-0085	AMD	05-17-157	388-517-0300	AMD	05-14-125
388-446	PREP	05-08-091	388-482	PREP	05-08-091	388-517-0310	NEW-P	05-11-076
388-448	PREP	05-08-091	388-489-0005	NEW-P	05-16-054	388-517-0310	NEW	05-14-125
388-450	PREP	05-08-091	388-489-0010	NEW-P	05-16-054	388-517-0320	NEW-P	05-11-076
388-450-0015	AMD	05-03-078	388-489-0015	NEW-P	05-16-054	388-517-0320	NEW	05-14-125
388-450-0020	PREP-W	05-02-068	388-489-0020	NEW-P	05-16-054	388-519-0100	PREP-W	05-16-065
388-450-0185	PREP	05-12-131	388-489-0025	NEW-P	05-16-054	388-519-0110	AMD-P	05-05-083
388-450-0190	PREP	05-12-131	388-492	PREP	05-08-091	388-519-0110	AMD-E	05-07-057
388-450-0195	AMD-P	05-06-085	388-492-0040	AMD-P	05-05-087	388-519-0110	AMD	05-08-093
388-450-0195	AMD	05-09-087	388-492-0040	AMD	05-08-009	388-519-0110	PREP-W	05-16-065
388-450-0195	PREP	05-12-131	388-492-0040	PREP	05-12-131	388-523-0130	PREP	05-13-135
388-450-0195	AMD-P	05-16-108	388-492-0040	AMD-P	05-15-147	388-523-0130	AMD-E	05-14-077
388-450-0200	AMD-E	05-03-079	388-492-0070	AMD-P	05-05-086	388-529	PREP	05-17-140
388-450-0200	AMD	05-05-025	388-492-0070	AMD	05-08-008	388-529	PREP-W	05-17-144
388-450-0210	PREP	05-13-135	388-492-0070	PREP	05-12-131	388-530	PREP	05-17-140
388-450-0215	AMD-P	05-13-169	388-492-0070	AMD-P	05-14-098	388-530-1280	AMD-X	05-06-095
388-450-0215	AMD	05-16-109	388-492-0070	AMD	05-17-155	388-530-1280	AMD	05-11-078
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388-454	PREP	05-08-091	388-501	PREP	05-17-140	388-531-0150	AMD-P	05-07-135
388-455	PREP	05-08-091	388-501-0135	PREP	05-06-079	388-531-0150	AMD	05-12-022
388-458	PREP	05-08-091	388-501-0165	PREP	05-08-088	388-531-0200	AMD-E	05-07-058
388-462-0015	AMD-P	05-03-081	388-501-0165	AMD-P	05-17-160	388-531-0200	AMD-P	05-07-135
388-462-0015	AMD	05-07-032	388-501-0200	PREP-W	05-02-068	388-531-0200	AMD	05-12-022
388-464	PREP	05-08-091	388-502-0220	PREP-W	05-16-066	388-531-0250	AMD-E	05-07-058
388-468	PREP	05-08-091	388-502-0230	PREP-W	05-16-066	388-531-0250	AMD-P	05-07-135

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388-531-0650	AMD-P	05-07-135	388-544-0010	NEW	05-13-038	388-550-4600	PREP	05-06-080
388-531-0650	AMD	05-12-022	388-544-0050	AMD-P	05-08-092	388-550-4600	AMD-P	05-09-085
388-531-1600	AMD-E	05-07-058	388-544-0050	AMD	05-13-038	388-550-4600	AMD	05-12-132
388-531-1600	AMD-P	05-07-135	388-544-0100	AMD-P	05-08-092	388-550-4650	NEW-P	05-09-085
388-531-1600	AMD	05-12-022	388-544-0100	AMD	05-13-038	388-550-4650	NEW	05-12-132
388-531-2000	PREP	05-13-134	388-544-0150	AMD-P	05-08-092	388-550-4800	PREP	05-06-080
388-531-2000	AMD-P	05-17-159	388-544-0150	AMD	05-13-038	388-550-4800	AMD-P	05-09-085
388-532	AMD-P	05-14-123	388-544-0200	REP-P	05-08-092	388-550-4800	AMD	05-12-132
388-532-001	AMD-P	05-14-123	388-544-0200	REP	05-13-038	388-550-4900	AMD-P	05-09-086
388-532-050	AMD-P	05-14-123	388-544-0250	AMD-P	05-08-092	388-550-4900	AMD	05-12-132
388-532-100	AMD-P	05-14-123	388-544-0250	AMD	05-13-038	388-550-5100	REP-P	05-09-086
388-532-110	AMD-P	05-14-123	388-544-0300	AMD-P	05-08-092	388-550-5100	REP	05-12-132
388-532-120	AMD-P	05-14-123	388-544-0300	AMD	05-13-038	388-550-5210	AMD-P	05-09-086
388-532-130	AMD-P	05-14-123	388-544-0350	AMD-P	05-08-092	388-550-5210	AMD	05-12-132
388-532-140	AMD-P	05-14-123	388-544-0350	AMD	05-13-038	388-550-5220	AMD-P	05-09-086
388-532-500	AMD-P	05-14-123	388-544-0350	AMD-P	05-14-121	388-550-5220	AMD	05-12-132
388-532-505	NEW-P	05-14-123	388-544-0350	AMD-E	05-14-124	388-550-5250	REP-P	05-09-086
388-532-510	AMD-P	05-14-123	388-544-0350	AMD	05-17-153	388-550-5250	REP	05-12-132
388-532-520	AMD-P	05-14-123	388-544-0400	AMD-P	05-08-092	388-550-5300	REP-P	05-09-086
388-532-530	AMD-P	05-14-123	388-544-0400	AMD	05-13-038	388-550-5300	REP	05-12-132
388-532-540	AMD-P	05-14-123	388-544-0450	AMD-P	05-08-092	388-550-5350	REP-P	05-09-086
388-532-550	AMD-P	05-14-123	388-544-0450	AMD	05-13-038	388-550-5350	REP	05-12-132
388-532-700	AMD-P	05-14-123	388-544-0475	NEW-P	05-08-092	388-550-5400	AMD-P	05-09-086
388-532-710	AMD-P	05-14-123	388-544-0475	NEW	05-13-038	388-550-5400	AMD	05-12-132
388-532-720	AMD-P	05-14-123	388-544-0500	AMD-P	05-08-092	388-550-6000	PREP	05-13-076
388-532-730	AMD-P	05-14-123	388-544-0500	AMD	05-13-038	388-550-6800	AMD-P	05-09-086
388-532-740	AMD-P	05-14-123	388-544-0550	AMD-P	05-08-092	388-550-6800	AMD	05-12-132
388-532-750	AMD-P	05-14-123	388-544-0550	AMD	05-13-038	388-550-6900	REP-P	05-09-086
388-532-760	AMD-P	05-14-123	388-544-0600	AMD-P	05-08-092	388-550-6900	REP	05-12-132
388-532-780	AMD-P	05-14-123	388-544-0600	AMD	05-13-038	388-550-7000	PREP	05-13-076
388-532-790	AMD-P	05-14-123	388-546	PREP-W	05-02-068	388-551	PREP	05-17-140
388-533	PREP	05-17-140	388-546	PREP	05-17-140	388-551-1000	AMD-P	05-15-149
388-533-0710	AMD-P	05-05-085	388-549	PREP	05-16-083	388-551-1010	AMD-P	05-15-149
388-533-0710	AMD	05-08-061	388-550	PREP-W	05-08-086	388-551-1200	AMD-P	05-15-149
388-533-0720	AMD-P	05-05-085	388-550	PREP	05-08-089	388-551-1210	AMD-P	05-15-149
388-533-0720	AMD	05-08-061	388-550	PREP	05-17-136	388-551-1300	AMD-P	05-15-149
388-533-0730	AMD-P	05-05-085	388-550	PREP	05-17-140	388-551-1305	NEW-P	05-15-149
388-533-0730	AMD	05-08-061	388-550-1350	PREP	05-13-076	388-551-1310	AMD-P	05-15-149
388-535	PREP	05-17-140	388-550-2301	NEW-E	05-07-058	388-551-1315	REP-P	05-15-150
388-535-1070	AMD-P	05-03-080	388-550-2301	NEW-P	05-07-135	388-551-1320	AMD-P	05-15-149
388-535-1070	AMD	05-06-092	388-550-2301	NEW	05-12-022	388-551-1330	AMD-P	05-15-150
388-535A	PREP	05-17-140	388-550-2600	PREP	05-08-089	388-551-1340	AMD-P	05-15-150
388-537	PREP	05-15-095	388-550-2800	AMD-E	05-07-058	388-551-1350	AMD-P	05-15-150
388-537-0100	PREP	05-15-095	388-550-2800	AMD-P	05-07-135	388-551-1360	AMD-P	05-15-150
388-538	PREP	05-04-082	388-550-2800	AMD	05-12-022	388-551-1370	NEW-P	05-15-150
388-538	PREP	05-17-140	388-550-2800	AMD-E	05-14-080	388-551-1400	AMD-P	05-15-150
388-538-063	AMD-E	05-13-073	388-550-2800	PREP	05-14-145	388-551-1410	REP-P	05-15-150
388-538-112	AMD-E	05-05-038	388-550-2800	PREP-W	05-14-146	388-551-1500	AMD-P	05-15-150
388-538-112	AMD-E	05-13-066	388-550-2900	PREP-W	05-14-146	388-551-1510	AMD-P	05-15-150
388-540	PREP	05-17-140	388-550-2900	PREP	05-16-082	388-551-1520	AMD-P	05-15-150
388-543	PREP	05-13-132	388-550-3000	AMD-P	05-07-096	388-551-1530	AMD-P	05-15-150
388-543	PREP	05-17-140	388-550-3000	AMD	05-11-077	388-551-1800	NEW-P	05-15-148
388-543-1000	PREP-W	05-13-133	388-550-3300	PREP	05-06-080	388-551-1810	NEW-P	05-15-148
388-543-1100	PREP-W	05-13-133	388-550-3300	AMD-P	05-09-085	388-551-1820	NEW-P	05-15-148
388-543-1150	PREP-W	05-13-133	388-550-3300	AMD	05-12-132	388-551-1830	NEW-P	05-15-148
388-543-1400	PREP-W	05-13-133	388-550-3800	AMD	05-06-044	388-551-1840	NEW-P	05-15-148
388-543-1500	PREP-W	05-13-133	388-550-4300	PREP	05-06-080	388-551-1850	NEW-P	05-15-148
388-543-2100	PREP-W	05-13-133	388-550-4300	AMD-P	05-09-085	388-554	PREP	05-17-140
388-543-2500	PREP-W	05-13-133	388-550-4300	AMD	05-12-132	388-554-100	NEW	05-04-059
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388-554-400	NEW	05-04-059	388-820-410	DECOD	05-05-077	388-823-0050	NEW-P	05-04-057
388-554-500	NEW	05-04-059	388-820-420	DECOD	05-05-077	388-823-0050	NEW	05-12-130
388-554-600	NEW	05-04-059	388-820-430	DECOD	05-05-077	388-823-0060	NEW-P	05-04-057
388-554-700	NEW	05-04-059	388-820-440	DECOD	05-05-077	388-823-0060	NEW	05-12-130
388-554-800	NEW	05-04-059	388-820-450	DECOD	05-05-077	388-823-0070	NEW-P	05-04-057
388-555	PREP-W	05-03-083	388-820-460	DECOD	05-05-077	388-823-0070	NEW	05-12-130
388-555-1000	REP-X	05-15-151	388-820-470	DECOD	05-05-077	388-823-0080	NEW-P	05-04-057
388-555-1050	REP-X	05-15-151	388-820-480	DECOD	05-05-077	388-823-0080	NEW	05-12-130
388-555-1100	REP-X	05-15-151	388-820-490	DECOD	05-05-077	388-823-0090	NEW-P	05-04-057
388-555-1150	REP-X	05-15-151	388-820-500	DECOD	05-05-077	388-823-0090	NEW	05-12-130
388-555-1200	REP-X	05-15-151	388-820-510	DECOD	05-05-077	388-823-0100	NEW-P	05-04-057
388-555-1250	REP-X	05-15-151	388-820-520	DECOD	05-05-077	388-823-0100	NEW	05-12-130
388-555-1300	REP-X	05-15-151	388-820-530	DECOD	05-05-077	388-823-0105	NEW-P	05-04-057
388-555-1350	REP-X	05-15-151	388-820-540	DECOD	05-05-077	388-823-0105	NEW	05-12-130
388-555-1400	REP-X	05-15-151	388-820-550	DECOD	05-05-077	388-823-0110	NEW-P	05-04-057
388-555-1450	REP-X	05-15-151	388-820-555	DECOD	05-05-077	388-823-0110	NEW	05-12-130
388-800	PREP	05-02-065	388-820-560	DECOD	05-05-077	388-823-0120	NEW-P	05-04-057
388-805	PREP	05-17-191	388-820-570	DECOD	05-05-077	388-823-0120	NEW	05-12-130
388-820-010	DECOD	05-05-077	388-820-580	DECOD	05-05-077	388-823-0130	NEW-P	05-04-057
388-820-020	DECOD	05-05-077	388-820-590	DECOD	05-05-077	388-823-0130	NEW	05-12-130
388-820-030	DECOD	05-05-077	388-820-600	DECOD	05-05-077	388-823-0140	NEW-P	05-04-057
388-820-040	DECOD	05-05-077	388-820-610	DECOD	05-05-077	388-823-0140	NEW	05-12-130
388-820-050	DECOD	05-05-077	388-820-620	DECOD	05-05-077	388-823-0150	NEW-P	05-04-057
388-820-056	DECOD	05-07-138	388-820-630	DECOD	05-05-077	388-823-0150	NEW	05-12-130
388-820-060	DECOD	05-05-077	388-820-640	DECOD	05-05-077	388-823-0160	NEW-P	05-04-057
388-820-070	DECOD	05-05-077	388-820-650	DECOD	05-05-077	388-823-0160	NEW	05-12-130
388-820-076	DECOD	05-05-077	388-820-660	DECOD	05-05-077	388-823-0170	NEW-P	05-04-057
388-820-080	DECOD	05-05-077	388-820-670	DECOD	05-05-077	388-823-0170	NEW	05-12-130
388-820-086	DECOD	05-05-077	388-820-680	DECOD	05-05-077	388-823-0200	NEW-P	05-04-057
388-820-090	DECOD	05-05-077	388-820-690	DECOD	05-05-077	388-823-0200	NEW	05-12-130
388-820-100	DECOD	05-05-077	388-820-700	DECOD	05-05-077	388-823-0210	NEW-P	05-04-057
388-820-110	DECOD	05-05-077	388-820-710	DECOD	05-05-077	388-823-0210	NEW	05-12-130
388-820-120	DECOD	05-05-077	388-820-720	DECOD	05-05-077	388-823-0215	NEW-P	05-04-057
388-820-130	DECOD	05-05-077	388-820-730	DECOD	05-07-138	388-823-0215	NEW	05-12-130
388-820-140	DECOD	05-05-077	388-820-740	DECOD	05-05-077	388-823-0220	NEW-P	05-04-057
388-820-150	DECOD	05-05-077	388-820-750	DECOD	05-05-077	388-823-0220	NEW	05-12-130
388-820-160	DECOD	05-05-077	388-820-760	DECOD	05-07-138	388-823-0230	NEW-P	05-04-057
388-820-170	DECOD	05-05-077	388-820-770	DECOD	05-07-138	388-823-0230	NEW	05-12-130
388-820-180	DECOD	05-05-077	388-820-780	DECOD	05-07-138	388-823-0300	NEW-P	05-04-057
388-820-190	DECOD	05-05-077	388-820-790	DECOD	05-07-138	388-823-0300	NEW	05-12-130
388-820-200	DECOD	05-05-077	388-820-800	DECOD	05-07-138	388-823-0310	NEW-P	05-04-057
388-820-210	DECOD	05-05-077	388-820-810	DECOD	05-07-138	388-823-0310	NEW	05-12-130
388-820-220	DECOD	05-05-077	388-820-820	DECOD	05-07-138	388-823-0320	NEW-P	05-04-057
388-820-230	DECOD	05-05-077	388-820-830	DECOD	05-07-138	388-823-0320	NEW	05-12-130
388-820-240	DECOD	05-05-077	388-820-840	DECOD	05-07-138	388-823-0330	NEW-P	05-04-057
388-820-250	DECOD	05-05-077	388-820-850	DECOD	05-07-138	388-823-0330	NEW	05-12-130
388-820-260	DECOD	05-05-077	388-820-860	DECOD	05-07-138	388-823-0400	NEW-P	05-04-057
388-820-270	DECOD	05-05-077	388-820-870	DECOD	05-07-138	388-823-0400	NEW	05-12-130
388-820-280	DECOD	05-05-077	388-820-880	DECOD	05-05-077	388-823-0410	NEW-P	05-04-057
388-820-290	DECOD	05-05-077	388-820-890	DECOD	05-05-077	388-823-0410	NEW	05-12-130
388-820-300	DECOD	05-05-077	388-820-900	DECOD	05-05-077	388-823-0420	NEW-P	05-04-057
388-820-310	DECOD	05-05-077	388-820-910	DECOD	05-05-077	388-823-0420	NEW	05-12-130
388-820-320	DECOD	05-05-077	388-820-920	DECOD	05-05-077	388-823-0500	NEW-P	05-04-057
388-820-330	DECOD	05-05-077	388-820-930	DECOD	05-05-077	388-823-0500	NEW	05-12-130
388-820-340	DECOD	05-05-077	388-823-0010	NEW-P	05-04-057	388-823-0510	NEW-P	05-04-057
388-820-350	DECOD	05-05-077	388-823-0010	NEW	05-12-130	388-823-0510	NEW	05-12-130
388-820-360	DECOD	05-05-077	388-823-0020	NEW-P	05-04-057	388-823-0515	NEW-P	05-04-057
388-820-370	DECOD	05-05-077	388-823-0020	NEW	05-12-130	388-823-0515	NEW	05-12-130
388-820-380	DECOD	05-05-077	388-823-0030	NEW-P	05-04-057	388-823-0600	NEW-P	05-04-057
388-820-390	DECOD	05-05-077	388-823-0030	NEW	05-12-130	388-823-0600	NEW	05-12-130
388-820-400	DECOD	05-05-077	388-823-0040	NEW-P	05-04-057	388-823-0610	NEW-P	05-04-057

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388-823-0615	NEW-P	05-04-057	388-824-0015	NEW-S	05-16-085	388-824-0220	NEW-P	05-09-084
388-823-0615	NEW	05-12-130	388-824-0015	NEW-E	05-17-088	388-824-0220	NEW-S	05-16-085
388-823-0700	NEW-P	05-04-057	388-824-0020	NEW-P	05-09-084	388-824-0220	NEW-E	05-17-088
388-823-0700	NEW	05-12-130	388-824-0020	NEW-S	05-16-085	388-824-0230	NEW-P	05-09-084
388-823-0710	NEW-P	05-04-057	388-824-0020	NEW-E	05-17-088	388-824-0230	NEW-S	05-16-085
388-823-0710	NEW	05-12-130	388-824-0025	NEW-S	05-16-085	388-824-0230	NEW-E	05-17-088
388-823-0800	NEW-P	05-04-057	388-824-0025	NEW-E	05-17-088	388-824-0240	NEW-P	05-09-084
388-823-0800	NEW	05-12-130	388-824-0030	NEW-P	05-09-084	388-824-0240	NEW-S	05-16-085
388-823-0810	NEW-P	05-04-057	388-824-0030	NEW-S	05-16-085	388-824-0240	NEW-E	05-17-088
388-823-0810	NEW	05-12-130	388-824-0030	NEW-E	05-17-088	388-824-0250	NEW-P	05-09-084
388-823-0820	NEW-P	05-04-057	388-824-0040	NEW-P	05-09-084	388-824-0250	NEW-W	05-16-031
388-823-0820	NEW	05-12-130	388-824-0040	NEW-S	05-16-085	388-824-0260	NEW-P	05-09-084
388-823-0830	NEW-P	05-04-057	388-824-0040	NEW-E	05-17-088	388-824-0260	NEW-S	05-16-085
388-823-0830	NEW	05-12-130	388-824-0050	NEW-P	05-09-084	388-824-0260	NEW-E	05-17-088
388-823-0840	NEW-P	05-04-057	388-824-0050	NEW-S	05-16-085	388-824-0270	NEW-P	05-09-084
388-823-0840	NEW	05-12-130	388-824-0050	NEW-E	05-17-088	388-824-0270	NEW-W	05-16-031
388-823-0850	NEW-P	05-04-057	388-824-0055	NEW-S	05-16-085	388-824-0280	NEW-P	05-09-084
388-823-0850	NEW	05-12-130	388-824-0055	NEW-E	05-17-088	388-824-0280	NEW-S	05-16-085
388-823-0900	NEW-P	05-04-057	388-824-0060	NEW-P	05-09-084	388-824-0280	NEW-E	05-17-088
388-823-0900	NEW	05-12-130	388-824-0060	NEW-S	05-16-085	388-824-0290	NEW-P	05-09-084
388-823-0910	NEW-P	05-04-057	388-824-0060	NEW-E	05-17-088	388-824-0290	NEW-S	05-16-085
388-823-0910	NEW	05-12-130	388-824-0065	NEW-S	05-16-085	388-824-0290	NEW-E	05-17-088
388-823-0920	NEW-P	05-04-057	388-824-0065	NEW-E	05-17-088	388-824-0300	NEW-P	05-09-084
388-823-0920	NEW	05-12-130	388-824-0070	NEW-P	05-09-084	388-824-0300	NEW-W	05-16-031
388-823-0930	NEW-P	05-04-057	388-824-0070	NEW-S	05-16-085	388-824-0310	NEW-P	05-09-084
388-823-0930	NEW	05-12-130	388-824-0070	NEW-E	05-17-088	388-824-0310	NEW-S	05-16-085
388-823-0940	NEW-P	05-04-057	388-824-0080	NEW-P	05-09-084	388-824-0310	NEW-E	05-17-088
388-823-0940	NEW	05-12-130	388-824-0080	NEW-S	05-16-085	388-824-0320	NEW-P	05-09-084
388-823-1000	NEW-P	05-04-057	388-824-0080	NEW-E	05-17-088	388-824-0320	NEW-S	05-16-085
388-823-1000	NEW	05-12-130	388-824-0090	NEW-P	05-09-084	388-824-0320	NEW-E	05-17-088
388-823-1005	NEW-P	05-04-057	388-824-0090	NEW-S	05-16-085	388-824-0330	NEW-P	05-09-084
388-823-1005	NEW	05-12-130	388-824-0090	NEW-E	05-17-088	388-824-0330	NEW-S	05-16-085
388-823-1010	NEW-P	05-04-057	388-824-0100	NEW-P	05-09-084	388-824-0330	NEW-E	05-17-088
388-823-1010	NEW	05-12-130	388-824-0100	NEW-S	05-16-085	388-825	PREP	05-13-174
388-823-1015	NEW-P	05-04-057	388-824-0100	NEW-E	05-17-088	388-825-030	REP-P	05-04-057
388-823-1015	NEW	05-12-130	388-824-0110	NEW-P	05-09-084	388-825-030	AMD-E	05-07-081
388-823-1020	NEW-P	05-04-057	388-824-0110	NEW-W	05-16-031	388-825-030	REP	05-12-130
388-823-1020	NEW	05-12-130	388-824-0120	NEW-P	05-09-084	388-825-035	REP-P	05-04-057
388-823-1030	NEW-P	05-04-057	388-824-0120	NEW-S	05-16-085	388-825-035	REP	05-12-130
388-823-1030	NEW	05-12-130	388-824-0120	NEW-E	05-17-088	388-825-040	REP-P	05-04-057
388-823-1040	NEW-P	05-04-057	388-824-0130	NEW-P	05-09-084	388-825-040	REP	05-12-130
388-823-1040	NEW	05-12-130	388-824-0130	NEW-W	05-16-031	388-825-055	AMD-P	05-05-084
388-823-1050	NEW-P	05-04-057	388-824-0140	NEW-P	05-09-084	388-825-055	AMD-E	05-09-019
388-823-1050	NEW	05-12-130	388-824-0140	NEW-S	05-16-085	388-825-055	AMD	05-11-015
388-823-1060	NEW-P	05-04-057	388-824-0140	NEW-E	05-17-088	388-825-060	REP-P	05-05-084
388-823-1060	NEW	05-12-130	388-824-0150	NEW-P	05-09-084	388-825-060	REP-E	05-09-019
388-823-1070	NEW-P	05-04-057	388-824-0150	NEW-W	05-16-031	388-825-060	REP	05-11-015
388-823-1070	NEW	05-12-130	388-824-0160	NEW-P	05-09-084	388-825-064	REP-P	05-05-084
388-823-1080	NEW-P	05-04-057	388-824-0160	NEW-W	05-16-031	388-825-064	REP-E	05-09-019
388-823-1080	NEW	05-12-130	388-824-0170	NEW-P	05-09-084	388-825-064	REP	05-11-015
388-823-1090	NEW-P	05-04-057	388-824-0170	NEW-S	05-16-085	388-825-070	REP-P	05-05-084
388-823-1090	NEW	05-12-130	388-824-0170	NEW-E	05-17-088	388-825-070	REP-E	05-09-019
388-823-1095	NEW-P	05-04-057	388-824-0180	NEW-P	05-09-084	388-825-070	REP	05-11-015
388-823-1095	NEW	05-12-130	388-824-0180	NEW-W	05-16-031	388-825-075	REP-P	05-05-084
388-823-1100	NEW-P	05-04-057	388-824-0190	NEW-P	05-09-084	388-825-075	REP-E	05-09-019
388-823-1100	NEW	05-12-130	388-824-0190	NEW-S	05-16-085	388-825-075	REP	05-11-015
388-824-0001	NEW-P	05-09-084	388-824-0190	NEW-E	05-17-088	388-825-076	REP-P	05-05-084
388-824-0001	NEW-S	05-16-085	388-824-0200	NEW-P	05-09-084	388-825-076	REP-E	05-09-019
388-824-0001	NEW-E	05-17-088	388-824-0200	NEW-W	05-16-031	388-825-076	REP	05-11-015
388-824-0010	NEW-P	05-09-084	388-824-0210	NEW-P	05-09-084	388-825-077	REP-P	05-05-084
388-824-0010	NEW-S	05-16-085	388-824-0210	NEW-S	05-16-085	388-825-077	REP-E	05-09-019

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-825-077	REP	05-11-015	388-825-170	REP-E	05-07-075	388-825-284	REP-E	05-15-046
388-825-078	REP-P	05-05-084	388-825-170	REP-P	05-13-041	388-825-284	REP	05-17-135
388-825-078	REP-E	05-09-019	388-825-170	REP-E	05-15-046	388-825-300	NEW-E	05-07-075
388-825-078	REP	05-11-015	388-825-170	REP	05-17-135	388-825-300	NEW-P	05-13-041
388-825-085	REP-P	05-05-084	388-825-180	REP-E	05-07-075	388-825-300	NEW-E	05-15-046
388-825-085	REP-E	05-09-019	388-825-180	REP-P	05-13-041	388-825-300	NEW	05-17-135
388-825-085	REP	05-11-015	388-825-180	REP-E	05-15-046	388-825-305	NEW-E	05-07-075
388-825-086	REP-P	05-05-084	388-825-180	REP	05-17-135	388-825-305	NEW-P	05-13-041
388-825-086	REP-E	05-09-019	388-825-190	REP-E	05-07-075	388-825-305	NEW-E	05-15-046
388-825-086	REP	05-11-015	388-825-190	REP-P	05-13-041	388-825-305	NEW	05-17-135
388-825-087	REP-P	05-05-084	388-825-190	REP-E	05-15-046	388-825-310	NEW-E	05-07-075
388-825-087	REP-E	05-09-019	388-825-190	REP	05-17-135	388-825-310	NEW-P	05-13-041
388-825-087	REP	05-11-015	388-825-228	PREP	05-15-094	388-825-310	NEW-E	05-15-046
388-825-090	REP-P	05-05-084	388-825-228	AMD-E	05-15-153	388-825-310	NEW	05-17-135
388-825-090	REP-E	05-09-019	388-825-254	PREP	05-15-094	388-825-315	NEW-E	05-07-075
388-825-090	REP	05-11-015	388-825-254	AMD-E	05-15-153	388-825-315	NEW-P	05-13-041
388-825-095	REP-P	05-05-084	388-825-260	REP-E	05-07-075	388-825-315	NEW-E	05-15-046
388-825-095	REP-E	05-09-019	388-825-260	REP-P	05-13-041	388-825-315	NEW	05-17-135
388-825-095	REP	05-11-015	388-825-260	REP-E	05-15-046	388-825-316	NEW-E	05-07-075
388-825-103	AMD-P	05-05-084	388-825-260	REP	05-17-135	388-825-316	NEW-P	05-13-041
388-825-103	AMD-E	05-09-019	388-825-262	REP-E	05-07-075	388-825-316	NEW-E	05-15-046
388-825-103	AMD	05-11-015	388-825-262	REP-P	05-13-041	388-825-316	NEW	05-17-135
388-825-120	AMD-E	05-07-075	388-825-262	REP-E	05-15-046	388-825-320	NEW-E	05-07-075
388-825-120	AMD-P	05-13-041	388-825-262	REP	05-17-135	388-825-320	NEW-P	05-13-041
388-825-120	AMD-E	05-15-046	388-825-264	REP-E	05-07-075	388-825-320	NEW-E	05-15-046
388-825-120	AMD	05-17-135	388-825-264	REP-P	05-13-041	388-825-320	NEW	05-17-135
388-825-125	NEW-E	05-07-075	388-825-264	REP-E	05-15-046	388-825-325	NEW-E	05-07-075
388-825-125	NEW-P	05-13-041	388-825-264	REP	05-17-135	388-825-325	NEW-P	05-13-041
388-825-125	NEW-E	05-15-046	388-825-266	REP-E	05-07-075	388-825-325	NEW-E	05-15-046
388-825-125	NEW	05-17-135	388-825-266	REP-P	05-13-041	388-825-325	NEW	05-17-135
388-825-130	NEW-E	05-07-075	388-825-266	REP-E	05-15-046	388-825-330	NEW-E	05-07-075
388-825-130	NEW-P	05-13-041	388-825-266	REP	05-17-135	388-825-330	NEW-P	05-13-041
388-825-130	NEW-E	05-15-046	388-825-268	REP-E	05-07-075	388-825-330	NEW-E	05-15-046
388-825-130	NEW	05-17-135	388-825-268	REP-P	05-13-041	388-825-330	NEW	05-17-135
388-825-135	NEW-E	05-07-075	388-825-268	REP-E	05-15-046	388-825-335	NEW-E	05-07-075
388-825-135	NEW-P	05-13-041	388-825-268	REP	05-17-135	388-825-335	NEW-P	05-13-041
388-825-135	NEW-E	05-15-046	388-825-270	REP-E	05-07-075	388-825-335	NEW-E	05-15-046
388-825-135	NEW	05-17-135	388-825-270	REP-P	05-13-041	388-825-335	NEW	05-17-135
388-825-140	NEW-E	05-07-075	388-825-270	REP-E	05-15-046	388-825-340	NEW-E	05-07-075
388-825-140	NEW-P	05-13-041	388-825-270	REP	05-17-135	388-825-340	NEW-P	05-13-041
388-825-140	NEW-E	05-15-046	388-825-272	REP-E	05-07-075	388-825-340	NEW-E	05-15-046
388-825-140	NEW	05-17-135	388-825-272	REP-P	05-13-041	388-825-340	NEW	05-17-135
388-825-145	NEW-E	05-07-075	388-825-272	REP-E	05-15-046	388-825-345	NEW-E	05-07-075
388-825-145	NEW-P	05-13-041	388-825-272	REP	05-17-135	388-825-345	NEW-P	05-13-041
388-825-145	NEW-E	05-15-046	388-825-276	REP-E	05-07-075	388-825-345	NEW-E	05-15-046
388-825-145	NEW	05-17-135	388-825-276	REP-P	05-13-041	388-825-345	NEW	05-17-135
388-825-150	NEW-E	05-07-075	388-825-276	REP-E	05-15-046	388-825-355	NEW-E	05-07-075
388-825-150	NEW-P	05-13-041	388-825-276	REP	05-17-135	388-825-355	NEW-P	05-13-041
388-825-150	NEW-E	05-15-046	388-825-278	REP-E	05-07-075	388-825-355	NEW-E	05-15-046
388-825-150	NEW	05-17-135	388-825-278	REP-P	05-13-041	388-825-355	NEW	05-17-135
388-825-155	NEW-E	05-07-075	388-825-278	REP-E	05-15-046	388-825-360	NEW-E	05-07-075
388-825-155	NEW-P	05-13-041	388-825-278	REP	05-17-135	388-825-360	NEW-P	05-13-041
388-825-155	NEW-E	05-15-046	388-825-280	REP-E	05-07-075	388-825-360	NEW-E	05-15-046
388-825-155	NEW	05-17-135	388-825-280	REP-P	05-13-041	388-825-360	NEW	05-17-135
388-825-160	NEW-E	05-07-075	388-825-280	REP-E	05-15-046	388-825-365	NEW-E	05-07-075
388-825-160	NEW-P	05-13-041	388-825-280	REP	05-17-135	388-825-365	NEW-P	05-13-041
388-825-160	NEW-E	05-15-046	388-825-282	REP-E	05-07-075	388-825-365	NEW-E	05-15-046
388-825-160	NEW	05-17-135	388-825-282	REP-P	05-13-041	388-825-365	NEW	05-17-135
388-825-165	NEW-E	05-07-075	388-825-282	REP-E	05-15-046	388-825-370	NEW-E	05-07-075
388-825-165	NEW-P	05-13-041	388-825-282	REP	05-17-135	388-825-370	NEW-P	05-13-041
388-825-165	NEW-E	05-15-046	388-825-284	REP-E	05-07-075	388-825-370	NEW-E	05-15-046
388-825-165	NEW	05-17-135	388-825-284	REP-P	05-13-041	388-825-370	NEW	05-17-135

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-825-375	NEW-E	05-07-075	388-845-0035	NEW-E	05-12-026	388-845-0120	NEW-P	05-17-055
388-825-375	NEW-P	05-13-041	388-845-0035	NEW-P	05-17-055	388-845-0200	NEW-E	05-04-020
388-825-375	NEW-E	05-15-046	388-845-0040	NEW-E	05-04-020	388-845-0200	NEW-E	05-12-026
388-825-375	NEW	05-17-135	388-845-0040	NEW-E	05-12-026	388-845-0200	NEW-P	05-17-055
388-825-380	NEW-E	05-07-075	388-845-0040	NEW-P	05-17-055	388-845-0205	NEW-E	05-04-020
388-825-380	NEW-P	05-13-041	388-845-0041	NEW-E	05-04-020	388-845-0205	NEW-E	05-12-026
388-825-380	NEW-E	05-15-046	388-845-0041	NEW-E	05-12-026	388-845-0205	NEW-P	05-17-055
388-825-380	NEW	05-17-135	388-845-0041	NEW-P	05-17-055	388-845-0210	NEW-E	05-04-020
388-825-381	NEW-E	05-07-075	388-845-0045	NEW-E	05-04-020	388-845-0210	NEW-E	05-12-026
388-825-381	NEW-P	05-13-041	388-845-0045	NEW-E	05-12-026	388-845-0210	NEW-P	05-17-055
388-825-381	NEW-E	05-15-046	388-845-0045	NEW-P	05-17-055	388-845-0215	NEW-E	05-04-020
388-825-381	NEW	05-17-135	388-845-0050	NEW-E	05-04-020	388-845-0215	NEW-E	05-12-026
388-825-385	NEW-E	05-07-075	388-845-0050	NEW-E	05-12-026	388-845-0215	NEW-P	05-17-055
388-825-385	NEW-P	05-13-041	388-845-0050	NEW-P	05-17-055	388-845-0220	NEW-E	05-04-020
388-825-385	NEW-E	05-15-046	388-845-0051	NEW-E	05-04-020	388-845-0220	NEW-E	05-12-026
388-825-385	NEW	05-17-135	388-845-0051	NEW-E	05-12-026	388-845-0220	NEW-P	05-17-055
388-825-390	NEW-E	05-07-075	388-845-0051	NEW-P	05-17-055	388-845-0300	NEW-E	05-04-020
388-825-390	NEW-P	05-13-041	388-845-0055	NEW-E	05-04-020	388-845-0300	NEW-E	05-12-026
388-825-390	NEW-E	05-15-046	388-845-0055	NEW-E	05-12-026	388-845-0300	NEW-P	05-17-055
388-825-390	NEW	05-17-135	388-845-0055	NEW-P	05-17-055	388-845-0305	NEW-E	05-04-020
388-825-395	NEW-E	05-07-075	388-845-0056	NEW-E	05-04-020	388-845-0305	NEW-E	05-12-026
388-825-395	NEW-P	05-13-041	388-845-0060	NEW-E	05-04-020	388-845-0305	NEW-P	05-17-055
388-825-395	NEW-E	05-15-046	388-845-0060	NEW-E	05-12-026	388-845-0310	NEW-E	05-04-020
388-825-395	NEW	05-17-135	388-845-0060	NEW-P	05-17-055	388-845-0310	NEW-E	05-12-026
388-825-396	NEW-E	05-07-075	388-845-0065	NEW-E	05-04-020	388-845-0310	NEW-P	05-17-055
388-825-396	NEW-P	05-13-041	388-845-0065	NEW-E	05-12-026	388-845-0400	NEW-E	05-04-020
388-825-396	NEW-E	05-15-046	388-845-0065	NEW-P	05-17-055	388-845-0400	NEW-E	05-12-026
388-825-396	NEW	05-17-135	388-845-0070	NEW-E	05-04-020	388-845-0400	NEW-P	05-17-055
388-825-400	NEW-E	05-07-075	388-845-0070	NEW-E	05-12-026	388-845-0405	NEW-E	05-04-020
388-825-400	NEW-P	05-13-041	388-845-0070	NEW-P	05-17-055	388-845-0405	NEW-E	05-12-026
388-825-400	NEW-E	05-15-046	388-845-0075	NEW-E	05-04-020	388-845-0405	NEW-P	05-17-055
388-825-400	NEW	05-17-135	388-845-0075	NEW-E	05-12-026	388-845-0410	NEW-E	05-04-020
388-827	PREP-W	05-02-066	388-845-0075	NEW-P	05-17-055	388-845-0410	NEW-E	05-12-026
388-827	PREP	05-02-067	388-845-0080	NEW-E	05-04-020	388-845-0410	NEW-P	05-17-055
388-827-0115	AMD-E	05-05-023	388-845-0080	NEW-E	05-12-026	388-845-0500	NEW-E	05-04-020
388-827-0115	AMD-P	05-06-087	388-845-0080	NEW-P	05-17-055	388-845-0500	NEW-E	05-12-026
388-827-0115	AMD	05-10-039	388-845-0085	NEW-E	05-04-020	388-845-0500	NEW-P	05-17-055
388-827-0145	AMD-E	05-05-023	388-845-0085	NEW-E	05-12-026	388-845-0505	NEW-E	05-04-020
388-827-0145	AMD-P	05-06-087	388-845-0085	NEW-P	05-17-055	388-845-0505	NEW-E	05-12-026
388-827-0145	AMD	05-10-039	388-845-0090	NEW-E	05-04-020	388-845-0505	NEW-P	05-17-055
388-828	PREP	05-17-138	388-845-0090	NEW-E	05-12-026	388-845-0510	NEW-E	05-04-020
388-845-0001	NEW-E	05-12-026	388-845-0090	NEW-P	05-17-055	388-845-0510	NEW-E	05-12-026
388-845-0001	NEW-P	05-17-055	388-845-0095	NEW-E	05-04-020	388-845-0510	NEW-P	05-17-055
388-845-0005	NEW-E	05-04-020	388-845-0095	NEW-E	05-12-026	388-845-0600	NEW-E	05-04-020
388-845-0005	NEW-E	05-12-026	388-845-0095	NEW-P	05-17-055	388-845-0600	NEW-E	05-12-026
388-845-0005	NEW-P	05-17-055	388-845-0096	NEW-E	05-04-020	388-845-0600	NEW-P	05-17-055
388-845-0010	NEW-E	05-04-020	388-845-0096	NEW-E	05-12-026	388-845-0605	NEW-E	05-04-020
388-845-0010	NEW-E	05-12-026	388-845-0096	NEW-P	05-17-055	388-845-0605	NEW-E	05-12-026
388-845-0010	NEW-P	05-17-055	388-845-0100	NEW-E	05-04-020	388-845-0605	NEW-P	05-17-055
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388-845-0015	NEW-E	05-12-026	388-845-0100	NEW-P	05-17-055	388-845-0610	NEW-E	05-12-026
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415-112-490	AMD-P	05-09-055	434-215-015	NEW-P	05-14-171	434-238-010	REP	05-17-145
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415-112-610	AMD	05-12-108	434-220-060	NEW-E	05-16-012	434-238-110	REP	05-17-145
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434-240-180	REP	05-17-145	434-250-310	NEW	05-17-145	434-253-210	REP	05-17-145
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434-240-245	REP	05-17-145	434-253-043	REP-P	05-14-172	434-260-040	AMD	05-17-145
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434-261-090	REP-P	05-14-172	434-262-160	AMD-P	05-14-171	434-333-080	NEW-E	05-14-170
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434-262-012	NEW-P	05-14-171	434-333-020	AMD-E	05-05-033	434-333-125	REP-P	05-05-034
434-262-012	RESCIND	05-15-102	434-333-020	REP-P	05-05-034	434-333-125	AMD-E	05-14-170
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434-333-155	AMD-E	05-14-170	434-333-300	NEW-E	05-14-170	434-335-620	NEW-P	05-05-034
434-333-160	AMD-E	05-05-033	434-335-010	NEW-P	05-05-034	434-335-630	NEW-P	05-05-034
434-333-160	REP-P	05-05-034	434-335-020	NEW-P	05-05-034	434-335-640	NEW-P	05-05-034
434-333-160	AMD-E	05-14-170	434-335-030	NEW-P	05-05-034	434-379-005	NEW-P	05-09-047
434-333-165	AMD-E	05-05-033	434-335-040	NEW-P	05-05-034	434-379-005	NEW	05-12-116
434-333-165	REP-P	05-05-034	434-335-050	NEW-P	05-05-034	434-379-007	NEW-P	05-09-047
434-333-165	AMD-E	05-14-170	434-335-060	NEW-P	05-05-034	434-379-007	NEW	05-12-116
434-333-170	AMD-E	05-05-033	434-335-070	NEW-P	05-05-034	434-379-010	AMD-P	05-09-047
434-333-170	REP-P	05-05-034	434-335-080	NEW-P	05-05-034	434-379-010	AMD	05-12-116
434-333-170	AMD-E	05-14-170	434-335-090	NEW-P	05-05-034	434-379-020	NEW-P	05-09-047
434-333-175	AMD-E	05-05-033	434-335-100	NEW-P	05-05-034	434-379-020	NEW	05-12-116
434-333-175	REP-P	05-05-034	434-335-110	NEW-P	05-05-034	434-381-120	AMD-E	05-11-101
434-333-175	AMD-E	05-14-170	434-335-120	NEW-P	05-05-034	434-381-120	AMD-P	05-14-171
434-333-180	NEW-E	05-05-033	434-335-130	NEW-P	05-05-034	434-381-120	RESCIND	05-15-102
434-333-180	NEW-E	05-14-170	434-335-140	NEW-P	05-05-034	434-381-120	AMD-W	05-15-104
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434-333-185	NEW-E	05-14-170	434-335-160	NEW-P	05-05-034	434-840-020	AMD	05-13-059
434-333-190	NEW-E	05-05-033	434-335-170	NEW-P	05-05-034	434-840-030	AMD	05-13-059
434-333-190	NEW-E	05-14-170	434-335-180	NEW-P	05-05-034	434-840-040	AMD	05-13-059
434-333-195	NEW-E	05-05-033	434-335-190	NEW-P	05-05-034	434-840-070	AMD	05-13-059
434-333-195	NEW-E	05-14-170	434-335-200	NEW-P	05-05-034	434-840-080	AMD	05-13-059
434-333-200	NEW-E	05-05-033	434-335-210	NEW-P	05-05-034	434-840-110	AMD	05-13-059
434-333-200	NEW-E	05-14-170	434-335-220	NEW-P	05-05-034	434-840-310	AMD	05-13-059
434-333-205	NEW-E	05-05-033	434-335-230	NEW-P	05-05-034	434-840-320	AMD	05-13-059
434-333-205	NEW-E	05-14-170	434-335-240	NEW-P	05-05-034	434-840-330	AMD	05-13-059
434-333-210	NEW-E	05-05-033	434-335-250	NEW-P	05-05-034	446- 20-600	AMD	05-03-034
434-333-210	NEW-E	05-14-170	434-335-260	NEW-P	05-05-034	446- 20-610	AMD-P	05-03-036
434-333-215	NEW-E	05-05-033	434-335-270	NEW-P	05-05-034	446- 20-610	AMD	05-07-141
434-333-215	NEW-E	05-14-170	434-335-280	NEW-P	05-05-034	446- 20-630	AMD-P	05-03-035
434-333-220	NEW-E	05-05-033	434-335-290	NEW-P	05-05-034	446- 20-630	AMD	05-07-157
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434-333-225	NEW-E	05-14-170	434-335-320	NEW-P	05-05-034	446- 65-010	AMD-P	05-17-129
434-333-230	NEW-E	05-05-033	434-335-330	NEW-P	05-05-034	456- 09-001	NEW-P	05-09-125
434-333-230	NEW-E	05-14-170	434-335-340	NEW-P	05-05-034	456- 09-001	NEW	05-13-141
434-333-235	NEW-E	05-05-033	434-335-350	NEW-P	05-05-034	456- 09-010	AMD-P	05-09-125
434-333-235	NEW-E	05-14-170	434-335-360	NEW-P	05-05-034	456- 09-010	AMD	05-13-141
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434-333-240	NEW-E	05-14-170	434-335-380	NEW-P	05-05-034	456- 09-110	AMD	05-13-141
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434-333-245	NEW-E	05-14-170	434-335-400	NEW-P	05-05-034	456- 09-120	AMD	05-13-141
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434-333-250	NEW-E	05-14-170	434-335-420	NEW-P	05-05-034	456- 09-130	AMD	05-13-141
434-333-255	NEW-E	05-05-033	434-335-430	NEW-P	05-05-034	456- 09-140	AMD-P	05-09-125
434-333-255	NEW-E	05-14-170	434-335-440	NEW-P	05-05-034	456- 09-140	AMD	05-13-141
434-333-260	NEW-E	05-05-033	434-335-450	NEW-P	05-05-034	456- 09-150	REP-X	05-15-123
434-333-260	NEW-E	05-14-170	434-335-460	NEW-P	05-05-034	456- 09-160	REP-P	05-09-125
434-333-265	NEW-E	05-05-033	434-335-470	NEW-P	05-05-034	456- 09-160	REP	05-13-141
434-333-265	NEW-E	05-14-170	434-335-480	NEW-P	05-05-034	456- 09-170	REP-P	05-09-125
434-333-270	NEW-E	05-05-033	434-335-490	NEW-P	05-05-034	456- 09-170	REP	05-13-141
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434-333-275	NEW-E	05-05-033	434-335-510	NEW-P	05-05-034	456- 09-210	AMD	05-13-141
434-333-275	NEW-E	05-14-170	434-335-520	NEW-P	05-05-034	456- 09-215	NEW-P	05-09-125
434-333-280	NEW-E	05-05-033	434-335-530	NEW-P	05-05-034	456- 09-215	NEW	05-13-141
434-333-280	NEW-E	05-14-170	434-335-540	NEW-P	05-05-034	456- 09-220	AMD-P	05-09-125
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434-333-285	NEW-E	05-14-170	434-335-560	NEW-P	05-05-034	456- 09-300	NEW-P	05-09-125
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434-333-290	NEW-E	05-14-170	434-335-580	NEW-P	05-05-034	456- 09-310	AMD-P	05-09-125
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456-09-320	REP	05-13-141	456-09-640	REP	05-13-141	456-09-960	AMD	05-13-141
456-09-325	AMD-P	05-09-125	456-09-645	REP-P	05-09-125	456-10-001	NEW-P	05-09-125
456-09-325	AMD	05-13-141	456-09-645	REP	05-13-141	456-10-001	NEW	05-13-141
456-09-330	AMD-P	05-09-125	456-09-650	REP-P	05-09-125	456-10-010	AMD-P	05-09-125
456-09-330	AMD	05-13-141	456-09-650	REP	05-13-141	456-10-010	AMD	05-13-141
456-09-335	AMD-P	05-09-125	456-09-655	REP-P	05-09-125	456-10-110	AMD-P	05-09-125
456-09-335	AMD	05-13-141	456-09-655	REP	05-13-141	456-10-110	AMD	05-13-141
456-09-340	AMD-P	05-09-125	456-09-705	REP-P	05-09-125	456-10-120	AMD-P	05-09-125
456-09-340	AMD	05-13-141	456-09-705	REP	05-13-141	456-10-120	AMD	05-13-141
456-09-345	AMD-P	05-09-125	456-09-710	REP-P	05-09-125	456-10-130	REP-P	05-09-125
456-09-345	AMD	05-13-141	456-09-710	REP	05-13-141	456-10-130	REP	05-13-141
456-09-350	REP-P	05-09-125	456-09-715	REP-P	05-09-125	456-10-140	AMD-P	05-09-125
456-09-350	REP	05-13-141	456-09-715	REP	05-13-141	456-10-140	AMD	05-13-141
456-09-355	REP-P	05-09-125	456-09-720	REP-P	05-09-125	456-10-150	AMD-P	05-09-125
456-09-355	REP	05-13-141	456-09-720	REP	05-13-141	456-10-150	AMD	05-13-141
456-09-360	REP-X	05-15-123	456-09-725	REP-P	05-09-125	456-10-160	AMD-P	05-09-125
456-09-365	REP-P	05-09-125	456-09-725	REP	05-13-141	456-10-160	AMD	05-13-141
456-09-365	REP	05-13-141	456-09-730	REP-P	05-09-125	456-10-170	REP-P	05-09-125
456-09-410	REP-P	05-09-125	456-09-730	REP	05-13-141	456-10-170	REP	05-13-141
456-09-410	REP	05-13-141	456-09-732	REP-P	05-09-125	456-10-180	REP-P	05-09-125
456-09-420	REP-P	05-09-125	456-09-732	REP	05-13-141	456-10-180	REP	05-13-141
456-09-420	REP	05-13-141	456-09-735	REP-P	05-09-125	456-10-210	AMD-P	05-09-125
456-09-430	REP-P	05-09-125	456-09-735	REP	05-13-141	456-10-210	AMD	05-13-141
456-09-430	REP	05-13-141	456-09-740	AMD-P	05-09-125	456-10-215	NEW-P	05-09-125
456-09-440	REP-P	05-09-125	456-09-740	AMD	05-13-141	456-10-215	NEW	05-13-141
456-09-440	REP	05-13-141	456-09-742	AMD-P	05-09-125	456-10-220	AMD-P	05-09-125
456-09-510	AMD-P	05-09-125	456-09-742	AMD	05-13-141	456-10-220	AMD	05-13-141
456-09-510	AMD	05-13-141	456-09-745	AMD-P	05-09-125	456-10-300	NEW-P	05-09-125
456-09-520	AMD-P	05-09-125	456-09-745	AMD	05-13-141	456-10-300	NEW	05-13-141
456-09-520	AMD	05-13-141	456-09-750	AMD-P	05-09-125	456-10-310	AMD-P	05-09-125
456-09-530	AMD-P	05-09-125	456-09-750	AMD	05-13-141	456-10-310	AMD	05-13-141
456-09-530	AMD	05-13-141	456-09-755	AMD-P	05-09-125	456-10-315	AMD-P	05-09-125
456-09-540	AMD-P	05-09-125	456-09-755	AMD	05-13-141	456-10-315	AMD	05-13-141
456-09-540	AMD	05-13-141	456-09-760	REP-P	05-09-125	456-10-320	REP-P	05-09-125
456-09-545	NEW-P	05-09-125	456-09-760	REP	05-13-141	456-10-320	REP	05-13-141
456-09-545	NEW	05-13-141	456-09-765	AMD-P	05-09-125	456-10-325	AMD-P	05-09-125
456-09-550	AMD-P	05-09-125	456-09-765	AMD	05-13-141	456-10-325	AMD	05-13-141
456-09-550	AMD	05-13-141	456-09-770	REP-P	05-09-125	456-10-330	AMD-P	05-09-125
456-09-552	NEW-P	05-09-125	456-09-770	REP	05-13-141	456-10-330	AMD	05-13-141
456-09-552	NEW	05-13-141	456-09-775	REP-P	05-09-125	456-10-335	AMD-P	05-09-125
456-09-555	NEW-P	05-09-125	456-09-775	REP	05-13-141	456-10-335	AMD	05-13-141
456-09-555	NEW	05-13-141	456-09-910	AMD-P	05-09-125	456-10-340	REP-P	05-09-125
456-09-560	AMD-P	05-09-125	456-09-910	AMD	05-13-141	456-10-340	REP	05-13-141
456-09-560	AMD	05-13-141	456-09-915	AMD-P	05-09-125	456-10-345	REP-P	05-09-125
456-09-565	NEW-P	05-09-125	456-09-915	AMD	05-13-141	456-10-345	REP	05-13-141
456-09-565	NEW	05-13-141	456-09-920	AMD-P	05-09-125	456-10-355	REP-P	05-09-125
456-09-570	AMD-P	05-09-125	456-09-920	AMD	05-13-141	456-10-355	REP	05-13-141
456-09-570	AMD	05-13-141	456-09-925	AMD-P	05-09-125	456-10-360	REP-P	05-09-125
456-09-575	NEW-P	05-09-125	456-09-925	AMD	05-13-141	456-10-360	REP	05-13-141
456-09-575	NEW	05-13-141	456-09-930	AMD-P	05-09-125	456-10-410	AMD-P	05-09-125
456-09-610	REP-P	05-09-125	456-09-930	AMD	05-13-141	456-10-410	AMD	05-13-141
456-09-610	REP	05-13-141	456-09-935	REP-P	05-09-125	456-10-420	REP-P	05-09-125
456-09-615	REP-P	05-09-125	456-09-935	REP	05-13-141	456-10-420	REP	05-13-141
456-09-615	REP	05-13-141	456-09-940	REP-P	05-09-125	456-10-430	REP-P	05-09-125
456-09-620	REP-P	05-09-125	456-09-940	REP	05-13-141	456-10-430	REP	05-13-141
456-09-620	REP	05-13-141	456-09-945	REP-P	05-09-125	456-10-440	REP-P	05-09-125
456-09-625	REP-P	05-09-125	456-09-945	REP	05-13-141	456-10-440	REP	05-13-141
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456- 10-503	NEW	05-13-141	458- 20-144	AMD-E	05-14-091	458- 61-220	REP-P	05-17-041
456- 10-505	AMD-P	05-09-125	458- 20-165	AMD-E	05-14-103	458- 61-225	REP-P	05-17-041
456- 10-505	AMD	05-13-141	458- 20-165	AMD-X	05-15-084	458- 61-230	REP-P	05-17-041
456- 10-507	NEW-P	05-09-125	458- 20-166	AMD-E	05-14-088	458- 61-235	REP-P	05-17-041
456- 10-507	NEW	05-13-141	458- 20-168	AMD-P	05-06-019	458- 61-250	REP-P	05-17-041
456- 10-510	AMD-P	05-09-125	458- 20-168	AMD	05-14-090	458- 61-255	REP-P	05-17-041
456- 10-510	AMD	05-13-141	458- 20-173	PREP	05-12-138	458- 61-290	REP-P	05-17-041
456- 10-515	AMD-P	05-09-125	458- 20-177	AMD-P	05-06-018	458- 61-300	REP-P	05-17-041
456- 10-515	AMD	05-13-141	458- 20-177	AMD	05-14-086	458- 61-330	REP-P	05-17-041
456- 10-525	REP-P	05-09-125	458- 20-17803	NEW	05-03-051	458- 61-335	REP-P	05-17-041
456- 10-525	REP	05-13-141	458- 20-17803	AMD-E	05-14-091	458- 61-340	REP-P	05-17-041
456- 10-530	AMD-P	05-09-125	458- 20-179	PREP	05-15-085	458- 61-370	REP-P	05-17-041
456- 10-530	AMD	05-13-141	458- 20-17901	PREP	05-15-085	458- 61-374	REP-P	05-17-041
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456- 10-560	AMD	05-13-141	458- 20-229	PREP	05-12-137	458- 61-520	REP-P	05-17-041
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456- 10-725	AMD	05-13-141	458- 20-268	NEW-E	05-11-020	458- 61-650	REP-P	05-17-041
456- 10-730	AMD-P	05-09-125	458- 20-270	NEW-X	05-13-163	458- 61-660	REP-P	05-17-041
456- 10-730	AMD	05-13-141	458- 20-270	NEW-E	05-13-164	458- 61-670	REP-P	05-17-041
456- 10-735	REP-P	05-09-125	458- 20-271	NEW-E	05-14-105	458- 61A-100	NEW-P	05-17-025
456- 10-735	REP	05-13-141	458- 20-272	NEW-E	05-14-089	458- 61A-101	NEW-P	05-17-025
456- 10-740	REP-P	05-09-125	458- 20-99999	REP	05-03-002	458- 61A-102	NEW-P	05-17-025
456- 10-740	REP	05-13-141	458- 40-610	AMD	05-08-070	458- 61A-103	NEW-P	05-17-025
456- 10-745	REP-P	05-09-125	458- 40-660	PREP	05-06-059	458- 61A-104	NEW-P	05-17-025
456- 10-745	REP	05-13-141	458- 40-660	AMD-P	05-11-052	458- 61A-105	NEW-P	05-17-025
456- 10-750	REP-P	05-09-125	458- 40-660	AMD	05-14-087	458- 61A-106	NEW-P	05-17-025
456- 10-750	REP	05-13-141	458- 40-680	AMD	05-08-070	458- 61A-107	NEW-P	05-17-025
456- 10-755	AMD-P	05-09-125	458- 61	PREP	05-12-100	458- 61A-108	NEW-P	05-17-025
456- 10-755	AMD	05-13-141	458- 61-015	REP-P	05-17-041	458- 61A-109	NEW-P	05-17-025
458- 12-342	PREP	05-06-017	458- 61-025	REP-P	05-17-041	458- 61A-110	NEW-P	05-17-025
458- 12-342	AMD-P	05-11-007	458- 61-030	REP-P	05-17-041	458- 61A-111	NEW-P	05-17-025
458- 12-342	AMD	05-14-106	458- 61-050	REP-P	05-17-041	458- 61A-112	NEW-P	05-17-025
458- 16-1000	NEW-E	05-04-047	458- 61-060	REP-P	05-17-041	458- 61A-113	NEW-P	05-17-025
458- 16-1000	NEW-P	05-05-063	458- 61-070	REP-P	05-17-041	458- 61A-200	NEW-P	05-17-025
458- 16-1000	NEW-S	05-12-101	458- 61-080	REP-P	05-17-041	458- 61A-201	NEW-P	05-17-025
458- 16-1000	NEW-E	05-12-102	458- 61-090	REP-P	05-17-041	458- 61A-202	NEW-P	05-17-025
458- 18-220	AMD-X	05-17-150	458- 61-100	REP-P	05-17-041	458- 61A-203	NEW-P	05-17-025
458- 20-100	PREP	05-07-156	458- 61-120	REP-P	05-17-041	458- 61A-204	NEW-P	05-17-025
458- 20-100	AMD-P	05-15-025	458- 61-130	REP-P	05-17-041	458- 61A-205	NEW-P	05-17-025
458- 20-141	AMD	05-03-053	458- 61-150	REP-P	05-17-041	458- 61A-206	NEW-P	05-17-025

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458- 61A-208	NEW-P	05-17-025	468- 38-175	NEW	05-04-053	478-118-200	AMD-P	05-03-071
458- 61A-209	NEW-P	05-17-025	468- 38-180	REP	05-04-053	478-118-200	AMD	05-08-017
458- 61A-210	NEW-P	05-17-025	468- 38-190	REP	05-04-053	478-118-210	AMD-P	05-03-071
458- 61A-211	NEW-P	05-17-025	468- 38-200	REP	05-04-053	478-118-210	AMD	05-08-017
458- 61A-212	NEW-P	05-17-025	468- 38-220	REP	05-04-053	478-118-270	AMD-P	05-03-071
458- 61A-213	NEW-P	05-17-025	468- 38-230	REP	05-04-053	478-118-270	AMD	05-08-017
458- 61A-214	NEW-P	05-17-025	468- 38-235	REP	05-04-053	478-118-290	NEW-P	05-03-071
458- 61A-215	NEW-P	05-17-025	468- 38-240	REP	05-04-053	478-118-290	NEW	05-08-017
458- 61A-216	NEW-P	05-17-025	468- 38-250	REP	05-04-053	478-118-300	NEW-P	05-03-071
458- 61A-217	NEW-P	05-17-025	468- 38-260	REP	05-04-053	478-118-300	NEW	05-08-017
458- 61A-300	NEW-P	05-17-025	468- 38-270	AMD-P	05-08-016	478-118-400	AMD-P	05-03-071
458- 61A-301	NEW-P	05-17-025	468- 38-270	AMD	05-12-001	478-118-400	AMD	05-08-017
458- 61A-302	NEW-P	05-17-025	468- 38-280	AMD	05-04-053	478-118-410	AMD-P	05-03-071
458- 61A-303	NEW-P	05-17-025	468- 38-290	AMD	05-04-053	478-118-410	AMD	05-08-017
458- 61A-304	NEW-P	05-17-025	468- 38-300	REP	05-04-053	478-118-420	AMD-P	05-03-071
458- 61A-305	NEW-P	05-17-025	468- 38-310	REP	05-04-053	478-118-420	AMD	05-08-017
458- 61A-306	NEW-P	05-17-025	468- 38-320	REP	05-04-053	478-118-510	REP-P	05-03-071
460- 24A-105	PREP	05-03-104	468- 38-330	REP	05-04-053	478-118-510	REP	05-08-017
463- 60-382	RECOD-W	05-03-087	468- 38-340	REP	05-04-053	478-136-015	AMD-X	05-15-090
463- 60-385	RECOD-W	05-03-087	468- 38-350	REP	05-04-053	478-136-030	AMD-X	05-15-090
463- 60-435	RECOD-W	05-03-087	468- 38-360	AMD	05-04-053	478-137	PREP	05-11-011
463- 60-525	RECOD-W	05-03-087	468- 38-375	NEW-E	05-15-066	478-168-035	AMD-X	05-15-090
463- 60-625	RECOD-W	05-03-087	468- 38-390	REP	05-04-053	478-168-180	AMD-X	05-15-090
463- 60-645	RECOD-W	05-03-087	468- 38-405	AMD	05-04-053	478-168-310	AMD-X	05-15-090
463- 60-655	RECOD-W	05-03-087	468- 38-420	AMD	05-04-053	478-168-390	AMD-X	05-15-090
463- 60-665	RECOD-W	05-03-087	468- 60	AMD-P	05-16-121	478-250-050	AMD	05-08-064
463- 60-675	RECOD-W	05-03-087	468- 60-010	AMD-P	05-16-121	478-250-060	AMD	05-08-064
463- 60-680	RECOD-W	05-03-087	468- 66	PREP	05-17-149	479- 12-150	AMD	05-05-004
463- 60-685	RECOD-W	05-03-087	468-300-010	AMD-P	05-05-058	479- 14-180	AMD	05-05-004
463- 60-690	RECOD-W	05-03-087	468-300-010	AMD-S	05-07-159	480- 07	PREP	05-15-091
463- 64-060	NEW-W	05-03-087	468-300-010	AMD	05-10-041	480- 14-999	AMD-X	05-15-161
463- 66-010	RECOD-W	05-03-087	468-300-020	AMD-P	05-05-058	480- 15-999	AMD-X	05-15-161
463- 70-080	RECOD-W	05-03-087	468-300-020	AMD-S	05-07-159	480- 30-999	AMD-X	05-15-161
463- 76-020	RECOD-W	05-03-087	468-300-020	AMD	05-10-041	480- 31-999	AMD-X	05-15-161
463- 76-030	RECOD-W	05-03-087	468-300-040	AMD-P	05-05-058	480- 40-999	AMD-X	05-15-161
463- 76-040	RECOD-W	05-03-087	468-300-040	AMD-S	05-07-159	480- 60-035	PREP-W	05-07-007
463- 76-050	RECOD-W	05-03-087	468-300-040	AMD	05-10-041	480- 62-218	NEW-W	05-04-008
463- 76-060	RECOD-W	05-03-087	468-300-220	AMD-P	05-05-058	480- 62-999	AMD-X	05-15-161
468- 38	AMD	05-04-053	468-300-220	AMD-S	05-07-159	480- 70-041	AMD	05-06-051
468- 38-001	NEW	05-04-053	468-300-220	AMD	05-10-041	480- 70-051	AMD	05-06-051
468- 38-005	NEW	05-04-053	478- 04-030	AMD	05-08-064	480- 70-077	NEW	05-06-051
468- 38-010	REP	05-04-053	478- 04-030	AMD-X	05-15-090	480- 70-078	NEW	05-06-051
468- 38-020	REP	05-04-053	478-116-145	AMD	05-08-064	480- 70-079	NEW	05-06-051
468- 38-030	AMD	05-04-053	478-116-161	AMD	05-08-064	480- 70-999	AMD-X	05-15-161
468- 38-040	REP	05-04-053	478-116-311	AMD	05-08-064	480- 73-010	NEW	05-06-051
468- 38-050	AMD	05-04-053	478-116-431	AMD	05-08-064	480- 73-020	NEW	05-06-051
468- 38-060	REP	05-04-053	478-118-010	AMD-P	05-03-071	480- 73-030	NEW	05-06-051
468- 38-070	AMD	05-04-053	478-118-010	AMD	05-08-017	480- 73-040	NEW	05-06-051
468- 38-071	AMD	05-04-053	478-118-020	AMD-P	05-03-071	480- 73-050	NEW	05-06-051
468- 38-073	NEW-P	05-07-085	478-118-020	AMD	05-08-017	480- 73-060	NEW	05-06-051
468- 38-073	NEW	05-12-002	478-118-045	NEW-P	05-03-071	480- 73-110	NEW	05-06-051
468- 38-075	AMD	05-04-053	478-118-045	NEW	05-08-017	480- 73-110	AMD-S	05-10-099
468- 38-080	AMD	05-04-053	478-118-050	AMD-P	05-03-071	480- 73-110	AMD	05-17-026
468- 38-095	NEW	05-04-053	478-118-050	AMD	05-08-017	480- 73-120	NEW	05-06-051
468- 38-100	AMD	05-04-053	478-118-055	NEW-P	05-03-071	480- 73-130	NEW	05-06-051
468- 38-110	REP	05-04-053	478-118-055	NEW	05-08-017	480- 73-140	NEW	05-06-051
468- 38-120	AMD	05-04-053	478-118-060	AMD-P	05-03-071	480- 73-150	NEW	05-06-051
468- 38-130	REP	05-04-053	478-118-060	AMD	05-08-017	480- 73-160	NEW	05-06-051
468- 38-135	REP	05-04-053	478-118-080	AMD-P	05-03-071	480- 73-170	NEW-S	05-10-099
468- 38-140	REP	05-04-053	478-118-080	AMD	05-08-017	480- 73-170	NEW	05-17-026
468- 38-155	NEW	05-04-053	478-118-100	AMD-P	05-03-071	480- 73-180	NEW	05-06-051

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480- 73-200	NEW-S	05-10-099	480- 93-018	AMD-S	05-02-096	480- 93-210	REP-S	05-02-096
480- 73-200	NEW	05-17-026	480- 93-018	AMD	05-10-055	480- 93-210	REP	05-10-055
480- 73-210	NEW	05-06-051	480- 93-020	AMD-S	05-02-096	480- 93-220	REP-S	05-02-096
480- 73-999	NEW	05-06-051	480- 93-020	AMD	05-10-055	480- 93-220	REP	05-10-055
480- 73-999	AMD-X	05-15-161	480- 93-030	REP-S	05-02-096	480- 93-223	AMD-S	05-02-096
480- 75-240	AMD-P	05-09-122	480- 93-030	REP	05-10-055	480- 93-223	AMD	05-10-055
480- 75-240	AMD-C	05-13-070	480- 93-040	AMD-S	05-02-096	480- 93-230	AMD-S	05-02-096
480- 75-240	AMD-S	05-13-103	480- 93-040	AMD	05-10-055	480- 93-230	AMD	05-10-055
480- 75-240	AMD	05-17-017	480- 93-080	AMD-S	05-02-096	480- 93-240	AMD-P	05-09-122
480- 75-999	AMD-X	05-15-161	480- 93-080	AMD	05-10-055	480- 93-240	AMD-C	05-13-070
480- 80-123	AMD	05-03-031	480- 93-082	REP-S	05-02-096	480- 93-240	AMD-S	05-13-103
480- 80-204	AMD	05-03-031	480- 93-082	REP	05-10-055	480- 93-240	AMD	05-17-017
480- 80-206	AMD	05-03-031	480- 93-100	AMD-S	05-02-096	480- 93-999	AMD-S	05-02-096
480- 90-008	AMD	05-06-051	480- 93-100	AMD	05-10-055	480- 93-999	AMD	05-10-055
480- 90-023	AMD	05-06-051	480- 93-110	AMD-S	05-02-096	480-100-008	AMD	05-06-051
480- 90-207	NEW	05-06-051	480- 93-110	AMD	05-10-055	480-100-023	AMD	05-06-051
480- 90-207	AMD-S	05-10-099	480- 93-111	REP-S	05-02-096	480-100-207	NEW	05-06-051
480- 90-207	AMD	05-17-026	480- 93-111	REP	05-10-055	480-100-207	AMD-S	05-10-099
480- 90-208	REP	05-06-051	480- 93-112	REP-S	05-02-096	480-100-207	AMD	05-17-026
480- 90-209	NEW	05-06-051	480- 93-112	REP	05-10-055	480-100-208	REP	05-06-051
480- 90-218	REP	05-06-051	480- 93-115	AMD-S	05-02-096	480-100-209	NEW	05-06-051
480- 90-242	NEW-S	05-10-099	480- 93-115	AMD	05-10-055	480-100-218	REP	05-06-051
480- 90-242	NEW	05-17-026	480- 93-120	REP-S	05-02-096	480-100-242	NEW-S	05-10-099
480- 90-244	NEW	05-06-051	480- 93-120	REP	05-10-055	480-100-242	NEW	05-17-026
480- 90-245	NEW	05-06-051	480- 93-124	AMD-S	05-02-096	480-100-244	NEW	05-06-051
480- 90-248	NEW	05-06-051	480- 93-124	AMD	05-10-055	480-100-245	NEW	05-06-051
480- 90-248	AMD-S	05-10-099	480- 93-130	AMD-S	05-02-096	480-100-248	NEW	05-06-051
480- 90-248	AMD	05-17-026	480- 93-130	AMD	05-10-055	480-100-248	AMD-S	05-10-099
480- 90-252	NEW	05-06-051	480- 93-140	AMD-S	05-02-096	480-100-248	AMD	05-17-026
480- 90-252	AMD-X	05-15-161	480- 93-140	AMD	05-10-055	480-100-252	NEW	05-06-051
480- 90-257	NEW	05-06-051	480- 93-150	REP-S	05-02-096	480-100-257	NEW	05-06-051
480- 90-262	NEW-S	05-10-099	480- 93-150	REP	05-10-055	480-100-262	NEW-S	05-10-099
480- 90-262	NEW	05-17-026	480- 93-155	AMD-S	05-02-096	480-100-262	NEW	05-17-026
480- 90-264	NEW	05-06-051	480- 93-155	AMD	05-10-055	480-100-264	NEW	05-06-051
480- 90-268	NEW	05-06-051	480- 93-160	AMD-S	05-02-096	480-100-268	NEW	05-06-051
480- 90-275	NEW	05-06-051	480- 93-160	AMD	05-10-055	480-100-275	NEW	05-06-051
480- 90-999	AMD	05-06-051	480- 93-170	AMD-S	05-02-096	480-100-282	NEW-S	05-10-099
480- 90-999	AMD-X	05-15-161	480- 93-170	AMD	05-10-055	480-100-282	NEW	05-17-026
480- 92-016	AMD	05-06-051	480- 93-175	AMD-S	05-02-096	480-100-287	NEW-S	05-10-099
480- 92-021	AMD	05-06-051	480- 93-175	AMD	05-10-055	480-100-287	NEW	05-17-026
480- 92-050	AMD	05-06-051	480- 93-178	NEW-S	05-02-096	480-100-999	AMD	05-06-051
480- 92-055	NEW	05-06-051	480- 93-178	NEW	05-10-055	480-100-999	AMD-X	05-15-161
480- 93	AMD-C	05-06-064	480- 93-180	AMD-S	05-02-096	480-110-205	AMD-P	05-04-063
480- 93-002	REP-S	05-02-096	480- 93-180	AMD	05-10-055	480-110-205	AMD	05-06-051
480- 93-002	REP	05-10-055	480- 93-183	REP-S	05-02-096	480-110-205	AMD	05-08-099
480- 93-005	AMD-S	05-02-096	480- 93-183	REP	05-10-055	480-110-215	AMD	05-06-051
480- 93-005	AMD	05-10-055	480- 93-184	REP-S	05-02-096	480-110-225	AMD	05-06-051
480- 93-007	NEW-S	05-02-096	480- 93-184	REP	05-10-055	480-110-227	NEW	05-06-051
480- 93-007	NEW	05-10-055	480- 93-185	AMD-S	05-02-096	480-110-235	AMD	05-06-051
480- 93-008	NEW-S	05-02-096	480- 93-185	AMD	05-10-055	480-110-245	AMD	05-06-051
480- 93-008	NEW	05-10-055	480- 93-186	AMD-S	05-02-096	480-110-255	AMD-P	05-04-063
480- 93-009	NEW-S	05-02-096	480- 93-186	AMD	05-10-055	480-110-255	AMD	05-08-099
480- 93-009	NEW	05-10-055	480- 93-18601	AMD-S	05-02-096	480-110-261	NEW	05-06-051
480- 93-010	REP-S	05-02-096	480- 93-18601	AMD	05-10-055	480-110-265	REP	05-06-051
480- 93-010	REP	05-10-055	480- 93-187	AMD-S	05-02-096	480-110-275	REP	05-06-051
480- 93-012	NEW-S	05-02-096	480- 93-187	AMD	05-10-055	480-110-285	REP	05-06-051
480- 93-012	NEW	05-10-055	480- 93-188	AMD-S	05-02-096	480-110-295	REP	05-06-051
480- 93-013	NEW	05-10-055	480- 93-188	AMD	05-10-055	480-110-335	AMD	05-06-051
480- 93-015	AMD-S	05-02-096	480- 93-190	REP-S	05-02-096	480-110-355	AMD	05-06-051
480- 93-015	AMD	05-10-055	480- 93-190	REP	05-10-055	480-110-365	AMD	05-06-051
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480-110-395	AMD	05-06-051	480-120-305	REP	05-06-051	480-146-330	REP-S	05-10-099
480-110-415	AMD	05-06-051	480-120-311	REP	05-06-051	480-146-330	REP	05-17-026
480-110-425	AMD	05-06-051	480-120-321	REP	05-06-051	480-146-340	REP-S	05-10-099
480-110-431	NEW	05-06-051	480-120-322	REP	05-03-031	480-146-340	REP	05-17-026
480-110-433	NEW	05-06-051	480-120-322	REP-W	05-14-131	480-146-350	REP	05-06-051
480-110-445	AMD	05-06-051	480-120-323	REP	05-06-051	480-146-360	REP	05-06-051
480-110-456	NEW	05-06-051	480-120-325	NEW	05-06-051	480-146-370	REP-S	05-10-099
480-110-457	NEW	05-06-051	480-120-331	NEW	05-06-051	480-146-370	REP	05-17-026
480-110-457	AMD-S	05-10-099	480-120-331	AMD-S	05-10-099	480-146-380	REP-S	05-10-099
480-110-457	AMD	05-17-026	480-120-331	AMD	05-17-026	480-146-380	REP	05-17-026
480-110-459	NEW	05-06-051	480-120-335	NEW	05-06-051	495B-116-030	AMD	05-06-011
480-110-465	AMD	05-06-051	480-120-339	NEW	05-06-051	495B-116-040	AMD	05-06-011
480-110-475	REP	05-06-051	480-120-344	NEW	05-06-051	495B-116-050	AMD	05-06-011
480-110-485	AMD	05-06-051	480-120-349	NEW	05-03-031	495B-116-060	AMD	05-06-011
480-110-495	REP	05-06-051	480-120-349	NEW-W	05-14-131	495B-116-080	AMD	05-06-011
480-110-505	NEW	05-06-051	480-120-352	NEW	05-06-051	495B-116-090	AMD	05-06-011
480-110-515	NEW	05-06-051	480-120-355	NEW	05-06-051	495B-116-120	AMD	05-06-011
480-110-525	NEW-S	05-10-099	480-120-359	NEW	05-03-031	495B-116-150	AMD	05-06-011
480-110-525	NEW	05-17-026	480-120-365	NEW-S	05-10-099	495B-116-160	AMD	05-06-011
480-110-535	NEW	05-06-051	480-120-365	NEW	05-17-026	495B-116-170	AMD	05-06-011
480-110-545	NEW	05-06-051	480-120-369	NEW	05-06-051	495B-116-210	AMD	05-06-011
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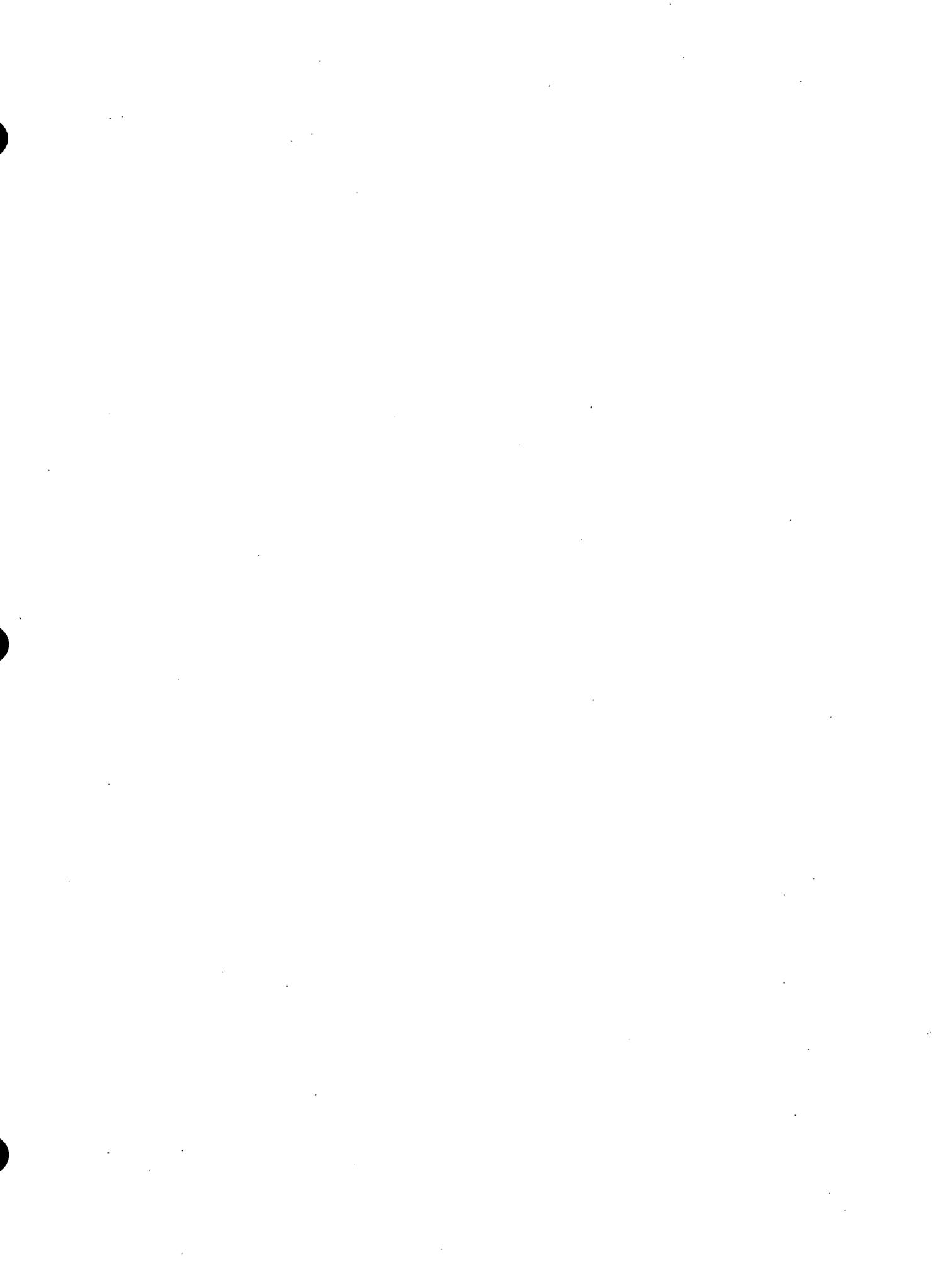
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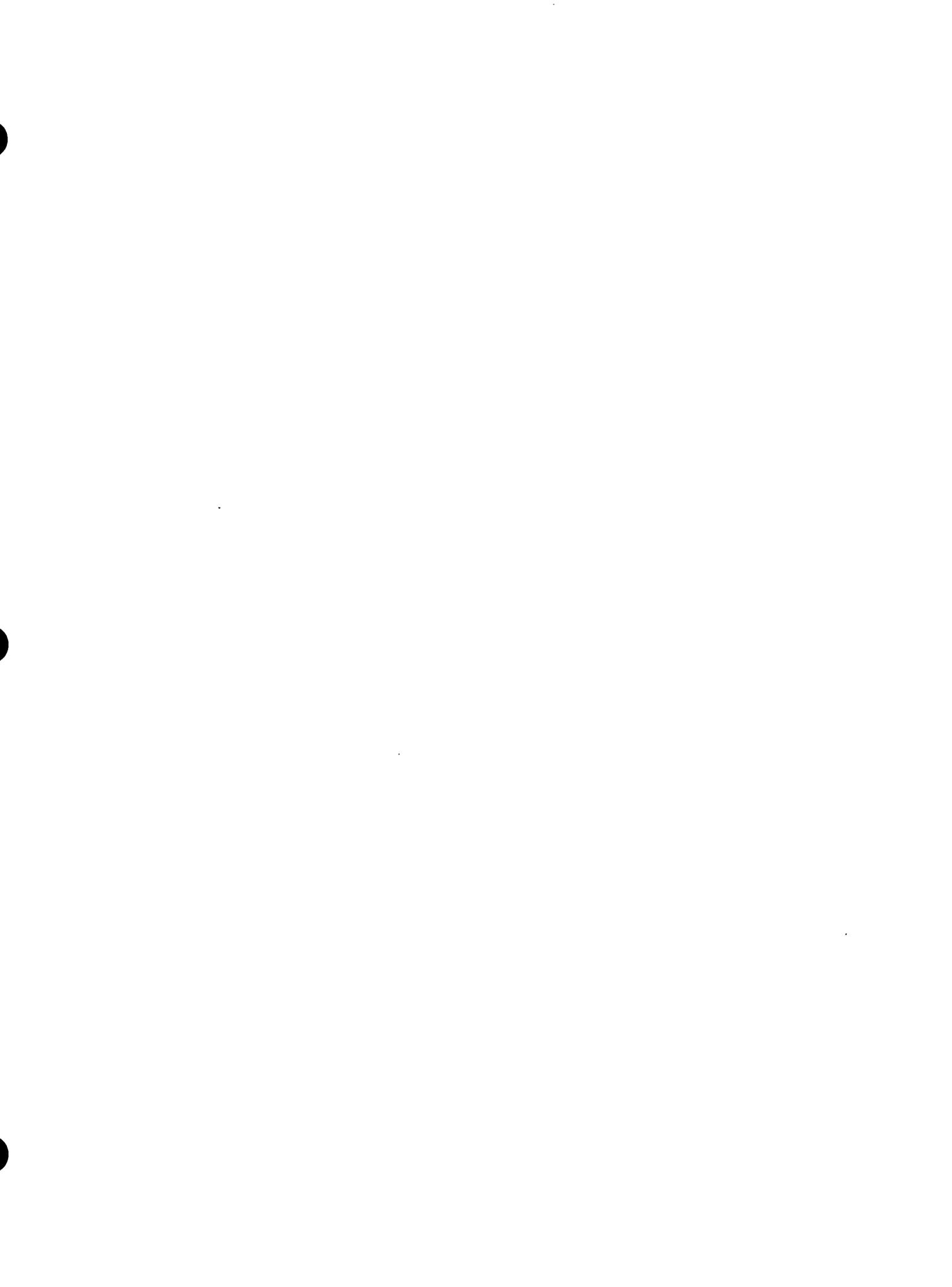
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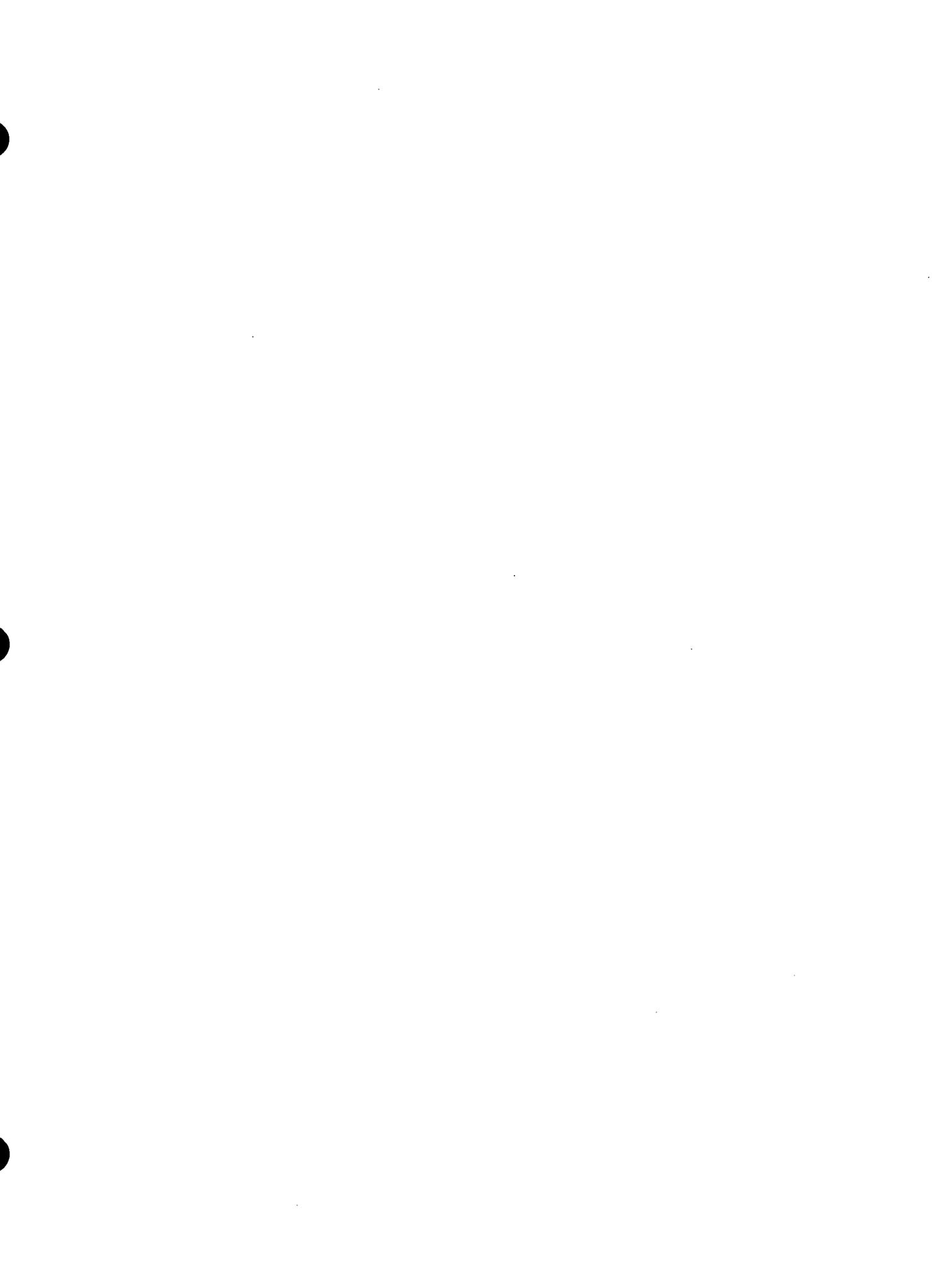












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